

Madagascar (Tier 2)

The Government of Madagascar does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore Madagascar remained on Tier 2. These efforts included convicting traffickers for the first time since 2016; funding the repatriation of victims of trafficking; and increasing the number of campaigns to raise awareness of human trafficking. The National Office to Combat Human Trafficking established a new hotline to report human trafficking and dedicated staff to receive incoming calls. The government, in partnership with an international organization, also established a new, specialized center for gender-based violence victims, including trafficking victims, in Antananarivo. However, the government did not meet the minimum standards in several key areas. The government investigated fewer trafficking cases, identified fewer victims, and provided protective care to significantly fewer victims during the reporting period. Despite continued reports of alleged complicity during the year, the government did not hold any complicit officials accountable and did not investigate reports of officials facilitating child sex trafficking or the dismissal of trafficking cases. Efforts to address internal trafficking crimes, including domestic servitude, forced begging, and sex trafficking of children, remained inadequate.

PRIORITIZED RECOMMENDATIONS:

Vigorously investigate and prosecute trafficking offenses and convict traffickers, including complicit officials and perpetrators of internal trafficking crimes. • Sentence convicted traffickers to adequate penalties, which should involve significant prison terms. • Institutionalize the training of front-line officials on case investigation and the use of standard operating procedures for the identification and referral of victims to appropriate services. • Systematically and proactively identify and refer trafficking victims to appropriate care, especially victims of internal trafficking, including domestic servitude, forced begging, and sex trafficking of children. • Amend the 2014 anti-trafficking law to ensure that the penalties prescribed for adult sex trafficking are commensurate with those prescribed for other serious crimes, such as rape and/or kidnapping. • Finalize, adopt, and provide appropriate funding to implement a national action plan to drive national efforts to combat all forms of trafficking. • Establish and implement strong

regulations and oversight of recruitment companies, and improve enforcement, including by prosecuting those involved in fraudulent labor recruitment. • Increase migrant worker protections by prohibiting recruitment fees charged to migrant workers and requiring minimum salaries, pre-departure training, a mutually enforceable standard contract, a complaints mechanism for returning workers, and a public blacklist of abusive employers. • Improve coordination between law enforcement and prosecutors/investigating judges, including regular case conferencing and conducting prosecution-led investigations. • Improve the national identification system, including a database and anti-fraud features, to prevent child sex trafficking through issuance of fraudulent documentation. • Utilize the national centralized anti-trafficking data collection and reporting tool to improve data collection, distinguishing between trafficking and other crimes, including the number of victims identified, cases investigated and prosecuted, and the number of convictions. • Increase efforts to raise public awareness of all forms of trafficking, including internal trafficking. • Collaborate with destination country governments to protect Malagasy migrant workers and jointly address cases of abuse, including through bilateral labor agreements.

PROSECUTION

The government demonstrated mixed anti-trafficking law enforcement efforts. The government convicted traffickers for the first time since 2016, but did not address reports of official complicity in trafficking crimes, which continued during the reporting period. Law No.2014-040 criminalized sex trafficking and labor trafficking and prescribed penalties ranging from two to five years' imprisonment and a fine of one million to 10 million Malagasy ariary (MGA) (\$280 to \$2,760) for offenses involving an adult victim, and five to 10 years' imprisonment and a fine of two million to 20 million MGA (\$550 to \$5,510) for those involving a child victim. These penalties were sufficiently stringent. For offenses involving children, with respect to sex trafficking, these penalties were commensurate with those prescribed for other serious crimes, such as rape; however, offenses involving adult sex trafficking were not commensurate with those prescribed for other serious crimes.

National statistics on prosecutions and convictions remained difficult to obtain and verify, and the government did not maintain a national database for trafficking crimes. The government reported initiating trafficking investigations involving at least 16 possible suspects in 16 cases. For comparison, the government initiated

investigation of at least 74 suspects in 34 cases in the previous reporting period. The government reported initiating the prosecution of one case, involving seven suspected traffickers charged with taking Malagasy women to China for the purpose of exploitation, compared with the prosecution of 56 alleged traffickers in 20 cases in 2018. The government did not report initiating prosecutions of any other investigated cases or provide updates on ongoing cases. The Anti-Corruption Court (PAC) of Antananarivo, whose mandate included trafficking cases that were transnational or involved criminal networks or fraudulent documents, tried the case in October 2019 and convicted six of the seven alleged traffickers, compared with zero convictions since 2016. The PAC sentenced five traffickers to five years' imprisonment and one trafficker to three years' imprisonment. Efforts to investigate and prosecute internal trafficking crimes, including domestic servitude, forced begging, and child sex trafficking, remained inadequate compared to the scale of the problem, and officials continued to frequently conflate trafficking and smuggling.

The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking offenses; however, corruption and official complicity in trafficking crimes remained significant concerns, inhibiting law enforcement action during the year. Furthermore, procedures stating that a government official cannot be arrested without authorization from the official's supervisor impeded holding complicit officials accountable for trafficking crimes. Observers reported some government officials continued to help Malagasy nationals obtain fraudulent travel documentation to circumvent the 2013 travel ban. Observers also alleged that a network of government officials continued to produce false identity documents used to facilitate child sex trafficking, especially in coastal areas like Nosy Be; however, the government did not report initiating an investigation into these continued allegations.

The government facilitated and led six trainings in six cities, funded by an international organization, to educate 60 law enforcement officials, gendarmes, and judges on anti-trafficking legislation. The government also facilitated and led one training, funded by an international organization, for 50 new cadets from the national police school in Antananarivo, which included basic human trafficking training. This was an overall decrease in training, compared with the government training 264 officials on victim-centered investigations and the national victim identification and referral mechanism, with assistance from international

organizations, in the previous reporting period. Despite these training efforts, the government did not institutionalize anti-trafficking training and some police, immigration officers, prosecutors, and judges continued to lack a clear understanding of trafficking, which hampered law enforcement and victim identification efforts. Coordination and information sharing between the public prosecutor's office and police were inadequate and continued to hinder case progression. In December 2019, the government, in partnership with an international organization, approved an interagency agreement between the justice system, the national police, and the national gendarmerie to establish a protocol for effective coordination on trafficking cases; however, the different agencies had not signed the agreement and did not report cases of its implementation during the reporting period. Judges sometimes received high-level instructions to release accused sex offenders, some of whom may have been traffickers, who were often, but not always, foreign citizens. Due to lengthy judicial processes and a lack of implementation for victim protections in criminal proceedings, victims and families often chose to settle conflicts, including trafficking crimes, through informal family mediations at the local level. Victims were often reluctant to file charges due to fear of reprisals. With support from an international organization, the government has had access to a national centralized anti-trafficking data collection and reporting tool since 2016; however, the government has never utilized this tool.

PROTECTION

The government maintained victim protection efforts. Due to a lack of coordinated data collection at the national level, the government did not report comprehensive data. The government reported identifying at least 111 victims of trafficking during the reporting period, compared with 85 victims and 64 potential victims identified in the previous reporting period. The government funded airfare and local transportation to assist the repatriations of 68 Malagasy women from Kuwait as part of an ongoing case, compared with 177 victims repatriated in the previous reporting period. The government reportedly provided various forms of assistance to at least 103 trafficking victims, a decrease compared to 221 assisted last reporting period. NGOs and international organizations reported identifying and assisting at least 1,808 victims, providing various victims with protective services, including medical care, social reintegration assistance, and hotel accommodations; the government did not provide funding or in-kind support for these services.

Contrary to reporting from last year, the government did not have official standard operating procedures (SOPs) to proactively identify trafficking victims and refer them to care that were disseminated and implemented nationally; instead, there were disparate SOPs across different ministries. These procedures did not include methods to proactively screen vulnerable groups to identify potential trafficking victims or a list of assistance organizations to which victims should be referred. Additionally, the government did not distribute these procedures and their use was limited outside of Antananarivo. The Ministry of Population, in collaboration with an international organization, continued to coordinate more than 700 child protection networks across the country to protect children from various forms of abuse and exploitation, as well as to ensure access to medical and psychological services for victims of crime, including trafficking. However, due to lack of resources, only about 400 child protection networks provided basic assistance through public hospitals and health units, and most of the networks referred the victims to international organizations and NGOs for additional assistance. Through referral from the child protection networks, an international organization assisted 1,666 children (860 girls and 806 boys), including victims of sexual exploitation and the worst forms of child labor, both including child trafficking. The Mitsinjo Center, a government-owned, trafficking-specific temporary shelter for repatriated adult victims, sheltered at least 12 victims during the reporting period with support from an international organization. Four government hospitals had “one-stop” victim support centers that offered assistance to child victims of various abuses, including sex trafficking; the one-stop support centers, located in Antananarivo, Toamasina, Mahajanga, and Nosy Be, offered victims medical assistance, psychological support, and access to police and social workers, but the government did not report how many victims received assistance at these facilities. The Ministry of Population, in partnership with an international organization, continued to operate a foster care program for exploited children in Nosy Be; the government did not provide statistics on the number of available foster families or beneficiaries, compared with 10 participating families hosting 18 children in the previous reporting period. The government continued to operate and fund the Manjary Soa Center in Antananarivo, which received 35 children who had been removed from situations of forced labor and sex trafficking. This center provided vocational training or reintegration into the public school system. The city of Antananarivo continued to manage an emergency center for child victims of crime, including domestic servitude, and forced begging victims, who were frequently referred by the Morals and Protection of Minors Police Service; the city, in

partnership with an international organization, provided food, lodging, psychological and medical aid, and educational services. In November 2019, the government, in partnership with an international organization, established a new, specialized center for gender-based violence victims, including trafficking victims, in Antananarivo. The center provided free psychological support, medical care, and legal assistance; the government did not report the number of trafficking victims assisted during the reporting period.

The Ministry of Foreign Affairs systematically informed the Ministry of Population when victims were in the process of repatriation; in turn, the Ministry of Population continued to contact victims upon their return and offer assistance, but reports indicated some victims were reluctant to work with the government. The 2014 anti-trafficking law required authorities to consider legal alternatives for foreign trafficking victims who believe they may face hardship or retribution if returned to their country of origin, but the government did not report providing this protection to victims during the reporting period. There were occasional reports that the government arrested or punished trafficking victims for unlawful acts traffickers compelled them to commit; police would sometimes arrest underage girls for prostitution crimes without screening for trafficking and would sometimes temporarily keep potential transnational labor trafficking victims in police stations due to a lack of alternative accommodations. To prevent retaliation from suspected traffickers, trafficking trials could be held in private or by camera for the sake of the victim or witness confidentiality and privacy; however, the government did not report doing so during the reporting period. While the 2014 anti-trafficking law entitled victims to restitution, for the sixth consecutive year, the government did not implement this provision

PREVENTION

The government maintained efforts to prevent trafficking. The National Office to Combat Human Trafficking (BNLTEH), which led the government's national anti-trafficking efforts, received a dedicated budget of 410.9 million ariary (\$113,280) for administrative expenses and 90 million ariary (\$24,810) for anti-trafficking programs for 2020, an increase compared with 370 million ariary (\$102,010) for administrative expenses and 90 million ariary (\$24,810) for anti-trafficking programs in 2019. The anti-trafficking national action plan expired in 2019, and the government did not allocate funding to implement the national action plan during the reporting period. BNLTEH began drafting a new national anti-

trafficking policy to replace the expired national action plan; the draft policy was awaiting final review by BNLTEH board members at the end of the reporting period. The government conducted several public awareness campaigns, compared with zero in the previous reporting period. BNLTEH organized one awareness-raising conference that targeted law students in Antananarivo and partnered with an international organization to develop a permanent video broadcast on the risks of dangerous migration and human trafficking that played in Ivato International Airport. The Ministry of Civil Service, Administrative Reform, Labor, Employment, and Social Law conducted awareness campaigns focused on child domestic work in several low-income areas that included training 80 community leaders on their responsibility to prevent and report cases of child domestic labor. The government also partnered with an international organization to conduct an awareness campaign on child labor and forced labor in vanilla production. BNLTEH established a hotline to report human trafficking and dedicated staff to receive incoming calls; however, calling the hotline was not free of charge. The government reported receiving five calls to the hotline during the reporting period; however, the calls were not related to trafficking. In partnership with an international organization, the government continued operation of a national toll-free hotline to report child abuse. The government reported identifying 27 cases of child exploitation from the hotline during the reporting period; however, the government did not provide specific details related to potential trafficking, compared to the identification of nine cases of forced child labor in domestic service and one case of child sex trafficking in the previous reporting period. As in the previous reporting period, the government did not report providing assistance to the victims identified through the hotline.

A 2013 ban on migrant worker travel to unspecified countries the government considered high-risk remained in place; however, illicit recruitment agencies circumvented the ban by sending workers through Comoros, Ethiopia, Kenya, Mauritius, and Seychelles. In an attempt to address this issue and identify agencies involved in fraudulent recruitment, the government continued its suspension of all existing accreditations for placement agencies and, thus, its prohibition of recruitment of workers for employment abroad. These prohibitions on migrant workers continued to leave Malagasy with no legal means to travel abroad for work and therefore without access to protection mechanisms available through authorized travel, subsequently increasing their vulnerability to trafficking and blackmail. In September 2019, the Ministry of Public Security (MPS) announced

more stringent control of travel justifications for Malagasy women departing from the airport, in an effort to identify and stop those leaving the country through unregulated channels to banned destinations. In practice, this impeded women from traveling freely and decreased border police understanding of indicators of trafficking that involved more than a person's intended destination and their possession of travel documents. MPS officials later clarified and reversed this policy. The Ministry of Labor, Employment, Civil Service, and Social Laws continued to oversee the process of migrant workers traveling to non-Gulf countries by requiring contract approval by the relevant Malagasy embassy. The government did not make progress on the effort to set up a tripartite agreement between the government, placement agencies, and vocational training centers. In January 2020, the Ministries of Foreign Affairs and Labor finalized but did not sign bilateral labor agreements, developed in the previous reporting period, with Comoros, Kuwait, Lebanon, Mauritius, and Saudi Arabia.

The government maintained efforts to reduce the demand for commercial sex acts, including child sex tourism. In 2019, the Ministry of Tourism (MOT), in partnership with international organizations, monitored the commitment of the approximately 1,000 tourism operators in 12 regions who had previously acceded to the tourism code of conduct against commercial child sexual exploitation and sex tourism. MOT conducted an unknown number of compliance inspections in the Boeny and Diana regions to ensure that operators were adhering to the code, compared with 178 compliance investigations in 2018. The government did not report if any operators were in violation of the code or the steps that were taken to rectify noncompliance. During the reporting period, 25 new tourism operators in the Diana region signed the code. MOT conducted hotel inspections to remind hotels of their obligation to display posters in their reception areas publicizing the prohibition of child sexual exploitation; the government also maintained such billboards at airports as a warning for tourists. MOT, in partnership with NGOs, continued to disseminate pamphlets to tourists reminding them that child sex trafficking was illegal. However, despite the continued prevalence of sex tourism, the government did not report any prosecutions or convictions for sex tourism, and reports of official complicity in such crimes continued. The government did not provide anti-trafficking training to diplomats.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Madagascar, and traffickers exploit victims from Madagascar abroad. Traffickers exploit Malagasy children, mostly from rural and coastal regions and from impoverished families in urban areas, in child sex trafficking and forced labor in domestic service, mining, fishing, and agriculture across the country. The prevalence of child forced begging has increased in Antananarivo; reports indicate that traffickers force children, including disabled children, to work for long hours and in dangerous conditions, frequently at the behest of their parents. Most child sex trafficking occurs in tourist destinations, urban cities, vanilla growing regions, and around formal and informal mining sites with the involvement and encouragement of family members; however, tourist operators, hotels, taxi drivers, massage centers, and local adults in commercial sex also facilitate this crime. Traffickers continue to exploit girls as young as 13 years old in child sex tourism in Nosy Be and other coastal areas. Malagasy men exploit the majority of child sex trafficking victims. The majority of foreign child sex tourists are French and Italian nationals, and to a lesser extent, other Westerners and Comorians. Traffickers fraudulently recruit some children for work in Antananarivo and Mahajanga as waitresses and masseuses before exploiting them in child sex trafficking. Traffickers continue to abuse traditional practices of arranged marriage, bride purchase, and girl markets to exploit girls in child sex trafficking. Government officials are reportedly complicit in obtaining falsified national identity cards that facilitate child sex trafficking in Madagascar and forced labor in domestic service of Malagasy women abroad. Previous reports indicated child sex trafficking of boys was becoming more prevalent. Forced labor persisted in the context of “dinas,” which were informal arrangements for payment or in response to wrongdoing and a way of resolving conflicts or paying debt; these arrangements persisted because authorities did not effectively enforce the law.

Many Malagasy women are employed as domestic workers in China, Lebanon, Kuwait, and Saudi Arabia, and media reports that informal placement agencies are still attempting to circumvent the 2013 ban against sending workers to the Middle East by routing them via Comoros, Ethiopia, Kenya, Mauritius, and Seychelles using tourist visas. Traffickers acting as agents in labor recruitment agencies send Malagasy women to China with falsified identity cards, where they are exploited in forced labor or sold as brides. Traffickers and employers may exploit Malagasy men in forced labor in the services and construction industries in the Middle East and in domestic service in China. Suspending accreditation of placement agencies

has led to employers and traffickers increasingly targeting migrant workers for blackmail or solicitation of bribes. Reports indicate traffickers and employers exploit Malagasy workers in Gulf States using various forms of abuse, such as physical violence, salary withholding, and confiscation of passports.