

Madagascar - Trafficking in Persons Report 2013

US Department of State - 19/06/13

Madagascar is a source country for men, women, and children subjected to forced labor and women and children subjected to sex trafficking. Reports indicate that sex and labor trafficking of Madagascar's citizens has increased, particularly due to a lack of economic development and a decline in the rule of law since the current political crisis began in March 2009. An estimated 4,000 Malagasy women are employed as domestic workers in Lebanon and, since July 2012, an estimated 3,000 Malagasy female domestic workers have migrated to Kuwait; a smaller number of workers have also departed for Saudi Arabia, Jordan, Mauritius, and Seychelles in search of jobs. Many of the women who migrate are single mothers who come from rural areas and are illiterate or poorly educated, making them vulnerable to deception and abuse at the hands of recruitment agencies and employers. At least one death was reported among this population during the year. Trafficking victims returning from Lebanon, Kuwait, and Saudi Arabia reported rape, psychological abuse, physical torture and violence, sexual harassment and assault, harsh working conditions, confinement to the home, confiscation of travel documents, and withholding of salaries. In 2012, there was an increase in Malagasy males victimized by labor trafficking abroad; for example, more than 50 Malagasy men were identified as victims of forced labor aboard a Chinese- flagged fishing boat in South Africa's territorial waters.

Malagasy children, mostly from rural areas, are subjected to domestic servitude, prostitution, forced begging, and forced labor in mining, fishing, and agriculture within the country. Most child sex trafficking occurs with the involvement of family members, but friends, transport operators, tour guides, and hotel workers also facilitate the trafficking of children. During the reporting period, informal employment agencies commonly recruited child domestic servants who were subsequently subjected to forced labor. Parents force their children into various forms of prostitution to earn money to support their families; in some cases, parents have directly negotiated prices with clients when prostituting their children. Child sex tourism increased dramatically during the last year, particularly in the coastal cities of Toamasina, Nosy Be, Antsiranana, and Mahajunga, as well as in the capital, Antananarivo; there was also a significant increase in the exploitation of younger children in the commercial sex trade, with cases involving children as young as seven years old. Some children are fraudulently recruited for work in the capital as waitresses, maids, and masseuses before being coerced into prostitution. The main clients of prostituted boys and girls in Madagascar are Malagasy men. Most child sex tourists are French nationals, with some reports of sexual exploitation by Italian and other Western nationals.

The *de facto* Government of Madagascar does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Because the assessment that the *de facto* government has made significant efforts is based in part on its commitments of future action, namely the initiation of trafficking prosecutions that have not been completed, Madagascar is placed on Tier 2 Watch List. Since the March 2009 coup, combating human trafficking has not been a priority for the *de facto* regime's leadership, despite the growing size of the problem both internally and transnationally. However, as a result of efforts at the working and technical level, including among law enforcement specialists, there has been a significant increase in law enforcement efforts within the country, including 30 potential prosecutions of trafficking offenses and two convictions of trafficking offenders. Despite widespread corruption and complicity of government officials in trafficking offenses, the *de facto* government has failed to investigate or prosecute any officials responsible for these offenses during the reporting period. It also failed to identify and refer victims to protective services and did not support NGOs providing such services. For a fourth year, it did not engage the Government of Lebanon or any other Middle Eastern government regarding protection of and legal remedies for exploited Malagasy workers in those countries, and in most cases, failed to assist with the return of Malagasy citizens to Madagascar during the reporting period. The Malagasy Consulate in South Africa assisted with the return of three male trafficking victims in the Chinese fishing boat case.

Recommendations for Madagascar: Utilize the anti-trafficking law, including at the regional level, to investigate and prosecute trafficking offenses, including those involving forced labor and public officials suspected of trafficking-related complicity; amend the anti-trafficking law to provide sufficiently stringent penalties for labor trafficking; open a dialogue with the governments of destination countries for Malagasy migrants regarding improving protections for Malagasy workers and jointly addressing cases of abuse; consider establishing a consulate in the Middle East to provide consular and, when needed, protective services to Malagasy workers; institute a process for law enforcement officials to document trafficking cases, interview potential victims, and refer trafficking victims for assistance; increase efforts to raise public

awareness of labor trafficking; provide anti-trafficking training to law enforcement, labor, and social welfare officials; and provide adequate funding to anti-trafficking inter-ministerial committees and ensure coordination between the committees, NGOs, and international partners.

Prosecution

Law enforcement officials made significant efforts during the year, resulting in 30 trafficking-related prosecutions and two convictions in Antananarivo alone, compared to no reported prosecutions or convictions in the previous reporting period. Anti-Trafficking Law No. 2007-038 prohibits all forms of human trafficking, but prescribes punishments only for sex trafficking; prescribed penalties range from two years' to life imprisonment and are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Article 262 of Madagascar's labor code criminalizes labor trafficking, for which it prescribes insufficiently stringent penalties of one to three years' imprisonment. Decree 2007-563 prescribes insufficiently stringent punishments of up to two years' imprisonment for various forms of child trafficking, including prostitution, domestic servitude, and forced labor. During the reporting period, the National Police's Morals and Minors Brigade investigated 70 cases related to trafficking and exploitative child labor offenses. The *de facto* government initiated 30 prosecutions; it is unclear how many of these cases were completed and how many remained pending at the close of the reporting period. In one highly-publicized case, an Antananarivo court convicted an owner of a nightclub, a French national, and a Malagasy staff member for "corruption of minors" and "incitement to debauchery" for facilitating child prostitution and sentenced them to five years in prison; the French national was later expelled from the country after serving an unconfirmed period of time in prison. The vast majority of these prosecutions were not brought under the 2007 anti-trafficking law, but instead, under various other provisions of the penal code; this is the result of a continued lack of familiarity of law enforcement and judicial authorities with the relatively new anti-trafficking law. In a separate case, law enforcement officials investigated the head of a labor recruitment agency and charged the individual with complicity in human trafficking under the country's anti-trafficking legislation for the alleged recruitment of a Malagasy woman who was subsequently subjected to forced labor in Lebanon; however, charges were later dropped.

Public officials' complicity in human trafficking remained a significant problem. Reports indicate that various government officials purchased sexual services from children in Antananarivo and Nosy Be. Corrupt police permitted child prostitution rings to operate, particularly in Nosy Be. During the reporting period, there was a significant increase in the number of recruitment agencies in Madagascar, which reportedly engage in falsifying identity documents and sending domestic workers to Lebanon, despite an official ban on such emigration since 2009. The Ministry of Labor and Civil Service is responsible for regulating recruitment agencies and approving the emigration of each worker, which suggests that ministry officials are likely complicit in this illegal activity. Despite these reports, the *de facto* government did not report any investigations or prosecutions of public officials for alleged complicity in trafficking-related offenses.

Protection

The *de facto* government made negligible efforts to protect victims. According to NGO reports, more than 700 Malagasy workers in Lebanon and approximately 50 from Kuwait and Saudi Arabia awaited repatriation at the close of the reporting period, some of whom are suspected to be victims of trafficking. For a fourth consecutive year, the *de facto* government did not engage the Government of Lebanon regarding the protection of and legal remedies for exploited Malagasy workers; in addition, it did not open discussions with any other Middle Eastern government regarding the abuse of Malagasy workers. Madagascar's honorary consul in Beirut failed to address the needs of Malagasy trafficking victims, refusing to advocate for victim protection or to launch investigations into allegations of abuse. When Malagasy trafficking victims were repatriated, the *de facto* government failed to provide them with resources or assistance; the vast majority arrived in Madagascar destitute and in need of psychological and medical services. The Malagasy Consulate in Cape Town assisted in the repatriation of three Malagasy men subjected to forced labor aboard a Chinese fishing boat off the coast of South Africa; these three men received services from an NGO upon their return to Madagascar, and it is unclear whether the consulate is making any attempt to rescue and repatriate other Malagasy men who remain in similar conditions.

The *de facto* government lacked procedures to proactively identify trafficking victims among vulnerable populations and did not systematically provide services or refer victims for care. The *de facto* government did not formally identify any trafficking victims during the year; NGOs reported providing services to 335 victims of trafficking, but indicated that this number only reflects a fraction of the trafficking victims in Madagascar. The *de facto* government did not operate any shelters for trafficking victims or provide support to NGO-run care facilities. The Ministry of Labor operated the Manjarisoa Center in Antananarivo, which offered services

to 35 victims of exploitative child labor; it is unknown whether any of these children were trafficking victims. The Ministry of Population and Social Affairs, in collaboration with UNICEF, supported approximately 450 multi-sector networks covering 55 districts in 11 regions throughout the country to protect children from abuse and exploitation; it is unclear whether their work included combating trafficking. However, available services and facilities remain insufficient and are often nonexistent in areas beyond Antananarivo. NGOs provided counseling, legal services, and medical care to victims and referred them to government hospitals. There were no reports that the *de facto* government arrested or punished trafficking victims for unlawful acts committed as a direct result of being trafficked. There are no formal procedures in place to encourage victims to assist law enforcement in the prosecution of their traffickers; however, the police reported that some victims of sexual exploitation were active participants in the investigations of their alleged traffickers during the reporting period.

Prevention

The *de facto* government made negligible efforts to prevent trafficking during the reporting period. It failed to enforce its official ban on sending domestic workers to Lebanon, which has been in place since November 2009, and recruitment agencies continued to send workers directly to Lebanon or through alternative routes to circumvent the ban. The *de facto* government did not make an effort to improve its oversight of recruitment agencies and may support such agencies' illicit activities. Government officials denied reports of exploitation of Malagasy workers abroad and repeatedly encouraged young women to pursue jobs in domestic service overseas; a television station owned by the *de facto* president aired a report claiming that domestic employees working abroad were not mistreated and suggested that those who were must have encouraged the abuse. In February 2013, in response to an increase in complaints regarding the treatment of migrant workers, the Ministry of Labor and Civil Service announced a one-month ban on sending domestic workers abroad to certain countries, including Kuwait, Saudi Arabia, Jordan, and Seychelles; however, the ministry signed "special derogations," which allowed some domestic workers to continue to migrate to these countries during the ban. Similar "special derogation" documents were also used to circumvent the ban on sending domestic workers to Lebanon during the reporting period; border police are not authorized to prevent anyone with these documents from leaving the country.

During the reporting period, the National Committee on Trafficking, led by the Ministry of Justice, convened on an informal basis. In December 2012, members of the committee held a workshop in partnership with the UN to draft new anti-trafficking legislation to clarify the definition of trafficking and increase protection for child victims of sexual exploitation, forced marriage, and forced labor. The *de facto* government announced the creation of various inter-ministerial committees to combat specific trafficking in persons issues in Madagascar; to date, no concrete results have been reported from any of these committees, and they have not received budgets to operate. The *de facto* government did not make any discernible efforts to reduce the demand for forced labor during the reporting period. The Ministry of Tourism and the Ministry of Population worked with ILO and other stakeholders to develop an action plan and code of conduct to combat sexual exploitation of children for commercial purposes and participated in awareness-raising efforts to reduce child sex tourism; however, these efforts were funded entirely by NGOs and international organizations, and the *de facto* government did not take any additional steps to reduce the increasing demand for commercial sex acts during the reporting period.

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