

Madagascar Classified as Tier 3, in Most Recent Trafficking in Persons Report

Département d'Etat des Etats-Unis – 28/06/11

Secretary of State Hillary Clinton announced the results of year's global Trafficking in Persons Report in Washington, DC today. Madagascar was found to have dropped into the lowest category, Tier 3, which means it may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President can instruct the U.S. executive directors to international financial institutions to use best efforts to deny loans or other utilization of funds (other than for humanitarian, trade related, or certain types of development assistance) for countries on Tier 3.

The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that the crime of human trafficking includes obtaining or maintaining victims' labor or services (including in the "sex industry") through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on the transnational movement of victims, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require that the victim be moved to be considered trafficked.

Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for at least two victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as fully complying with the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to bring themselves into compliance with those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to bring themselves into compliance are classified as Tier 3, the category in which Madagascar is ranked.

The section of the report on Madagascar:

MADAGASCAR (TIER 3)

Madagascar is a source country for women and children subjected to forced labor and sex trafficking. Reports indicate that sex and labor trafficking have increased, particularly due to a lack of economic development and a decline in the rule of law during the current political crisis, which began in March 2009. An estimated 7,000 Malagasy women are currently employed as domestic workers in Lebanon, with a smaller number in Kuwait. Many of these women are single mothers, come from rural areas, and are illiterate or poorly educated, making them more vulnerable to deception and abuse at the hands of recruitment agencies and employers. Numerous trafficking victims returning to Madagascar from Lebanon 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. At least 11 deaths were reported among this population in 2010. Of the 777 Malagasy returnees since 2009, 85 percent ended their contracts early because of mistreatment. Children, mostly from rural areas, are subjected to domestic servitude, commercial sexual exploitation, and forced labor in mining, fishing, and agriculture within the country. Most child trafficking occurs with the involvement of family members, but friends, transport operators, tour guides, and hotel workers also facilitate

the enslavement of children. A child sex tourism problem exists in coastal cities, including Tamatave, Nosy Be, Diego Suarez, and Majunga, 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 coerced into prostitution on the coast. The main nationalities of child sex tourists seen in Madagascar are French, German, and Swiss. In Antananarivo and Nosy Be, child sex tourists hire local taxi drivers to procure children in prostitution or virgins. Parents sell young women into marriages, some of which are short-term and involve foreigners, and often for significant sums of money, and leave the women vulnerable to sex trafficking or domestic servitude. The main clients of prostituted children in Madagascar, however, are Malagasy men. There are reports that boys are also in prostitution in Madagascar, though it is hidden as it is culturally taboo. The de facto Government of Madagascar does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. Since the March 2009 coup, combating human trafficking has not been a priority of the de facto government, despite the growing size of the problem both internally and transnationally. The authorities' anti-trafficking efforts were negligible during the year; they failed to prosecute or convict trafficking offenders, identify and refer repatriated victims to necessary services, and prevent the increased trafficking of Malagasy citizens. Lack of awareness on the coverage and application of the anti-trafficking law, and the continued arrest and punishment of potential underage children in prostitution by local law enforcement, contributes to the dismal state of anti-trafficking law enforcement efforts in Madagascar. Efforts to repatriate victims from Lebanon, though necessary, have often been poorly managed, and reveal a minimal and wholly reactive approach to addressing the problem.

Recommendations for Madagascar: Issue a presidential decree codifying and mandating use of the anti-trafficking law at the provincial level; utilize the anti-trafficking law to investigate and prosecute trafficking offenses, including those involving forced labor and public officials suspected of trafficking-related complicity; consider amending the anti-trafficking law to provide sufficiently stringent penalties for labor trafficking; make efforts to foster a dialogue with the Government of Lebanon on improving protections for Malagasy workers and jointly addressing cases of abuse; consider establishing a Malagasy consulate or embassy in Lebanon 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 make efforts to improve the level of coordination between government ministries on trafficking issues.

Prosecution

The Malagasy de facto government's anti-trafficking law enforcement efforts diminished over the year, as it reported no investigations or prosecutions of trafficking offenders. Anti-Trafficking Law No. 2007-038 prohibits all forms of human trafficking, though it only prescribes punishments for sex trafficking; 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 the labor code criminalizes labor trafficking, for which it prescribes inadequate penalties of one to three years' imprisonment. Decree 2007-563 prohibits and prescribes inadequate punishments of up to two years' imprisonment for various forms of child trafficking, including prostitution, domestic servitude, and forced labor. The de facto government has yet to use its anti-trafficking law to punish traffickers. The authorities did not investigate or prosecute cases of forced labor during the reporting period; however, there were two prosecutions of child sex tourists, though no accused offenders are currently in jail. Anecdotal evidence indicates that public officials' complicity in human trafficking remains a significant problem. Corrupt police permit organized child prostitution rings to operate, particularly in Nosy Be. Local police learn of cases of child sex tourism and commercial sexual exploitation of children when underage victims file complaints, seeking police intervention to demand payment from clients. However, the work of law enforcement was misdirected in these instances, as police assisted victims in retrieving payment, and often victims withdrew their complaints out of fear that they may later be prosecuted. Generally, local police remained hesitant to pursue child sex trafficking and child sex tourism offenses because of deep-rooted corruption, pressures from the local community, or lack of knowledge on the anti-trafficking law. In addition, local police cite parents as an obstacle; they encourage their children to engage in prostitution and, in turn, discourage law enforcement action due to the dire economic situation within their families. The regime reported no efforts to investigate, prosecute, convict, or sentence public officials complicit in human trafficking during the reporting period.

Protection

The de facto Malagasy government made weak efforts to ensure that victims were provided access to necessary services and it did not operate specific victim assistance programs. The minister of Population and Social Affairs, working in Madagascar, coordinated the repatriation of victims from Lebanon, though her

work was of a personal nature and did not involve her technical staff or official responsibilities. During 2010, there were 606 Malagasy repatriated from Lebanon; by March 2011, an additional 194 had been repatriated. The regime lacks procedures to proactively identify trafficking victims among vulnerable populations and did not provide services or refer victims for care in a systematic way; NGOs provided counseling, legal services, and medical care, or referred victims to government hospitals. During the reporting period, the de facto government provided medical and psychiatric care at no cost to 109 repatriated victims at public hospitals under the Ministry of Health. However, such care provisions are not systematic; some hospitals did not provide free care or care at a reduced charge to victims, while others worked with NGOs, on a case-by-case basis, to ensure costs remained low for victims. The authorities ended the practice of immediately detaining trafficking victims returned from Lebanon in a psychiatric institution, as it was too costly; however, the need remains to allow trafficking victims systematic access to care. Services and facilities are insufficient and usually non-existent in areas beyond Antananarivo.

However, the Ministry of Health's local-level Child Rights Protection Networks, supported by UNICEF, brought together de facto government institutions, law enforcement, and NGOs to partially fill this role, by coordinating child protection activities, identifying and reporting abuse cases, and assisting some trafficking victims in accessing social and legal services. UNICEF trained a team of facilitators made up of technical staff from the Ministries of Population, Justice, and Public Function; in December 2010, UNICEF organized a series of trainings for 25 to 30 participants in each of four regions on exploitation of children led by the team of facilitators for local authorities, police, Fokontany staff, and local NGO representatives, as a means to build the capacity of networks. Due to both a lack of understanding of trafficking and related laws, as well as a lack of recognition of the crime committed, the de facto government may arrest and punish internal trafficking victims for unlawful acts committed as a direct result of being trafficked. The de facto government did not show evidence that it encouraged victims to assist in the investigation and prosecution of their exploiters, and did not provide legal alternatives to the removal of victims to countries where they would face hardship or retribution. The Malagasy honorary consul and the charge d'affaires of the Malagasy embassy in Paris, working in Lebanon, began identifying workers to be repatriated to Madagascar, establishing a termination date with their employers, and negotiating with the Lebanese government regarding those in detention due to their illegal status. Officials from the Ministries of Population, Civil Service, Justice, and Foreign Affairs, and the Air and Border Police met in Antananarivo in March 2011 to coordinate efforts in preparation for this repatriation; however, the process for identifying and registering those to be repatriated, led by the honorary consul, was flawed, leaving the most vulnerable victims with their employers. In March 2011, 85 potential victims were repatriated from Lebanon; upon their return, these victims received medical care at public hospitals and psychological support from social workers at a local NGO. Over 600 Malagasy await repatriation from Lebanon and of these 140 vulnerable victims are in need of emergency repatriation, as determined by NGOs. The authorities have no known plans to address the needs of these 600 workers. These repatriations, though mismanaged and inadequate at times, have been the only bilateral actions taken to address the needs of victims in Lebanon. For a second year, the de facto government did not initiate bilateral engagement with the Government of Lebanon regarding protection of and legal remedies for exploited workers. Madagascar's honorary consul in Beirut was ineffective in addressing the needs of Malagasy trafficking victims, often encouraging victims to return to their employment agencies, and not advocating for victim protection or investigations into allegations of abuse. There are reports that the honorary consul stood by as a Malagasy domestic worker was physically abused by her employer in his presence.

Prevention

The de facto government has made little effort to prevent trafficking during the reporting period. It maintained the suspension of several employment agencies implicated in human trafficking and continued the November 2009 ban on sending workers to Lebanon. However, unofficial networks now reportedly send Malagasy through Mauritius, South Africa, Kuwait, Egypt, France, or the Seychelles to circumvent this ban; at least 300 Malagasy arrived in Lebanon via Mauritius since the ban began. Malagasy officials also reportedly assisted unlicensed recruitment agencies in obtaining fraudulent travel or identification documents, including for underage aspirants, and the Ministry of Civil Service and Labor provided permits for some workers to travel to Lebanon. The ministry reportedly has close ties with labor recruitment agencies, hindering its oversight role in monitoring the agencies' practices. However, the Ministries of Foreign Affairs, Public Service, Population, and Social Affairs created an inter-ministerial committee in December 2009 to address the situation in Lebanon and establish a safe migration program, with support from UNICEF, including a new contract template, pre-departure preparation for women, and the establishment of rules and regulations for recruitment agencies. Local NGOs and local law enforcement have identified child sex tourists, though there have not been any successful prosecutions in these cases. According to NGO reports, the regime brought one child sex tourist from Luxembourg to trial in Tamatave, though the accused was not convicted; there are reports that all witnesses have either been threatened or paid off. In March 2010, the

National Gendarmerie in Nosy Be arrested a hotel receptionist and an alleged Seychellois sex tourist for the trafficking of a 17-year-old girl. Although there was a trial, the suspected offenders have been released for unknown reasons.

Source : http://www.antananarivo.usembassy.gov/embassy_news/press-releases2/trafficking-in-persons-report.html