

MADAGASCAR 2020 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 in November 2018, with a two-candidate run-off in December 2018. The winner, Andry Rajoelina, took office in January 2019. Independent observers judged the election to be generally free and fair, despite several candidates' allegations of irregularities in the electoral process, including voter suppression. Legislative elections took place in late May 2019. Observers judged these elections to be generally free and fair, with some irregularities. In December, Senate elections, the governing parties won all seats since opposition parties boycotted. Observers judged the Senate elections to be generally free and fair.

National police, under the authority of the Ministry of Public Security, are responsible for maintaining law and order in urban areas. The gendarmerie and military report to the Ministry of National Defense. The gendarmerie is responsible for maintaining law and order in rural areas at the village level, protecting government facilities, and operating a maritime police contingent. The military is also active in rural areas, particularly in maintaining order in areas affected by cattle rustling and banditry. Civilian authorities at times did not maintain effective control over the security forces. Members of the security forces committed numerous abuses.

Significant human rights issues included: unlawful or arbitrary killings, including extrajudicial killings by government agents; torture and cases of cruel, inhuman, or degrading treatment or punishment by government agents; harsh and life-threatening prison conditions; arbitrary arrest or detention; political prisoners or detainees; serious problems with the independence of the judiciary; serious restrictions on free expression and the press, including unjustified arrests or prosecutions against journalists, censorship, and the existence of criminal libel laws; substantial interference with the freedom of peaceful assembly; serious acts of corruption; and lack of investigation of and accountability for violence against

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women.

The government prosecuted and punished some officials who committed abuses, whether in the security forces or elsewhere in the government; however, 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.

The gendarmerie and police inspection offices investigated abuses perpetrated by their officers. The office of army command conducted investigations of military personnel. These offices investigated formal complaints and, more often, incidents that were widely covered in traditional and social media and triggered a backlash from the public. There were more investigations related to such incidents than in previous years. In isolated cases these investigations led to arrest, conviction, and jailing of accused security force members.

Between January and September, press reported at least 135 deaths during security force operations, including members of the security forces and ordinary civilians, as well as those suspected of crimes. Usually the security forces involved were composed of police and gendarmes, but occasionally they included military personnel and prison guards. There were reports of security forces executing suspected cattle thieves or bandits after capture; in most cases security forces claimed those killed attempted to escape and refused to respond to warning shots. These statements by security forces often could not be substantiated. In isolated cases the government launched investigations, arrested, and jailed the accused

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security force members.

On August 7, soldiers from the Second Inter Arms Battalion (BIA2) shot and killed two villagers and injured another in Ampamorianana in the Bongolava region. The army command reported an armed confrontation, but villagers reported to the local gendarmerie that they had not heard any gunshots from the villagers. Media reported on August 10 that the army command launched an investigation and dismissed the commander of the BIA2 battalion, his deputy, and the chief of the contingent that carried out the raid. There was no reported trial as of November.

A mass prisoner escape from Farafangana Prison in August resulted in security forces killing 23 detainees. International organizations, local civil society groups, and human rights activists characterized the incident as showing excessive use of force by the security forces. A preliminary investigation by the Ministry of Justice revealed that acts of violence and corruption by prison staff incited detainees to organize the massive prison break. The resulting investigation led to the replacement of the *prefet* (administrator) of Farafangana, the regional director of the penitentiary administration, and the manager of the prison. As of September authorities took no other action against those responsible for the killings (see also section 1.c., Prison and Detention Center Conditions).

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 during coerced confessions, according to the National Independent Human Rights Commission (CNIDH) in 2019.

Security personnel reportedly used beatings as punishment for alleged crimes or as a means of coercion. There were reports that off-duty and sometimes intoxicated members of the armed forces assaulted civilians. Investigations into these

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incidents announced by security officials rarely resulted in prosecutions.

On August 1, security forces patrolling in Antohomadinika caught two alleged pickpockets and reportedly forced them into a pool of sewage, made them apologize in front of the large crowd of onlookers, and then handed them over to police investigators.

Impunity was a significant problem in the security forces. Factors contributing to impunity included corruption and a lack of reporting of abuses. Offices that investigated abuses included inspection bodies within the gendarmerie, police, and army command. The government did not provide human rights training for security forces, but it collaborated with international organizations to build security forces' capacity on specific law enforcement problems such as trafficking in persons and child protection.

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: Lengthy pretrial detentions, inefficiencies in the judicial system, and inadequate prison infrastructure created a serious overcrowding problem. One penitentiary surpassed its official capacity by nearly eightfold. As reported on UNICEF's website in June, the country's 82 prisons and detention centers held 27,600 inmates. This population was more than twice the official capacity of 11,000.

Lengthy pretrial detention was pervasive, contributing significantly to overcrowding. Authorities sometimes held pretrial detainees with convicted prisoners. In August 2019 the CNIDH noted worsening conditions during its visits to 23 of 83 facilities.

Authorities did not always hold juveniles separately from adults, and some children younger than school age shared cells with their incarcerated mothers. According to the Ministry of Justice, 65 percent of the 44 prisons holding juvenile

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detainees had separate areas for minors in 2018.

Amnesty International stated in April that detainees continued to be affected by problems such as malnutrition, lack of hygiene, and limited access to medical care. Detained persons were crowded in cells without appropriate lighting and ventilation and slept on the ground with no mattress or blanket.

In August the UN High Commission for Human Rights considered the country's overcrowded detention centers as a "hotbed" for COVID-19 proliferation. Prisons were overcrowded with generally unhygienic conditions, poor food, and no proper access to health care.

The Ministry of Justice recorded 43 deaths between January and October 2019 compiled from all the detention and prison facilities of the country. The most frequent causes of death from physical conditions were tuberculosis, high blood pressure, and gastrointestinal problems. Prison authorities took few remedial actions concerning these deaths.

Ministry of Justice officials indicated that overcrowding at Farafangana Prison contributed to the August violent prison break in which 23 detainees were killed (see section 1.a.).

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

In March the government suspended all family and NGO visits to prisons to reduce the risk of COVID-19 infection, but relatives continued to bring food for detainees without visiting them. Authorities lifted these restrictions in October.

Independent Monitoring: Authorities generally permitted independent

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monitoring of prison conditions by local NGOs and some diplomatic missions.

Improvements: In April, UNICEF began support that included improving nutrition, and providing basic medicines, personal protective equipment, testing kits, sanitary products for women and girls, and disinfection equipment.

Also in April, NGO Grandir Dignement (Grow with Dignity) reported that it set up a detention watch system to protect juvenile detainees, including twice weekly visits.

In June, President Rajoelina announced a pardon of Antanamora Prison detainees to address overcrowding problems, particularly in view of the continuing COVID-19 pandemic. Prison authorities subsequently released 3,871 detainees. In addition 7,826 detainees had their prison time shortened as part of the pardon announcement but remained in prison to continue serving their reduced sentences.

The prison administration set up specific areas to isolate new inmates and avoid a massive outbreak of COVID-19. In July the minister of justice announced a strengthening of measures to prevent the spread of the disease through testing of all new detainees, 15 days of quarantine, and close monitoring of health conditions.

On September 16, the government replaced the regional director in charge of penitentiary administration and the manager of the prison of Farafangana. The *Midi* newspaper reported that authorities took this decision after its investigation of the killing of 23 escaped detainees (see section 1.a.).

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.

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 problems as alleged

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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.

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 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 entitles those who cannot 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 to eight months and regulates the use of the writ, although authorities often exceeded this limit.

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

On February 15, the gendarmerie of Ihosy arrested a well known human rights activist on fraud and extortion charges. Civil society organizations described these charges as intimidation designed to suppress his denunciations of corruption among security forces and public officials. By early March authorities released the activist from pretrial detention, and he awaited trial.

Pretrial Detention: As of October 2019, approximately 57 percent of inmates nationwide were in pretrial detention. Pretrial detention ranged from several days to several years. Poor recordkeeping, an outdated judicial system, insufficient numbers of magistrates, and too few courts of first instance contributed to the problem. The length of pretrial detention often exceeded the maximum sentence

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for the alleged crime. In August the minister of justice observed that the restrictions to prevent a COVID-19 outbreak resulted in the extension of the pretrial detention period for a number of detainees as tribunals intermittently closed or reduced their working hours. The government took no action to remedy these extensions.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to outside 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 and personnel hampered judicial effectiveness, and case backlogs were “prodigious,” according to Freedom House.

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 the 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.

Defendants have the right to legal counsel at every stage of the 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

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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, however, that the defendant has the right to refuse an interpreter. If an 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 confess guilt. Defendants have the right to appeal convictions.

Political Prisoners and Detainees

There were reports of political prisoners and detainees. Authorities arrested and imprisoned political leaders and activists, ostensibly on charges unrelated to their political positions or for offenses against the public order. Estimates of their number ranged in the single digits. Generally they received the same protections as other prisoners and detainees. The government permitted access to these persons by humanitarian and human rights organizations.

On June 1, the gendarmerie arrested Berija Ravelomanantsoa, a university student leader close to a former administration, for several allegedly insulting posts on social media, charging him with offenses against the public order and the dignity of public officials including the president. On September 30, the Court of Antananarivo sentenced Ravelomanantsoa to 44 months in prison. There were multiple demonstrations and calls from fellow activists and relatives for his release.

On July 16, police arrested former minister of communication Harry Laurent Rahajason, who served under a former president, for a rally on July 13 calling for the release of Berija Ravelomanantsoa. Pending trial he remained in jail despite calls by his wife and daughter for his release for allegedly serious health problems. Opposition leader and President of the Senate Rivo Rakotovao denounced Rahajason's continued detention as politically motivated. On October 15, the Court of Antananarivo sentenced Rahajason to 44 months in prison for an unauthorized rally and attempted offense against public security.

On April 1, security forces arrested Ny Rado Rafalimanana, a former presidential

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candidate and well known opposition figure, during a public COVID-19 testing event in Antananarivo while he accompanied a relative trying to receive a test. The Court of Antananarivo charged him the following day with public disorder and “provoking” the security forces. In July the court temporarily released him pending prosecution for this incident and a separate fraud charge.

Amnesty: During an address to the country in May, the president announced a release of journalists in detention to honor Media Freedom Day. The government released an online newspaper journalist and a television presenter whom authorities had charged with defamation and spreading of false news.

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 abuses through domestic courts. 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

On June 18, inhabitants of a site for a new bypass road in Ankadindramamy, Antananarivo complained of losing their land without receiving promised compensation. The inhabitants stated they turned over part of their property in 2018, and authorities informed them in 2019 that all of their property would be required for the project.

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

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

The CNIDH reported the continuing arrest and preventive detention of women on the pretext of their supposed complicity in the alleged crimes of male family members being sought by authorities. The CNIDH noted the women were entitled

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to a presumption of innocence and described the practice as ineffective, because male family members rarely turned themselves in to free the detained women.

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 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 law includes several provisions limiting freedom of speech and expression, including broad powers of the government to deny media licenses to political opponents, seize equipment, and impose fines.

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

The government arrested journalists and activists who publicly denounced the misbehavior of public figures. The government often used unrelated charges to prosecute these journalists and activists. Most government actions to restrict freedom of expression occurred within the context of the national response to COVID-19, with journalists arrested or harassed for reporting failures of government officials to combat the disease effectively.

On March 24, acting under the national health emergency decree, the Ministry of Communication and Culture ordered the suspension of all radio programs that allowed the public to call in during live programs. In April, Reporters without Borders noted this was an infringement of the freedom of expression. This notice also required all audiovisual companies to broadcast live a daily program providing official communications from the government’s COVID-19 operation center. The ministry announced in October that all radio programs could resume their live call-in programs.

Freedom of Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views, but not without restriction. The law contains several articles limiting press and media freedoms. For example the

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law requires the owner of a media company to be the chief publisher. This article may permit candidates for political office, who are also media owners, to use their outlets to advocate against opponents.

The law 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 law. The law allows only state-owned radio and television stations the right to broadcast nationally, although this limitation was not always enforced.

The country has 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, despite the law's limitations. The opposition had greater access to state-run media.

Violence and Harassment: There were several reports of journalists being harassed for criticizing the government and public services.

On April 4, the government arrested journalist Rahelisoa Arphine, the publication manager of an online journal frequently sympathetic to the opposition, for defamatory speech against the president. On social media Arphine had accused the president of responsibility for citizens' deaths because of inadequate COVID-19 measures. Over the next month, the court of Antananarivo rejected several requests for temporary release to await trial despite public appeals by the Union of Journalists and Amnesty International. The president ordered Arphine's release without announcing any charges in early May.

In May authorities in the government-run COVID-19 operations center summoned a correspondent of newspaper *l'Express* after the newspaper published an article reporting a confirmed case in Toliara. During the investigation a gendarmerie colonel verbally threatened the journalist and ordered her not to publish similar items.

On July 30, Antananarivo mayor Naina Andriantsitohaina ordered media company MBS to leave its leased government property within six months. Nonpayment of the lease, the only reason to terminate the agreement, had not occurred. MBS was

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owned by former president Marc Ravalomanana.

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

In May, African Media Barometer reported that journalists in the country believed they needed to be careful regarding what they said or published due to arrests and lawsuits. Claiming censorship, Member of Parliament Brunelle Razafitsiandraofa in June stated that the minister of communications prevented the broadcast of an interview that Razafitsiandraofa held with the public television channel.

On the night of April 6 to 7, unknown persons damaged the transmitter and antenna of Real TV, although the facility was guarded by soldiers, according to Reporters without Borders. Real TV had planned to rebroadcast a March 25 interview with former president Ravalomanana in which he criticized the government's COVID-19 response. Real TV remained off the air for several days.

Libel/Slander Laws: Although defamation is not a criminal offense in the communications code, a separate cybercrime 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 communications code, since 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.

There were several reports of government authorities using libel, slander, or defamation laws to restrict public discussion. Journalists and citizens faced police investigation and legal prosecution for defamation and infringement of public order for posting criticism of government performance and public services on social media.

National Security: Authorities cited the need to protect national security when deterring criticism of government policies on COVID-19.

On August 25, media reported that the gendarmerie arrested 20 Facebook users for cybercrime during the March-to-August health emergency period. The gendarmerie accused them of spreading false news and defamation, allegedly

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“destabilizing” acts, and “threats to state security.” Half of the accused were in pretrial detention; the others were released without charges. Authorities also arrested more prominent figures on similar grounds, such as the well known singer Rolf.

Actions to Expand Freedom of Expression, Including for Media: In August the High Constitutional Court upheld prohibitions on the publication of information discussed during closed-door meetings, although it stressed these situations should be rare, and it declared unconstitutional previous limits on publishing reports or other documents created by government institutions.

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.

The 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 fines for defamation.

Public access to the internet was limited mainly to urban areas. Political groups, parties, and activists used the internet extensively to advance their agendas, share news, and criticize other parties. Observers generally considered the internet (not including social media) to be among the more reliable sources of information.

Academic Freedom and Cultural Events

There were isolated incidents of government restrictions on academic freedom. In April, Professor Stephane Ralandison, dean of the Faculty of Medicine of Toamasina, wrote an article on LinkedIn voicing his scientific reservations over the COVID-19 organics remedy promoted by President Rajoelina. On May 28, the gendarmerie arrested him for the article and his alleged connection to the suicide of another Toamasina doctor being treated for COVID-19. The gendarmes released him without charge. On June 1, gendarmes reportedly brought him to the capital

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for a hearing and then re-released him.

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for peaceful assembly and association, but the government restricted peaceful assembly.

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 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 security forces used tear gas and discharged their weapons into the air to disperse demonstrations by university students, supporters of political opponents, and other groups. There were several demonstrations held by different groups protesting the restrictive measures to prevent the spread of COVID-19. Demonstrators generally retaliated by throwing stones at security forces or set up roadblocks, which often resulted in injuries and arrests.

On July 13, a number of individuals demonstrated in Ambohipo, Antananarivo, to demand the release of Berija Ravelomanantsoa, a university student movement leader arrested in June (see section 1.e., Political Prisoners). Security forces dispersed the demonstrators and removed roadblocks set up by the protesters. Security forces arrested three demonstrators for disturbing the peace, holding unauthorized rallies, and infringing health emergency measures.

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,

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emigration, and repatriation, and the government generally respected these rights.

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

The government health emergency measures to prevent the proliferation of COVID-19 included travel restrictions within, to, and from the country.

In-country Movement: At the beginning of the COVID-19 outbreak in the country in March the government suspended all internal flights as well as ground transportation linking the different regions of the country. As the pandemic eased, the government relaxed these measures and allowed interregional travel again in September.

Foreign Travel: The government issued an exit ban to several individuals known to be close to the opposition or to the former regime. Authorities often justified such measures as necessary for investigative needs.

On February 4, the public prosecutor of the Court of Appeal of Antananarivo issued an exit ban against Ny Rado Rafalimanana, a candidate during the last presidential elections. Some media asserted this decision was motivated by his refusal to obey gendarmes who banned him from entering Ambatondrazaka two days earlier, where he had been directing aid to flood victims, circumventing the government’s instruction that all donations go through the national risk and disaster management bureau.

In March the government suspended all international flights to and from the country as part of the anti-COVID-19 national response. In June the government

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started repatriating citizens from abroad.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

Authorities generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting the small number of refugees 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.

Freedom of Movement: Refugees and asylum seekers reported that UNHCR-issued asylum seeker certificates were not recognized by government officials, especially security forces. Police frequently detained some asylum seekers and tore up their documents, rendering them more 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 received was insufficient because they could not work and received no government support. Hospitals and service providers charged refugees higher rates as foreigners, making basic medical care unaffordable to refugees.

g. Stateless Persons

The law gives 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 law grants women the right to transmit nationality to their children regardless of a woman's marital status. The loss of citizenship for any reason mentioned in the law does not affect the spouse and the children of the

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deprived person.

The provisions of the previous nationality code resulted in as many as 15,000 stateless persons from the minority Muslim community, many belonging to families that had lived in the country for generations. Muslim leaders estimated the previous law 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.

Requests for nationality certificates continued. Statelessness remained a problem 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 citizen and may request citizenship before the wedding date, but women cannot confer citizenship on a stateless husband. Stateless persons continued to have difficulty accessing education, health care, employment, and buying 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 in November 2018, followed by a run-off in December 2018. In January 2019 the High Constitutional Court validated Andry Rajoelina as the winner with 55 percent of the vote. International and local observers judged the elections peaceful and transparent.

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Several candidates alleged voter suppression through the selective absence of voter registration materials, vote buying, and other irregularities.

Legislative elections took place in May 2019. Local election observers noted some irregularities such as failure of government officials to remain neutral during the campaign and on election day. A number of candidates and their supporters claimed fraud. International observers generally found the elections free and fair but recommended legal reforms to encourage effective neutrality of administrative officials during elections.

On December 11, the government conducted indirect elections for a Senate reduced from 63 to 18 members (12 elected, six appointed by the president, with the voters consisting of mayors and municipal counselors). Governing parties won all seats since the opposition boycotted the elections due to objections concerning the reduction of members (the High Constitutional Court endorsed the reductions in the fall). Observers judged the elections to be generally free and fair.

Political Parties and Political Participation: The government restricted opposition parties and denied them the right to demonstrate spontaneously. There were additional restrictions on gatherings in place because of the COVID-19 health emergency. Official permission is required for all demonstrations, and there were reports the government denied or delayed permission for demonstrations by opposition parties. In October and November authorities prevented members of the opposition from holding rallies in Mahajanga and Fianarantsoa, respectively, stating they did not have the required authorization, although those events were to take place in privately owned compounds.

Authorities targeted companies belonging or linked to political opponents. For example in August the government closed branches of the AAA company, which belonged to former president and opposition leader Marc Ravalomanana, citing fiscal and other irregularities.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they participated in it.

Women accounted for 39 of the 214 members of parliament (both houses). Eight

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of the 25 members of the cabinet were women. Some observers claimed cultural and traditional factors prevented women from participating in political life in the same way as men.

Section 4. Corruption and Lack of Transparency in Government

The law provides for criminal penalties for official corruption, but the government did not implement the law effectively. Corruption was pervasive at all levels of government; however, the government increased focus on combating corruption, leading to multiple convictions.

Corruption: Corruption investigations by the Independent Anti-Corruption Bureau (BIANCO) led to several cases going to trial at the Anti-Corruption Court (PAC) and convictions and imprisonments of former and sitting government officials for embezzlement and bribery.

The government took legal and disciplinary measures against working-level civil servants in the gendarmerie, police, and judiciary for bribery, involvement in natural resource smuggling, and diverting government assistance intended for vulnerable households affected by COVID-19 restrictions.

Several times members of civil society and the opposition called for transparent management of COVID-19 crisis response funds, most of which were provided by donors.

In early August, Facebook users and media denounced a 216 million ariary (\$57,000) contract for information technology equipment involving the wife of the director of the COVID-19 operations center, believing the purchase price to be unreasonably high and the agreement tainted by nepotism. The BIANCO director general stated that maintaining a peaceful environment during the COVID-19 crisis was more important than starting an investigation, although media reported in September that BIANCO began an investigation after a civil society complaint to the PAC.

Financial Disclosure: The law requires regular income and asset declarations by individuals in the following positions: prime minister and other government

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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. The names of those who make declarations are made public; however, the contents of the declarations are not public, and there are no sanctions for noncompliance.

As of September, according to the High Constitutional Court website, the prime minister, 15 out of the 25 members of his cabinet, and 165 of the 214 members of parliament had declared their assets.

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. Authorities reacted to accusations of human rights abuses more frequently and positively than during previous years.

Some authorities reacted defensively to domestic and international criticism of the killing of escaped prisoners from Farafangana Prison in August (see section 1.a.).

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 abuses. The government dedicated a budget for the commission to operate. In addition, some international organizations and diplomatic missions provided some equipment. The previous members' mandate expired on October 13, and no new

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members were elected as of November; COVID-19 restrictions delayed these elections. The CNIDH was independent and somewhat effective. The CNIDH issued several communiques highlighting human rights abuses perpetrated by government officials and launched investigations on outstanding incidents. Nevertheless, its actions were limited; investigations did not lead to concrete sanctions or convictions.

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

Women

Rape and Domestic Violence: The law prohibits rape and spousal rape but does not address the gender of rape victims. 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. In January the government adopted a law against gender-based violence. The new legislation covers violence perpetrated within the family and society and violence perpetrated or tolerated by the state, including sexual harassment. Penalties range from six months' to five years' imprisonment with fines.

The law prohibits domestic violence, which remained a widespread problem. Domestic violence is punishable by two to five years in prison and substantial fines, 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. Various media reported a general reluctance of victims to report domestic violence. Women filing legal actions against their husbands faced criticism from their families and communities.

Government efforts to confront gender-based violence included a Ministry of Population survey on the impact of COVID-19 on such violence. The majority of respondents reported psychological and physical violence, and that fathers and husbands were the offenders. A minority of respondents reported cases of rape, violent behavior within families, and sexual aggression. Most respondents

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mentioned fear and cultural pressure to remain silent and tolerate violence as reasons not to report incidents.

Multiple sources reported a sharp increase of cases of domestic violence during the COVID-19 crisis. On June 4, the director general of the National Police reported that cases of domestic violence significantly increased since the beginning of the lockdown period in March. On June 10, media reported that a gender-based violence hotline had five times more cases than before the COVID-19 crisis.

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 when appropriate helped them start legal procedures to receive alimony from their abusers. The Proximity Female Brigade within the national police conducted investigations of gender-based violence and raised public awareness of the problem.

Starting in January the government set up a mechanism to streamline the prosecution of gender-based violence. In addition the government broadcasted a weekly program on public and private television channels to raise public awareness of this violence and describe the services available to support victims. The government provided special training for judges to implement the mechanism.

On January 24, a group of men, including three gendarmes, either participated in or condoned the rape of a girl age 12 in Milenake. The morals and minor police began an investigation; results were not available at year's end.

Sexual Harassment: Sexual harassment is against the law, and penalties range from one to three years' imprisonment and include fines. The penalty increases to two to five years' imprisonment plus larger fines if criminals forced or pressured the victim into sexual acts or punished the victim for refusing such advances. Authorities enforced the law, but sexual harassment was widespread.

Labor union members reported sexual harassment prevailed in many sectors. There were reports that some supervisors in manufacturing companies compelled

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some of their female employees to have sexual relations to renew their contracts or secure promotions. Female teachers reportedly faced similar pressures when trying to negotiate permanent contracts in the public education system. Court rulings generally did not favor victims when they filed complaints.

The Ministry of Population COVID-19 survey in August reported that 35 percent of women receiving assistance were victims of sexual harassment by humanitarian officials distributing the aid.

Reproductive Rights: The law allows universal access to family planning and reproductive health services and products, including for minors. The law states that every individual has the right to start a family; to determine freely the number, spacing, and timing of their children; and to have the means and access to information to exercise these rights free of discrimination or coercion. The law refers to the penal code for penalties related to abortion. Public health centers provided free contraceptives, family-planning services, and reproductive health counselling to adults. The Ministry of Youth managed “youth corners” where young people could receive free reproductive health counseling and services. In addition, faith-based organizations, NGO clinics, and other private-sector organizations provided such services. Social and cultural barriers, resource problems, and access to services impeded the use of contraceptives. Obstacles included fear of side effects, lack of support from family members, and fear of family and community judgment.

According to the 2018 multiple indicator cluster surveys carried out by the National Statistics Institute with support from UNICEF, the modern contraceptive prevalence rate among women who were married or in union was approximately 41 percent. The proportion of deliveries in health facilities was 39 percent (58 percent in urban areas and 34 percent in rural areas) and the rate of childbirths attended by skilled personnel was 46 percent (72 percent in urban areas and 40 percent in rural areas).

The government provided access to sexual and reproductive health services to survivors of sexual violence. Specialized centers collaborated with private pharmacies to provide free contraceptives to the sexual violence survivors they

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assisted.

According to data collected in 2018 and released in 2020 by the National Statistics Institute, the estimated maternal mortality rate was 408 maternal deaths per 100,000 live births (308 in urban and 425 in rural areas). The country's adolescent fertility rate was 151 births per 1,000 women between the ages of 15 and 19. Major factors that contributed to high maternal mortality included geographical barriers and the high cost of health centers, the low quality of hospital services, chronic maternal malnutrition (including anemia), lack of adequate spacing between pregnancies, and a high rate of unsafe abortions. The high adolescent pregnancy rate also contributed to elevated rates of maternal deaths.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: While women enjoyed the same legal status and rights as men in some areas, there were significant differences in others, and authorities did not enforce the law effectively. Women experienced discrimination in employment and inheritance. There were legal restrictions on women's employment in occupations or tasks deemed dangerous and in industries such as construction, agriculture, and transportation. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children, leaving the widow further down in line for inheritance absent any written agreement to the contrary. Families at times gave women a more favored position in the areas of employment and inheritance, but there were no reports of women taking legal action in cases of alleged discrimination.

Children

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

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Authorities generally adjudicated birth registration on a nondiscriminatory basis.

Education: The constitution provides for tuition-free public education for all citizen children and makes primary education until the age of 16 compulsory. Despite multiple statements by officials asserting that public education is free, some public school principals continued to require parents to pay registration and various fees to subsidize teacher salaries and other costs. As a result, education remained 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. Some inhabitants of areas heavily affected by COVID-19 reported that schools denied admission of their children.

Child Abuse: Child abuse including rape was a problem. The press reported most child victims of rape were younger than 12; the youngest was age three. A 2018 study on violence against children produced by the Ministry of Population in partnership with UNICEF revealed violence against children, including physical violence, sexual abuse, and rape, occurred in all environments: family, school, social circles, and workplaces. It found abuse was rarely reported due to lack of confidence in the justice system, precarious economic conditions, a desire to avoid social discord in the community, and intimidation. Only 4 percent of respondents to the survey said they had reported cases of child abuse to police, while 19 percent had reported sexual abuse to 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 raised small children in dangerous conditions and environments and forced children as young as three years old to beg on the streets. Sometimes babies were “rented” to beggars to try to increase sympathy from passersby. Government authorities rarely intervened in these cases of child endangerment.

The government increased efforts to combat child rape. Following the promulgation of the gender-based violence law in January, the Ministry of Justice announced strengthened measures against child rape offenders. The ministry raised public awareness of the duty to report child rape and discouraged persons from using informal arrangements between victims' families and offenders to

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resolve child rape cases. In November media reported these efforts led to an increase in the number of prosecutions of child rape cases.

Government efforts to combat other forms of child abuse were limited and focused 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, Nosy Be, Toliara, and Tolagnaro 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. In addition to medical care, these centers provided psychological support through social workers assigned by NGOs. Police from the minors and child protection brigade recorded victims' 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, however, reported victims of child abuse were sometimes returned to the home where the abuse occurred due to a lack of other options.

In September the Court of Fenerive Est reported an increase in child rape since the beginning of the COVID-19 outbreak. In most cases the offenders were persons close to the victims. Incidents of gang rape and the number of minor offenders also increased. The court organized workshops in the four districts covered by the jurisdiction to raise public awareness of the problem.

Child, 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 at a young age in exchange for oxen received as a dowry, reportedly continued. Affected girls may be as young as 12.

According to the results of a 2018 Multiple Indicator Cluster Survey, 37 percent of women between ages 20 and 49 married before the age of 18. The rate for men was 12 percent. Rural areas were more affected, with 44 percent married before

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age 18, and 15 percent before age 15. In urban areas, 29 percent of women married before age 18 and 7 percent before age 15. There were no reports of government efforts to prevent child marriage.

Sexual Exploitation of Children: The law 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 sexual exploitation of a child younger than 18. There is no specific mention of the sale or offering of children for prostitution. The law specifies penalties of two to five years' imprisonment and fines for perpetrators of child pornography. Authorities rarely enforced the provisions. There is no minimum legal age for consensual sex. The country was a destination for child sex tourism.

Commercial sexual exploitation of children and child sexual abuse, 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 the girls 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.

The national gendarmerie operated a 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, operated a website called Arozaza (protect the child) to combat online sexual exploitation of minors and deter potential abusers. The website included a form to report child endangerment or online pornography. On July 1, media reported improvements to the website allowing police or other governmental entities to intervene immediately once a report was filed on the platform.

On August 13, in collaboration with the Ministry of Population and UNICEF, Internet Watch Foundation launched an online portal allowing individuals worldwide to anonymously and safely report images and videos of sexual abuse of Malagasy children found on the internet. The reported contents would be analyzed

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and removed by the Internet Watch Foundation, not precluding prosecution, as the data would be shared with authorities.

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. The gendarmerie, Ministry of Justice, Ministry of Population, and UNICEF trained local authorities 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 of the country against giving birth to twins also contributed to the problem. A provision in the January gender-based violence law prohibits traditional practices which harm human rights including infanticide.

Displaced Children: Although child abandonment is against the law, it remained a 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 government system.

Institutionalized Children: On August 13, the Court of Fianarantsoa placed a man in pretrial detention for sexual abuse and rape of four minor girls in an orphanage where he was working. As of September, the trial had not taken place.

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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community consisted of approximately 360 members; there were no

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reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and defines persons with disabilities as those presenting a congenital or acquired deficiency in their physical, mental, or sensory capacities. The law also provides for a national commission and regional subcommissions to promote their rights, but none had been set up. 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 were 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.

In June the Antananarivo municipality collaborated with a women's federation to support women with disabilities, allotting 80 sewing-factory positions to women with disabilities and providing free stalls in municipal market places for them to sell their products without paying taxes.

In September the head of a disability rights group stated the government's strategy

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to address the COVID-19 emergency was not inclusive. While persons with disabilities were disproportionately impacted by the pandemic, they did not receive appropriate consideration. Many persons with disabilities were “at will” workers or were working in the informal sector, upon whom the pandemic restrictions had a strong impact. During the COVID-19 census to extend government support to the most vulnerable persons, the surveyors did not consider disability as a factor of vulnerability.

In October the head of a platform for persons with disabilities stated that the lack of accessibility for persons with disabilities was a persistent problem. Humanity and Inclusion, a local NGO that assisted the government in addressing accessibility problems, reported public infrastructure did not provide adequate accessibility for persons with disabilities.

The electoral code provides that individuals with disabilities should be assisted in casting their ballots, but it contains no other provisions to accommodate such voters. In May 2019 the head of a disability rights federation told media that persons with disabilities believed they were excluded from the electoral process since many of the voting materials were not customized for them.

Members of National/Racial/Ethnic Minority Groups

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 tensions between citizens of highland and coastal descent, especially in politics. The government made efforts to address these problems by appointing diverse candidates from different regions as members of government and to other public institutions.

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

The law provides for a prison sentence of two to five years and fines for acts that

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are “indecent or against nature with an individual of the same sex younger than 21,” which is understood to include sexual relations. Authorities enforced this law. No law prohibits 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.

No specific antidiscrimination provisions 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.

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.

On March 10, the Court of Antananarivo committed a member of the LGBTI community, age 33, to pretrial detention. The mother of her age 19 girlfriend sued her for corruption of a minor. The Court granted the defendant a temporary release in early April after the intervention of organizations and activists.

HIV and AIDS Social Stigma

Health-care providers subjected persons with HIV or AIDS to stigma and discrimination. HIV and AIDS patients have the right to free health care, and the law specifies sanctions against persons who discriminate against or marginalize persons with HIV or 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.

In August the newspaper *Les Nouvelles* reported that persons infected by HIV continued to be stigmatized.

Other Societal Violence or Discrimination

Mob violence occurred in both urban and rural areas, in large part due to crime and

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lack of public confidence in police and the judiciary. Crowds killed, beat, burned, or otherwise injured suspected criminals or accomplices if security forces did not arrive in time to halt the violence. Authorities sometimes arrested the perpetrators, but fear of creating renewed anger hindered prosecution. Some media and other observers believed the law was more likely to be enforced against perpetrators when it was in the interests of authorities or security forces. Groups of villagers in several localities assaulted police or gendarmerie stations.

Children with albinism in the south of the country were increasingly the object of kidnapping. Media reported five cases of albino child abduction between January and September.

In May inhabitants of areas with COVID-19 cases reported being subject to discrimination and stigma. A woman working as a housekeeper in Antananarivo said her employer dismissed her because of her residing in an area with a high infection rate. In Toamasina inhabitants of infected areas, especially employees of a company considered a COVID-19 hotbed, were victims of stigmatization, even if most of them had not been at their workplace for several weeks. Some tenants reported being harassed by their landlords to leave their apartments and had difficulty finding new homes. Authorities made little effort to respond to these incidents.

On June 18, a group of villagers in Safotaka beat to death a man who had allegedly killed another man. The families of both men signed an agreement not to bring the case to court. The three gendarmes assigned to investigate the incident were accused of attempting to extort \$1,000 from one victim's family.

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. Seafarers are covered by the maritime code, which does not specifically provide the right to

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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 one-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 law 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. Penalties for violations were not commensurate with other laws involving denials of civil rights such as discrimination.

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. 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 did not effectively enforce the law. The law requires that unions operate independently of the government and political parties. Union representatives indicated employers attempted to dissuade, influence, or otherwise interfere with unions, which often prevented workers from organizing or

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advocating for better 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 public school and university teachers, national company employees, and public-health workers. In July a union leader reported that some employers took advantage of the COVID-19 pandemic to engage in union busting--the targeted layoff of union members. Employers reportedly changed the status of those workers from permanent to contract workers and dismissed them a few weeks later without paying dismissal allowances to which they otherwise would have been legally entitled.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced labor, but penalties were not commensurate with other serious crimes such as kidnapping. Forced child labor was a significant problem in the informal sector (see section 7.c.). 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. The government did not effectively enforce the law.

The government has a national service requirement law, under which all men are required to perform two years of military service or other work, which the International Labor Organization (ILO) criticized as a potential means of mobilizing compulsory labor for economic development. The national service requirement, however, was not enforced, because those wishing to enlist exceeded the available spaces and funding.

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. Media and union representatives reported additional abuses

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perpetrated in call centers run by offshore companies and reported that managers required employees to work overtime beyond legal limits.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes a legal minimum working age of 16, with various restrictions. The law also regulates working conditions of children, prohibits all of 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 semiannual 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 not commensurate with other serious crimes such as kidnapping. The Ministry of Civil Services, Administrative Reform, Labor, and Social Laws is responsible for enforcing child labor laws.

Child labor was a widespread problem. 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 cart, petty trading, stone quarrying, artisanal mining for gemstones such as sapphires, in bars, and as beggars. Mica mining and sorting was an industry rife with child labor abuses. Children also worked in the vanilla sector, salt production, deep-sea diving, and the shrimp industry. Some children were victims of human trafficking. Forced child labor occurred, including child sex trafficking and forced labor in mining, quarrying, begging, and domestic work. The results of the 2018 Multiple Indicator Cluster Survey indicated 47 percent of children were involved in child labor, including 36 percent of those between five and 11 years old. In addition, 32 percent of children between ages

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five and 17 worked in dangerous environments or occupations.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods.

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 bans discrimination based on serology status. The law does not prohibit discrimination based on sexual orientation or gender identity, age, color, ethnicity or refugee and statelessness status. The government did not effectively enforce the law and penalties were not commensurate with those for other violations of civil rights. 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. The law does 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

In 2019 the government raised the minimum wage to an amount slightly above the 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 government did not effectively enforce minimum wage and overtime laws,

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and the penalties were not commensurate with other similar crimes.

The law limits workers to 20 hours of overtime per week and requires two and one-half 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 (OSH) standards for workers and workplaces, but the labor code does not define penalties for noncompliance and only requires an inspection before a company may open. Workers, including foreign or migrant workers, have an explicit right to remove themselves from unsafe situations 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 was estimated to comprise as much as 85 percent of the work force.

The Ministry of Civil Services' Department of Administrative Reform, Labor, and Social Laws is responsible for enforcing OSH standards but did not effectively enforce the law. The number of labor inspectors was insufficient to enforce compliance. Apart from the insufficient number of inspections, authorities reportedly took no other action to prevent violations and improve working conditions. There were no prosecutions, and penalties were not commensurate with those for crimes like negligence. Inspectors have the authority to make unannounced inspections but rarely initiated sanctions. In August, three workers, including a child age 15, were seriously injured in a stone quarry in Ivato, Antananarivo.

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

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minimum wage, high unemployment and widespread poverty, exacerbated by the COVID-19 pandemic, led workers to accept lower wages.

During the COVID-19 crisis, workers from various sectors complained of lack of protections and disrespect of sanitary rules in the workplace. Employees of private companies, such as call centers, reported their employers failed to provide appropriate face masks and hand sanitizer while many of them were working in crowded conditions, making social distancing impossible. Agents of the public-health sector, including doctors and paramedics, demanded adequate training and more appropriate protection. In July, one union leader reported 100 health workers had been infected and that 10 had died from COVID-19. He complained that as they needed to change their protective equipment at least three times a day; some of them had to disinfect, wash, and reuse their equipment.

Media and labor unions repeatedly raised the problem that employers were increasingly violating labor rights during the COVID-19 health crisis. During suspension of public transportation, some employers failed to provide transportation services as instructed by the government. Employees who did not have personal means to commute to work had to walk long distances.

In July labor unions reported that when the government limited working hours from 6 a.m. to 1 p.m. as part of its response to the COVID-19 pandemic some employers required their workers to work from 6 a.m. to 1 p.m. with no break. Some workers were required to work during weekends to complete their weekly 40 hours.

Ministry of Labor officials carried out surprise visits to several private companies before and at the beginning of the COVID-19 emergency period to enforce sanitary rules. They reported a number of infringements after those visits, but with no known measures taken against the employers. On June 30, the ministry announced the launch of a campaign in collaboration with the ILO to encourage compliance with OSH standards in private enterprises. Labor unions reported, however, that by the end of July labor inspections were uncommon due to continued COVID-19 restriction measures and insufficient efforts by labor inspectors.

On June 25, the Ministry of Labor issued an official notice allowing vulnerable

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workers to stop working or telework for up to 15 days to protect themselves from COVID-19 infection. On September 3, the ministry issued a note allowing private companies to suspend the working contracts of workers who exhausted their 15 days of leave and had not returned to work. The director general of labor stated that if the COVID-19 pandemic continued, this suspension could last up to six months, during which the employees would be granted one-month's salary-worth of allowances. He clarified that once the pandemic ended, companies would have to reintegrate these employees.