

MADAGASCAR 2009 TRAFFICKING IN PERSON (TIP) REPORT

MADAGASCAR (TIER 2)

Madagascar is a source country for women and children trafficked for the purposes of forced labor and sexual exploitation. Children, mostly from rural areas, are trafficked within the country for domestic servitude, commercial sexual exploitation, forced marriage, forced labor for traveling vendors, and possibly forced labor in mining, fishing, and agriculture. Some child sex trafficking occurs with the involvement of family members, friends, transport operators, tour guides, and hotel workers. A child sex tourism problem exists in coastal cities, including Tamatave, Nosy Be, and Diego Suarez, as well as the capital city of Antananarivo; some children are recruited for work in the capital using fraudulent offers of employment as waitresses and maids before being exploited in the commercial sex trade on the coast. The main sources of clients for child sex tourism are France, Italy, Spain, Germany, Switzerland, and Reunion. Victims are usually girls, but reports of male tourists seeking sex with underage boys have increased. Young Malagasy women are trafficked within the country for domestic servitude and sexual exploitation, as well as in small numbers to the Middle East for domestic servitude.

The Government of Madagascar does not fully comply with the minimum standards for the elimination of trafficking but is making significant efforts to do so. This report covers the efforts of the Malagasy government until January 2009's political unrest, which resulted in an unlawful change in government in March. Efforts to verify implementation of the laws during the remainder of the reporting period, if any, were difficult given the level of political instability. The new regime's policies and perspectives on Madagascar's Human trafficking problem are unknown; it remains to be seen whether the new government will maintain the previous administration's keen interest in combating trafficking. While the government sustained its efforts to raise awareness of child sex trafficking, lack of institutional capacity and funding remained significant impediments to its anti-trafficking efforts, particularly impacting the effectiveness of law enforcement activities.

Recommendations for Madagascar

Utilize the anti-trafficking law to prosecute trafficking offenses, including those involving forced labor, and punish trafficking offenders; institute a formal process for law enforcement officials to document trafficking cases and refer victims of both labor and sex trafficking for assistance; increase efforts to raise public awareness of labor trafficking; and investigate and prosecute public officials suspected of trafficking-related complicity.

Prosecution

Although the government enacted anti-trafficking legislation in January 2008, it reported no investigations or convictions of trafficking offenders during the reporting period and was unable to provide statistics regarding its anti-trafficking law enforcement efforts. Anti-Trafficking Law No. 2007-038, adopted in January 2008, prohibits all forms of human trafficking, though it only prescribes punishments for sex trafficking; these range from two years, to life imprisonment, penalties that are sufficiently stringent and commensurate with those prescribed for other grave crimes. The Ministry of

Justice disseminated copies of the new law to all 22 regions during the year and magistrates received training in its use. Article 262 of the Labor Code criminalizes labor trafficking, for which it prescribes inadequate penalties of one to three years, imprisonment.

Decree 2007-563 prohibits various forms of child labor, including prostitution, domestic slavery, and forced labor. The government has yet to use its January 2008 anti-trafficking law to punish traffickers; a lack of case precedent, poor coordination among ministries, lack of systematic information, lack of data shared between the regional and central levels, and the lack of a presidential decree mandating and codifying its use likely hinder the new law's implementation. Several alleged sex trafficking cases came to trial in 2008, but only two reportedly made use of the anti-trafficking law, and neither has reached a resolution; the remaining cases were tried under other laws, and either dismissed or punished with suspended sentences. The government did not investigate or prosecute cases of forced labor during the reporting period.

In September 2008, a foreign government-funded program finished the development of a centralized database for documenting and tracking trafficking cases nationwide.

Training for personnel in the use of this database was conducted in the capital and areas of the country where high levels of trafficking have been reported. While a positive example of increased anti-trafficking cooperation between the gendarmerie and police, financial and legal issues threaten to derail this project; the center still lacks a presidential decree giving its work legal standing and financing remains uncertain. The database's use is limited to cases in Antananarivo.

In some tourist areas, local police appeared hesitant to prosecute child sex trafficking and child sex tourism offenses, possibly because of deep-rooted corruption, pressures from the local community, or fear of an international incident. Some officials were punished in 2007 for colluding with traffickers or accepting bribes to overlook trafficking crimes. The Ministry of Justice did not report any such cases in 2008, though the media ran stories alleging official complicity. The ministry began rotating magistrates to different jurisdictions within the country, in part to stem corruption.

Protection

The Madagascar government provided weak victim protections. During the last year, previously reported victim protection efforts were determined to mostly be provided by NGOs and international organizations and not by the government. The government did not operate victim assistance programs; the majority of trafficking victims identified in 2008 were assisted exclusively by NGO-run centers. Counseling centers run by local NGOs and supported by the Ministries of Justice and Health in Antananarivo and Fianarantsoa, however, provided psychological support and legal advice to child sex trafficking victims. An unknown number of parents of such children received advice on filing court cases, but most declined to do so, either for fear of reprisal or because of a payoff from the perpetrator. As Madagascar lacked a formal process to identify trafficking victims among vulnerable populations or refer victims for care, law enforcement officials began drafting such procedures during the year with UNICEF assistance. However, the Ministry of Health's local-level Child Rights Protection Networks) which increased in number from 14 in 2007 to 65 in 2008 with UNICEF support) brought together government institutions, law enforcement officials, and NGOs to fill this

role. Networks coordinated child protection activities, identified and reported abuse cases, and assisted victims in accessing appropriate social and legal services. In 2008, for example, a protection network in Diego rescued two trafficked girls and the government returned them to their families in Ambanja and Nosy Be and provided money for school enrolment. Labor inspectors reportedly taught job-finding skills to rescued victims during the year. The government did not penalize trafficking victims for unlawful acts committed as a direct result of their being trafficked and encouraged them to assist in the investigation and prosecution of their exploiters. The government does not provide legal alternatives to the removal of victims to countries where they would face hardship or retribution.

Prevention

The government sustained its trafficking prevention efforts during the year. At the regional level, Local Anti-Trafficking Boards, comprised of ministerial representatives, improved information sharing among stakeholders and sensitized the population on trafficking issues, resulting in NGO care centers receiving an increasing number of cases in 2008. Although eight Regional Committees to Fight Child Labor increased coordination among government entities, NGOs, and ILO/IPEC under the framework of the National Action Plan for the Fight Against Child Labor, the Ministry of Labor's five child labor inspectors were insufficient to cover areas beyond Antananarivo or in informal economic sectors. The government continued its national awareness campaign against child sex tourism and conducted a number of law enforcement actions against foreign child sex tourists during the year. In December 2008, President Ravalomanana presented remarks in Nosy Be on the importance of protecting children from foreign sex tourists. In May 2008, the Ministry of Justice launched a national campaign against child sexual exploitation that included messages on sex tourism in posters, a short film, and TV and radio spots. The government continued distributing anti-sex tourism information to tourists at national events and cultural celebrations, such as the Donia festival in Nosy Be, and a customs booklet to arriving international passengers containing a full-page warning of the consequences. In January 2008, a man from Reunion was arrested and prosecuted for the commercial sexual exploitation of a child in Nosy Be, but his case was dismissed for lack of evidence; four Reunionese considered accomplices were deported from the country. A French national was imprisoned in Tamatave for child sex tourism in September 2008. Also, three French citizens, cases for indecent assault or statutory rape were either dismissed or punished with suspended sentences.