Madagascar

Governance and Development Effectiveness Review
A Political Economy Analysis of Governance in Madagascar

December 2010

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(AFTPR)
Africa Region

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MADAGASCAR

Government Fiscal Year - January 1 – December 31

Currency Equivalents (June 2010)

Currency Unit: Madagascar Ariary 2,040 = US$1.00

Abbreviations and Acronyms

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<tr>
<td>AGOA</td>
<td>African Growth and Opportunity Act</td>
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<tr>
<td>AKFM</td>
<td>Party of the Congress for the Independence of Madagascar</td>
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<tr>
<td>ANAE</td>
<td>National Association for Environmental Action</td>
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<td>AREMA</td>
<td>Avant-garde de la Révolution Malgache</td>
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<tr>
<td>BCMM</td>
<td>Office of the Mining Cadastre</td>
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<td>BIANCO</td>
<td>Independent Anti-Corruption Bureau</td>
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<tr>
<td>CEM</td>
<td>Country Economic Memorandum</td>
</tr>
<tr>
<td>CNOE</td>
<td>Conseil National pour l’Observation des Elections</td>
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<tr>
<td>CNPD</td>
<td>Conseil National pour le Développement</td>
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<tr>
<td>COBA</td>
<td>Community Based Organizations</td>
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<tr>
<td>COSOFAM</td>
<td>Collectif des Sous-Officiers des Forces Armes</td>
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<tr>
<td>CRTIM</td>
<td>Circle of Reflection on Tanindrazantsika I Madagasikara</td>
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<tr>
<td>CSO</td>
<td>Civil Society Organizations</td>
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<td>CSR</td>
<td>Catholic Relief Services</td>
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<td>DGF</td>
<td>General Directorates of Forestry</td>
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<td>DGE</td>
<td>General Directorates of Environment</td>
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<tr>
<td>EIA</td>
<td>Environmental Investigation Agency</td>
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<td>EITI</td>
<td>Extractive Industries Transparency Initiative</td>
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<td>EP</td>
<td>Environmental Program</td>
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<tr>
<td>FDMC</td>
<td>Mining Foundation for Communal Development</td>
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<td>FNDR</td>
<td>Front National pour la Défense de la Révolution</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>GELOSE</td>
<td>Local Management of Renewable Natural Resources</td>
</tr>
<tr>
<td>GTZ</td>
<td>Deutsche Gesellschaft für Technische Zusammenarbeit</td>
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<tr>
<td>HAT</td>
<td>High Authority of Transition</td>
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<tr>
<td>ICG</td>
<td>International Contact Group</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>JTF</td>
<td>Joint Task Force</td>
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<td>LAO</td>
<td>Limited Access Order</td>
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<td>LGIM</td>
<td>Large Mining Investment Act</td>
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<td>MAP</td>
<td>Madagascar Action Plan</td>
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<tr>
<td>MDRM</td>
<td>Mouvement Démocratique pour la Rénovation de Madagascar</td>
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<td>MNP</td>
<td>Madagascar National Park</td>
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<td>MONIMA</td>
<td>Madagascar supported by the Malagasy</td>
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<td>MSM</td>
<td>Malagasy Social Movement</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>OAO</td>
<td>Open Access Orders</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>OMNIS</td>
<td>Office des Mines Nationales et des Industries Stratégiques</td>
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<td>ONE</td>
<td>National Environmental Office</td>
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<tr>
<td>OSF</td>
<td>National Forestry Observatory</td>
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<td>PADESM</td>
<td>Parti des Désérétés de Madagascar</td>
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<tr>
<td>PDM</td>
<td>Parti Démocratique Malgache</td>
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<tr>
<td>PEA</td>
<td>Political Economy Analysis</td>
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<tr>
<td>PEFA</td>
<td>Public Expenditure and Financial Accountability</td>
</tr>
<tr>
<td>PSD</td>
<td>Parti Social Démocrate</td>
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<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
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<tr>
<td>TIM</td>
<td>Tiako i. Madagasikara</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNDD</td>
<td>Union Nationale pour le Développement et la Démocratie</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<td>ZOAM</td>
<td>Zatovo Orin’Asa Malagasy</td>
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Executive Summary

Overview

Madagascar’s political and governance institutions constrain development effectiveness and have been both a cause and a consequence of political crises. (Chapter 1)

- Formal authority is traditionally centralized under a President, who has a near-imperial role, with minimal checks on accountability from the institutional mechanisms intended to ensure horizontal accountability, such as Parliament and the Judiciary.
- The President of the day, and political parties, are tied into a neo-patrimonial rent–seeking mechanism based on patron-client relations that deliberately blur the boundaries between public and private spheres.
- Elite bargaining is fragile in such rent-seeking arrangements, with both political and economic consequences:
  - New political allegiances are regularly formed to topple successive governments in a context of increased presidential use of power.
  - Elite bargaining over economic rents, especially increased opportunities in natural resource rents, may also have contributed to the instability underpinning the political crisis. The political crisis has in turn contributed to the current economic crisis.
- Non-competitive political and economic institutions which are subservient to the elites are among the key challenges to effective governance. Interference in the application of the legal framework has resulted in widespread impunity for both political and economic elites and other stakeholders, adversely affecting development effectiveness.
- Effective demand for reform by non-state stakeholders is weak, especially in civil society (see Annex II on Civil Society).

The Political Economy of Mining (Chapter 2)

- As political power is concentrated and policy commitments are difficult to make due to the fragility of elite bargains, Madagascar is vulnerable to a resource curse dynamic given potential future income from mining.
- Transparent mining rights and revenue management is undermined by the rent-seeking logic of the neo-patrimonial state.
- Inequitable redistribution of mining revenues among affected communes reflects centralized neo-patrimonial state of policy-making, with minimal bottom-up accountability.

The Political Economy of Forestry (Chapter 3)

- Persistent logging of precious timber in the Sava region’s protected areas is the result of state capture by local timber trading elites.
- It leads to a severe loss of Madagascar’s natural capital and potential government revenues.
- There is no strong domestic constituency with sufficient political or economic weight for containing rosewood logging. The international civil society and donor community has employed significant efforts to fight such logging.

Recognizing neo-patrimonial rule in Madagascar delimits the political economy space; new options for engaging government need to be explored and include recommendations on the way forward (Chapter 4).
A. Context

Madagascar is at a development crossroads. Despite recent progress made, the country has been plunged into a profound political and economic crisis. After the ouster of President Ravalomanana in March 2009, a de facto transition government led by President Andry Rajoelina has taken power. Since this political crisis, the country has found itself in an economic crisis, worsened by the global financial and economic downturn. The international community has suspended most aid, on which the country is highly dependent, and international mediation efforts have seen limited success.

Until the political crisis in early 2009 Madagascar had been largely seen as a development success in the making. Madagascar’s growth has increased over the last 15 years, following the abandonment of socialist economic policies, reaching an average annual real growth rate of 5.7% between 2003 and 2007. Poverty declined from a high of 80% in 2002 to 65% in 2008, and was largely concentrated in the rural areas. Despite initiatives to push the development agenda and strengthen economic and public sector management, conflict of interest between political and economical circles undermined the success of the development agenda. This ultimately became evident to development partners when the political crisis unfolded in early 2009.

B. Objectives of the Study

The objective of this pilot study is to provide an initial understanding of the political economy drivers of governance in Madagascar, with a particular focus on the mining and forestry sectors to illustrate some of the specific ways in which Malagasy politics intersects with economic management. This study primarily aims to stimulate a debate in government, private sector, civil society as well as donors on governance in Madagascar. It is also intended to inform the Bank on the political economy implications for its country program in Madagascar and help contribute to the next Country Assistance Strategy for future reengagement with government, with the ultimate goal of enhancing development effectiveness. Given the sensitivities of the subject, the study has been carefully edited to strike a balance between the interests of the different audiences.1 It will be shared with target audiences in a customized way through a dissemination and communication strategy tailored to the different audiences. The report complements a major collection of policy notes recently published by the World Bank as a key contribution to a constructive policy debate in Madagascar.2 This political analysis goes up to October 2010 and does not include the latest developments related to the referendum of November 17, 2010 and the establishment of the Fourth Republic.

This study is part of a programmatic economic and sector work (ESW), with the first phase focusing on a preliminary analysis on the political economy of governance. This study employs a political economy conceptual framework by North, Wallis and Weingast (2009) that offers a new approach to understanding the limits of governance reform and political crisis in Madagascar, constraining development effectiveness. The review focuses in particular on the forestry and mining sectors, given the potential economic rents and increasing governance challenges in both sectors. The second phase will focus on a more detailed analysis of the political economy of governance, with a focus on recommendations for governance across Bank sectors, including the social sectors.

This summary presents the findings of the main report through a problem-driven political economy lens. It provides an overview of the most salient political features of Madagascar, the

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1 Given some sensitivities, some issues might intentionally not have been addressed or only implicitly.
incentives that drive the main actors, the main sources of risk and the key drivers of decision-making as well as the governance implications in general and in particularly for the mining and forestry sectors. Finally, even though recommendations are beyond the scope of this study, implications and potential ways forward for the Bank are briefly outlined.

C. Political Features of Madagascar through a Political Economy Lens

Madagascar is a democratic republic: each of its three republics have brought seismic shifts to the political landscape but maintained a strong presidency within constitutional structure.

- **After Madagascar’s independence in 1960 from France, its First Republic (1960-1972) remained closely tied to France and still maintains these ties.** The Second Republic, led by President Didier Ratsiraka, during the Cold war, had strong Soviet ties, and was so-called “Scientific Socialist”. The current Third Republic’s constitution was written in 1992 and revised in 1995, 1998 and 2007.

- **The Executive Branch of the government, particularly the Presidency, has traditionally been very dominant.** The President appoints the Prime Minister (PM) since the brief exception in 1992 change to elect the PM from the National Assembly was overturned in 1995. Little distinction is made between the political network of the President and the role of the Presidency. In Madagascar, the dominant role of the Presidency stands in the context of a culture descendant from monarchic rule.

- **The Legislature is unable to constrain Presidential authority, as it has become a marginal part of the system, in service to, rather than in check of, Presidential executive power.** The bicameral Parliament is composed of the National Assembly and the Senate: the Senate (upper chamber) was only created in 2001, and has little legislative influence, with over a third of its members appointed by the President. The National Assembly (lower chamber) has a history of greater legislative influence but has since been both strongly politicized and subject to the direct institutional intervention of successive executives, which has undermined its ability to exercise even its limited oversight functions. The legislature has been politically isolated, underfunded and has limited technical capacity. Unless the electoral code and law on political parties change, the Legislature is likely to continue to be dominated by the Executive.

- **The Judiciary is also unable to play its role as an independent branch of government or as a defender of citizen rights.** The President has significant power of the Judiciary and the Supreme Court (HCC) in particular, as the President is the guarantor of judicial independence, simultaneously holds the post of President of the Superior Council of the Magistrature (CSM) and names three of the nine members of the HCC. The HCC is flexible to accommodate the sitting President’s interests, as often it can interpret what it sees as contradictions in the constitution by drawing on common law. Although it does not appear that the Judiciary is largely captured by executive rents, it is largely powerless against those that are. Selective application of the legal framework has led to a perception of widespread impunity.

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3 One of the few historical signs of the legislature’s independent power was its vote to impeach President Albert in 1996 after he overstepped his powers.

4 To compound this, the Assembly is most often cited as engaging in corrupt behavior out of all public institutions in Madagascar, according to Afrobarometer (2009).

5 Supreme Court justices have little trust in the CSM and are wary of its role.
• The state can plan, organize, and regulate but it cannot bargain or enforce. In the short-term the statist issue is the stabilization of rents. These rents can serve as backbone for the political networks that keep the state functioning.  

• Oversight functions outside of government are weak to virtually non-existent. The erosion of state capacity as a result of the crisis has a disproportionate impact on oversight mechanisms, making it more difficult to augment those mechanisms in a new post-election institutional environment. Several media are controlled by key political actors.

• In Madagascar the constitution has been a political tool of the President not a constraint on it. Every President in the history of postcolonial Madagascar has changed the Constitution to suit his need. Each rise of violence in Madagascar has led to calls for a return to constitutionality; however, that is a relative position subject to the mutability of the varying networks in place.

Madagascar’s electoral code has been subject to the different leading political networks.

• Madagascar uses a multi-ballot system which has increased opportunity for fraud and has introduced opportunities for local leaders to control voting access through voter registration malfeasance.

• Shifts in the electoral code have also meant that individual candidates must both fund and distribute ballots for their parties nationally. This significantly limits competition, especially from parties strong in particular regions. Most recently, the use of a single ballot during the November 17, 2010 is progress towards the goal of greater equality, especially regarding those parties which do not have a full presence throughout the national territory.

• The level of disagreement over the electoral code is profound and, until it is confronted, a Presidential election is unlikely to result in widely-accepted results.

• For example, decentralization reforms engaged in the late nineties and pursued thereafter were often subservient to personal, centralized network. Any institutional threat to the base of power that emerged forced an undoing of that institution. Governance was increasingly centralized and narrowly reliant on a close coterie.

The party system is extremely weak in Madagascar, rather than being based around ideologies or aggregating political will, political parties are at the service of key individuals.

• In Madagascar, political parties are influenced by elites to act as a nexus for political patronage networks geared towards the maintenance of power.

• Every political party in the history of independent Madagascar has been created by a leader at the top of a political network and has been followed by that party controlling the legislature.

• Few parties have survived and none ever held any significant influence with the loss of its leader in the Presidency.

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7 In 1995 President Zafy Albert changed the 1992 constitution to shift power from the prime minister to the president. In 1998, President Didier Ratsiraka changed the constitution to create autonomous provinces, effectively shifting power from the capital to his provincial powerbases. In 2004, President Marc Ravalomanana abrogated the six autonomous provinces by decree in favor of a deconcentrated system of 22 regions appointed by the central government. This limited power of elites outside of the capital region in favor of his Antananarivo powerbase. The constitution was revised in 2007 to meet the change already in place.
8 Ravalomanana fought against significant internal and external pressure in favor of the single ballot system.
D. Key Stakeholders

Private sector elites are closely intertwined with political elites and are the dominant driver of Madagascar’s political economy.

- There has been an evolution of the elites in Madagascar over the last century or so from the noble class Merina families to the “big families” and to a private sector elite. A new business class has risen over the past two decades, mainly deriving its rent from light industries.

- New industries, including mining, have not yet served as a mechanism to establish important political networks.

**Big influential families have served as patrons, creating kings in the political sector.**

- Big families (many of which descendants from the traditional Malagasy noblesse which once dominated the markets of Antananarivo and who rose in opposition to the leading noble families (e.g. the Merina) need political patrons to maintain their influence.

- Rent-seeking politicians could now turn their attentions away from long established neo-patrimonial lines of influence. While it has not yet happened, a significant shift towards new economic opportunities (e.g. mining) holds the potential to undermine the big families.

- Shift in rents may result in big families aligning with Merina families seeking to sponsor political leaders in exchange for political protection for their activities. This appears to be the emergent case of families involved with rosewood exploitation in the Sava Region.

The military in Madagascar can be viewed as a critical partner in neo-patrimonial networks but has not been a principal driver of change in Madagascar. Rather than dominating the state as in other African countries, the military is a source of potential changes of coalitions. The relative instability of the military is the result of long-standing politicization, which has undermined its organizational capacity over time. The military can be characterized as “bloated, under-equipped, and divided” (Rabenirainy 2002). Military strongmen have not dominated the political landscape. It is indicative of the limited role of the military that only about 1.1 percent of Malagasy GDP goes to the military budget.

Civil society in Madagascar is markedly weak and has only a limited potential to be an effective agent of voice to demand reforms and greater development effectiveness (see Annex II on Civil Society).

- In spite of democratization, the deeply rooted centrality of the state has ensured that many associations, where they exist, have only limited capacity to interact with the political sphere. 78 percent of CSOs are concentrated in the capital region, and many CSOs are financially dependent upon their elite leaders and tend to be politicized; both of these factors contribute to CSOs often being closer to the state than local level constituents.

- Non-governmental organizations are the stronger parts of civil society. While they are often effective service providers, they can be politicized and can have limited downwards accountability.

- There are barriers to collective action, including historical and linguistic barriers. For example, the Malagasy culture has incorporated different identities between people of Australasian and African descent. The Malagasy language, through its many dialects, dominates communication, but French serves as an additional national language.

- This is compounded by the limited enabling environment and the absence of transparent information. Citizens have been little empowered to participate in development, and have
only limited capacity to speak up individually or collectively to demand transparency and accountability.

The church is the most influential part of civil society and plays an important political role. In 2002 and particularly 1991 churches played a critical role in helping shape the political dialogue. While leading church organizations have held a more limited role in the recent political process, their relatively strong vertical communication structures in church organizations gives them a potentially important role well beyond their primary mandate.

- Church-based networks are more effective than other non-NGO coalitions and among the strongest civil society advocates. Due to their extensive country-wide networks, long track record of development work with donor funding, and credibility in the public arena, the Christian churches have played an important role in the development in Madagascar. They have acted as service providers as well as civic educators (on issues such as corruption) and democracy watchdogs (human rights and election monitoring).

- At the same time, churches can play an important role as political gatekeepers. At origin, the capacity to show strong involvement in the church was a means to gain influence with the monarchy, and the French. 19th Century influence stemmed from Protestantism within the Merina monarchy. The rise of the anti-nobility meant the rise of Catholic churches.

- Serving the Church is one way to build alliances with longstanding political networks. Churches today work as political gatekeepers, excluding new families and limiting competition. This has led to a fracturing between the umbrella organization of churches and the new business elite, even as it has undermined private sector growth by dividing new entrepreneurs from families of influence.

Donors inevitably play a role in supporting the network in power.

- Donors and western diplomats generally support governments that promote economic reforms and private sector development, streamline the role of Government, improve transparency throughout ministries, route corruption, and build bureaucratic capacity. However, if governments in place progressively lose their legitimacy or are seen as narrowly self-serving, it also affects the perception of donor legitimacy and neutrality.

E. Sector Political Economy: Mining and Forestry

The forestry and mining sector are highly relevant to Madagascar’s development and closely reflect its political economy:

- In the forestry sector, a surge in illegal logging of precious timber in the context of the 2009 political crisis has led to a severe loss of Madagascar’s natural capital and potential government revenues as well as significant environmental damage in protected areas. Persistent illegal logging over the past decade reflects state capture by influential timber-trading elites from the Sava region. The decline of the vanilla industry, a critical mainstay of regional elites, opened the door to the establishment of rosewood market activity on the back of the vanilla market, making the forestry sector an important source of rents for some traders also involved in the vanilla trade. Expanding and accelerating rosewood exports offered an immediate rent-seeking opportunity for the transition government.

- In the mining sector, while sound governance institutions have been adopted since the late 1990s, transparent governance risks being undermined by a neopatrimonial rent-seeking approach.

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9 The Forestry review focuses on the political economy of illegal logging in Madagascar’s protected areas, one of the sector’s most acute vulnerability.
logic. This threatens the valuation of Madagascar’s natural resource potential. Industrial mining is new to Madagascar and does not hold a history of rents. However, an imminent boost in mining revenues is likely to reshape Madagascar’s rent structure and political economy. Whereas in the past rents have come in the form of elite capture of relatively small markets, particularly agriculture and cash crop exports, emerging massive rents from a single sector may expose Madagascar to a resource curse dynamic.

1. **Mining**

As political power is concentrated, and policy commitments are difficult to make given the fragility of elite bargains, Madagascar is vulnerable to a resource curse dynamic from potential future mining revenues, undermining development effectiveness.

- **Madagascar will possibly enter the ranks of resource-rich economies over the next two decades, as two large-scale industrial mining projects enter the production phase.** Mining revenues will significantly reshape the intra-elite distribution of rents by creating a valuable prize for those who control political power.

- **By limiting the need for revenue collection e.g. through taxation, mining revenues risk further weakening the accountability of the Malagasy state to its citizens and further undermining the capacity of state institutions.**

Transparent mining rights management risks being undermined by the rent-seeking logic of the patrimonial state.

- **A transparent permit management system was designed to encourage the exploration and valuation of Madagascar’s mining potential.** Yet, political interference in transparent permit management has served as an immediate way to extract rents from the mining sector. For example, the bidding process of the Soalala iron ore deposits, screening out major international investors, and the doubling of administrative mining fees are symptomatic of this risk.

- Under the transition government, the mining cadastre has allegedly been stripped of its core function, with decisions on new permit allocation being made at the discretion of politicians. With growing demand for mining rights in Madagascar, this temptation is likely to increase. If widespread, such rent-seeking will risk undermining investments in exploration and thus the valuation of Madagascar’s mining potential in the long-term.

**Transparency in mining revenue collection is likely to be variable.**

- **Madagascar has applied to participate in the Extractive Industries Transparency Initiative (EITI), and the initiative is also supported by civil society.** There has also been strong interest by QMM, the joint-venture between Rio Tinto and the State represented by OMNIS and Sherritt which, given their internal governance structure, have a stake in ensuring transparency of their own tax payments to the State. However, **government commitment has not been as strong as to reach compliance to the EITI initiative on time, despite support from different sides. An extension was granted by the EITI secretariat, but Madagascar is still at risk of being de-listed.**

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10 The mining risks here focus on iron ore deposits. There is also a large informal artisanal gemstone and gold mining beyond the state authority. Powerful gold trading networks have a stake in preserving informality. These “foreign” elites remain largely invisible and somewhat removed from the intra-elite struggle over political power. Given the rush nature of gemstone mining, sapphire rents have largely escaped from elite capture and have provided a livelihood for a large number of diggers and income to the urban bourgeoisie as intermediaries.

11 According to the IMF, resource-rich countries are defined as (a) having a share of fiscal revenues from the petroleum or mining sector that is larger than 25% over a certain period and (b) the share of export revenues from the petroleum and mining sector is larger than 25% over a certain period.
• Kraoma, a government-owned company might be at risk of being influenced by the rent-seeking logic of the neo-patrimonial state, as illustrated by its initial commitment to the EITI initiative but later failure to declare its payments. Smaller domestic mining companies or future international investors with different internal governance structures may have weaker incentives to be transparent.

• There is a risk that political elites will seek to renege on the fiscal framework for large-scale mining companies. Since dominant coalitions of ruling elites are fluid and continue to change, a short-term ‘survival’ strategy is encouraged. Especially when under fiscal strain, political elites may thus place their short-term interests to extract rents from industrial mining companies rather than the long-term goal of attracting future investment through credible commitments.\(^\text{12}\)

Inequitable redistribution of mining revenues among affected communes reflects centralized neo-patrimonial state of policy-making, with minimal bottom-up accountability.

• Redistribution rules for mining royalties have not been tailored to industrial mining and some concerns existed that the current legislation might result in a highly inequitable allocation of royalty payments among affected communes. This might partly reflect a top-down policy-making process, which does accommodate the widely-acknowledged need to channel revenues back to the local level, but appears challenging to apply in practice.

• Communes require capacity-strengthening to be able to manage a sharp increase in their budgets from mining revenues. As some elected communal governments in mining areas are starting to receive large revenues from mining royalties, their capacity for managing these revenues and accountability to citizens need to be strengthened for ensuring their effective use. By contrast, regions have been given a key role in managing revenue redistribution, but risk to be a source of rent capture by central government, being upward-accountable to the center, rather than downward to the people. Local development effectiveness of redistributed mining revenues thus risks being significantly hampered both by supply and demand side governance, including limited capacity of local government and local civil society.\(^\text{13}\) Early efforts of building local capacity and introducing participatory budgeting have shown promising results in selected participating communes, resulting in greater civic involvement and transparency around the allocation of mining revenues. These, however, are only first efforts. Demand-side governance by definition relies on citizens and communities to engage in holding their governments accountable. The expansion of current citizen and community scorecard programs and the introduction of participatory public expenditures tracking surveys, social audits are examples of other potential tools.

2. Forestry

Madagascar has gained worldwide fame for its unique biodiversity and has attracted major support by international partners for forest conservation. Since the expansion of its protected area system in 2003, about half of its forest coverage is designated as protected areas and half as non-protected areas. This review selectively focuses on the political economy of persistent logging of precious woods in protected areas, which has surged to new orders of magnitude in the wake of the 2009 political crisis.

\(^{12}\) The risk of reneging will be particularly high in times of windfall profits or losses, if political elites use populist strategies to fuel public sentiment that Madagascar is losing its resource wealth without getting a fair share.

\(^{13}\) This includes weak capacity at the local level, an unclear legal-juridical environment, the limited linkages between the regions and the communes and the relatively limited linkages between the commune leadership and their population, the weakness of CSOs and the absence of watchdog organizations.
Persistent logging of precious timber in the Sava region’s forests\textsuperscript{14} is the result of state capture by local timber trading elites.\textsuperscript{15} It leads to a severe loss of Madagascar’s natural capital and potential government revenues associated to it.

- The rosewood extraction increased with the collapse of international vanilla prices. Some influential families from the Sava region are engaged both in the vanilla trade which has been the region’s principal cash crop, and in the export of precious timber (primarily rosewood)\textsuperscript{16}. Precious timber trade is a source of high rents, with a value per container exported of about $140 thousand (US).\textsuperscript{17}

- There is powerful evidence for the capture of both the central and local executive and the Judiciary by private interests. Over the past decade, the Malagasy government has made significant efforts to prohibit logging in protected areas and the trade with precious timber. Yet, frequent exceptions to the interdiction of raw precious wood exports in contradiction to earlier and higher order regulation indicate the Sava families’ influence on central decision-makers. Although identities of timber traders and their exports are well-publicized, they remain exempt from prosecution, because their exports are partly legalized, because they act in a context of legal ambiguity and because the judiciary is ineffective. Local politicians depend on financing by these families for their electoral campaigns. While enforcement capacity for preventing illegal logging remains a concern, enforcement agents (a task force was created, but has now been abolished) and customs have demonstrated some capacity for containing illegal logging. Yet, enforcement to date has focused on the village-level farmers rather than interlocutors higher up the supply chain. More recently, after the change of leadership in the Ministry of Environment, enforcement of the export ban has actually improved a lot, the remaining challenge is that cutting goes on in the forest (although at a reduced rate and very difficult to enforce) because the operators still assume that they may be able to benefit of an exception one day.

Rosewood logging in protected areas has primarily been contained by strong international support for the conservation of Madagascar’s biodiversity.

- Madagascar has been supported by a major inflow international financial and technical support for environmental conservation of around US$400 million \textsuperscript{18} since the start of the first Environmental Program in 1990, making Madagascar one of the world’s largest recipients of environmental aid. This inflow of support has created major administrative capacity (e.g. Madagascar National Parks, The Foundation for Protected Areas, a network of NGOs) and incentives for political elites to foster forest and biodiversity conservation. Despite this long history of internationally-financed conservation activity in the region these efforts have not seen enough success in linking conservation and economic activities in the region to expand local support for conservation.

- Both powerfully-connected families and the local communities can make more from illegal logging – local communities in the Sava region partially depend on trafficking of precious wood for their livelihood. The political clout of timber trading elites more than counters the advocacy by academics and environmentalists who advance conservation.

\textsuperscript{14} Protected areas comprise about half of Madagascar’s total forest coverage.

\textsuperscript{15} State capture’ occurs “when a small number of firms (or such entities as the military) are able to shape the rules of the game to its advantage through massive illicit and non-transparent provision of private benefits to officials and politicians.

\textsuperscript{16} Based on interviews carried out by the authors.

\textsuperscript{17} It is estimated that between January and November 2009, at least 1,211 containers were exported, corresponding to a market value of about $175.8 million (US).

\textsuperscript{18} Source: Carret et al. (2010).
Alternation of interdictions and exceptional permits for rosewood exports are likely to be a strategic response by Malagasy political elites to competing influences by Timber Traders and international conservation pressures. While political elites seek to preserve legitimacy in the eyes of donors and NGOs who fund biodiversity conservation, they cannot more than temporarily threaten the rent sources of the some Sava families, without destabilizing the rent equilibrium in the Malagasy elite.

Economic recession and a freeze of aid inflows have put the transition government under heavy fiscal strain. Rosewood felling provided a rapid source of tax revenues leveraged via a new export fee and possibly of significant illicit rents. The formal export fee alone leveraged by the transition government on precious timber exports in September 2009 amounted to about 30% of the export value\(^{19}\) of timber, generating an estimated US$18 to 40 million of government revenues between September 2009 and March 2010, about 2 to 4% of total government revenues in 2008.\(^{20}\) Taxing, rather than seizing, exported rosewood has provided the transition government with a source of revenues, while at the same time (pre)serving the interests of the Sava trader families.

Permanently stopping rosewood exports in response to international pressure while harming the commercial interests of influential Sava families could thus come at a high political and economic cost for the government. Most recently, however, an export ban has been established and the new leadership in the Ministry of Environment and Forestry has shown commitment in their efforts to enforce it despite the difficult environment. While efforts to enforce the ban should continue, the Government should proceed to the seizing of the logs already fell and discuss openly the question of what to do with it.

### F. Drivers of Political Dynamics in Madagascar

1. The sections above have provided a description of the way formal authority has been exercised under the President, who has a near-imperial role with minimal checks on accountability.

   - **Formal institutions and mechanisms to ensure accountability**, such as Parliament, the Judiciary and other oversight institutions are relatively ineffective. Likewise, informal accountability mechanisms, such as social accountability tools by civil society are still in the early stages and will take time to be developed and expanded to the national level. They have shown promise at improving services, and in making local governments more inclusive, but have not yet been scaled up to higher level governance issues.

   - Governing institutions in Madagascar have been significantly reformed but they have been reformed to the benefit of each sitting President rather than to support robust governance. The lack of independence of the political parties, the legislating environment, and the Judiciary has undermined their core functions.

   - Governance reforms have also had little chance of success because the governing environment itself has shown little stability. Each President has changed the constitution to suit his needs and the territorial divisions of the country itself regularly shift both in the number of levels and the relationships of power between decentralized and deconcentrated units.

   - The political leadership does not allow institutions to compete with it. Madagascar has not witnessed decades of a “big man” rule unlike other African countries, and each President has

\(^{19}\) Source: GTZ (2009).
\(^{20}\) The minimum figure ($17 million (US) is reported by the General Treasury of Sambava, higher estimates are based on confidential undisclosed sources. Government revenues exclude grants. Source: IMF (2008).
considered himself a reformer and an institution-builder. There is relatively strong technical capacity in Madagascar, in comparison with other countries. However, governance reforms did not have any lasting effect as institutions were subservient to personal networks. The persistent governance pattern is the building of formal institutions to the point that they do not threaten Presidential power and undermining them when and where they do.

- **Given the strong influence of political and economic elites, the legal framework is applied selectively, and has given rise to a perception of widespread impunity.** Even where good legal frameworks and policies exist, they are applied inconsistently, in line with the limited reform commitments by the political and economic elite, which will not allow any reform moves beyond its comfort zone and sphere of control.

2. **The Presidency and political parties are tied into a neo-patrimonial rent-seeking mechanism based on patron-client relations that deliberately blur the boundaries between public and private spheres.**

- **The pattern of Presidential personal rule in Madagascar is typified by clientelism** and supported by a regulatory environment and system of contract enforcement provided by the non-state actors that do not have a legitimate use of force.

- **In neo-patrimonial rule as found in Madagascar, the Presidency maintains power through personal patronage but leaders are part of the administrative system** not in competition with it. Leaders occupy office in order to grow status, acquire wealth, and, ultimately, support their personal networks that manage public space.

- **Executive shift – whether by elections, social movement, or coup – is not commonly followed by state collapse.** Instead, it leads to a breakdown in existing coalitions and the rise of new ones.

- **The pattern of political behaviour in Madagascar conforms to what North, Wallis, and Weingast (2009) refer to as a Fragile Limited Access Order (LAO),** with an inherent rent-seeking logic acting as a key impediment to the formation of competitive institutions, a root cause of crisis and as a constraint to development effectiveness. (See Annex I for details on the conceptual framework and the methodology for this report).

3. **Elite bargaining is fragile in such rent-seeking arrangements, with both political and economic elements and consequences:**

- **Commitments within the dominant elite coalition are fluid and unstable,** shocks can easily lead to violence and the rise of new coalitions, and it is difficult for elites to commit to particular rules.

- **In political economy terms, overstepping the limits of the “elite bargain” that allows Presidents to rule, would make it no longer acceptable to other elite members of the dominant coalition.** Using governance reforms for consolidating the grasp on political power and using public office for giving preference to own companies, accruing too large a share of economic rents would threaten the rent-seeking interests of other economic elites which could

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21 Rents, broadly defined to include a return to an economic asset that exceeds the return the asset can receive in its best alternative use regardless of whether it is peaceful or violent, formal or informal (North et al 2009:19), are both drivers of change and products of it.

22 This is a different form of clientelism than kleptocratic behavior, where patrons rob the country of its resources solely for personal enrichment.

23 In an LAO, the access to and distribution of rents amongst a dominant elite is fundamental to political stability, as it “induce[s] powerful individuals and groups to refrain from violence” (North et al., 2009). Rent-seeking serves to ensure an equilibrium in which it is beneficial for competing Malagasy elites not to recur to violence for attaining resources or power. As such, the formal rules of the state itself have limited capacity. Rather, governance is characterized by interlocking public and private networks seeking control of rents as a mechanism for maintaining power and stability.
lead to defection. Seen in this light and the framework of the Limited Access Order, the political turmoil and the threat of violence which occurred in 2009 was an inevitable outcome of the logic of the struggle for power among Malagasy elites.

- **One suggested conclusion is that the nature of the crisis is deeper and more structural and difficult to be resolved by the presence or absence of individual personalities on the political stage.** It appears that Madagascar is going to require a new elite bargain to resolve the current political deadlock (which prospect does not seem immediate) or, failing that, a political upheaval that reveals new political actors who might influence a resolution.

### G. Way Forward

This political economy analysis underlines the difficult nature of elite conflicts and related undercurrents that have resulted in the current political and economic crisis. The political and economic crisis has an enormous cost because it sets back economic and social development and will likely result in an increase in poverty rates. It also calls into question the fruit of past efforts to preserve Madagascar’s unique environment. Under the current uncertain political context the task for the Bank is to engage and listen to stakeholders and influence the domestic political debate by framing and providing an informed perspective on the adverse development impact of the ongoing political crisis and be prepared to offer constructive advice on institutional arrangements that would enable a restoration of a legitimate government and better governance practices, A recent World Bank publication comprising policy notes on a wide range of policy fields provides a key step in this direction of contributing to spurring a constructive policy debate in Madagascar.

In this sense, some specific reform options for the mining and rosewood sectors are presented below:

#### 1. Mining

1. **Mobilize mining companies, civil society and the public for strengthening independent oversight of mining governance.** The risk that emerging mining rents will be captured by political elites in Madagascar is high. Leveraging stakeholder interests for exercising independent oversight can contain this risk, for example by:

   - Strengthening the capacity of affected local communities and in particular of local civil society in mining areas for holding mining companies and local and central government to account, e.g. via participatory budgeting and mobilization of independent funding for CSOs. Once a revision of royalty distribution rules in the Mining Code becomes politically feasible, it will be equally important to engage communes in a process for agreeing on a more equitable and clearly defined distribution rule for mining revenues, e.g. based on a poverty impact assessment of industrial mining projects.

   - Leveraging the sensitivity of Malagasy public opinion regarding the use of mineral resources to strengthen government accountability to the public for its use of mining revenues.

   - Building a strong coalition of stakeholders comprising mining and - potentially - oil companies as well as civil society organizations that advocates the respect of mining institutions. Such a coalition could emerge from the EITI process and could possibly take the form of a Chamber of Mines. Independent private sector oversight of the BCMM – e.g. by a body like the National Mining Committee - would also be a promising avenue. The risk of

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de-listing of Madagascar from the EITI initiative, because of delays in complying with its requirements, would send a negative message to future investors in the sector.

2. **Build mining governance institutions that are less vulnerable to political rent-seeking.** Mining institutions can be “political-economy-sensitive” by making it harder for political elites to legitimize short-term rent-seeking with populist claims about the “unfairness” of these institutions.

- In the long-term, in a context of political stability, possibly envisage a “PE-sensitive” mining fiscal framework for the future that mitigates the risk of reneging on fiscal commitments made in times of windfall profits or losses. Such a framework could include a higher (resource-specific) mining royalty and – if administratively feasible – a simple form of windfall profit taxation. Revisions to the fiscal regime in the near term should be avoided.

- Seek to reach agreement on a fair distribution rule for royalty revenues among affected communes. Technically maladapted distribution rules for mining royalties risk exacerbating inequity in the very poor Aonsy region, as QMM is starting to make payments. A poverty and social impact assessment (PSIA) supported by development partners could provide the basis for reaching agreement on a distribution rule or mechanism that is perceived as fair and agreed upon by affected communities. Opening up the broader question of the allocation of mining revenues across levels of government (national, regional and communal level) should be avoided.

- Strengthen safeguards against passive speculative rule with mining rights, which risk lending legitimacy to discretionary political interference in mining right management, e.g. by checking the effectiveness of permit ownership ceilings.

3. **Build technical capacity for government oversight of industrial mining, despite high risk of politicization.** Despite the high risks of politicization, building central government capacity (Ministry of Mines, Ministry of Finance) for overseeing and negotiating with industrial mining companies is a sine-qua-non condition for enabling the government to interact on a somewhat equal footing with mining companies. One option for building such capacity could be to establish a Mining Inspectorate in charge of overseeing industrial mining projects as an agency under the authority of the Ministry of Mines.

4. **Rely on local governance and market mechanisms for governing artisanal mining.** Given the weakness of the Malagasy central mining administration and adverse incentives, the focus should be on formalizing artisanal mining at the local level. Bringing markets to the mine, e.g. via better infrastructure can be effective for increasing artisanal miners share in the value-chain.

2. **Rosewood**

- Seek a strategy for reducing rosewood logging that accounts for the powerful Sava elites. Show determination in enforcing the current decree banning all new exports of rosewood. The State should seize all rosewood already cut and hidden in various places of the Sava region. Undertake a study proposing options on what to do with the timber already fell. Revisit the existing legislation permitting to any individual being fined, to enter into a plea bargain (“la transaction”) for a minimum fee and get away with no further judicial action. Strengthen the enforcement capacity of the forest administration as the huge Masoala forest is only covered by some 5 or 6 enforcement agents.

Maintain consistent and continued support and pressure from the international community on the Malagasy government for forest conservation in protested areas. This follows from recognizing that international investments in the protected area system and biodiversity
conservation has been the only major counterbalancing force to the Timber Baron’s exploitation interests. Moreover, the global public good nature of Madagascar natural capital provides the international community with a greater voice in denouncing its disappearance.

- **In the long term, seek to strengthen alternative livelihoods for vanilla-dependent communities and rosewood loggers.** Developing alternative sources of livelihood for Sava communities is crucial after the dramatic downturn of the price of vanilla, the region’s major cash crop. However, given enormous profit margins from rosewood exports, this measure alone is unlikely to significantly affect rosewood logging and will only show effects in the long term.

- **In the long term, seek to reduce economic incentives for rosewood logging ("cut the carrot").** A final complementary strategy can be to reduce Timber Trader’s economic motives via international agreements that reduce the demand for illegally exported timber. One concrete avenue that might merit exploration for the Government of Madagascar is to seek to include *Dalbergia* in the list of protected species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).²⁵

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²⁵ Article II, paragraph 3 of CITES, entitles an adhering country to include species in “Appendix III” of the Convention, if the Party “already regulates trade in the species and that needs the cooperation of other countries to prevent unsustainable or illegal exploitation”. Source: http://www.cites.org/eng/app/index.shtml
Introduction

A. Context

Madagascar is at a development crossroads. Despite recent progress made, it is shaken by a profound political and economic crisis. The “Big Island” located in the Southern Indian Ocean, is one of the poorest countries in the world, despite enormous natural and human resources. As shown in Figure 1, Madagascar has witnessed cycles of growth and crisis over the last decades. Following economic liberalization after the abandonment of socialist economic policies, the economy reached an average annual real growth rate of 5.7% between 2003 and 2007. Poverty declined from a high of 80% in 2002 to a still high of 65% in 2008, with a concentration in rural areas exceeding 80%. Some social indicators also improved significantly, e.g. infant mortality was halved between 1997 and 2008 and now stands at 48 per 1,000 live births. Yet, in the context of domestic political crisis together with the global financial turmoil, the Malagasy economy has not been growing since the second quarter of 2009.

Figure 1. Economic Growth and Political Crisis in Madagascar.


Weak governance remains a key constraint to Madagascar’s development. Despite progress made in selected areas of governance, such as financial management, governance challenges have been both the cause and consequence of this crisis. The lack of effective checks and balances between government branches, institutional weaknesses, the inappropriate mingling of public and private interests and interference in the application of the legal framework together with perceptions of widespread impunity have reduced the levels of efficiency, transparency and accountability of government action. The underlying constraints on governance have undermined
growth, competitive private sector development, and effective service-delivery, ultimately weakening development effectiveness.

After the ousting of President Ravalamanana in March 2009, a transitional government led by de facto President Andry Rajoelina took power. The international community has suspended most aid, except on humanitarian and poverty grounds, on which the country is highly dependent. Several mediation efforts, led by the African Union and the Southern African Development Community (SADC), have not found lasting success. A return to democratic rule and the prospects for economic growth are unclear. The World Bank, like most other donors, has suspended new lending and grants.

B. Objectives

The objective of this pilot study is to provide an initial understanding of the political economy of governance in Madagascar. This study aims primarily to inform the government, private sector, civil society, development partners and the Bank about the political economy of governance. While specific recommendations are beyond the scope of the report, it intends to stimulate a debate on the political economy implications for the Bank program in Madagascar and help contribute to the next Country Assistance Strategy for future reengagement with government.

This study is part of a programmatic economic and sector work (ESW), with the first phase focusing on a preliminary analysis of the political economy of governance. The first phase focuses on an initial analysis of the overall political economy in Madagascar with a review of two pilot sectors, forestry and mining. The second phase will focus on a more detailed analysis of the political economy of governance, with a focus on recommendations for governance across Bank sectors, including social sectors. This first phase includes a political analysis which goes up to October 2010 and does not include the latest developments related to the referendum of November 17, 2010 and the establishment of the Fourth Republic.

Natural resource management, especially the forestry and mining sectors, are highly relevant to Madagascar’s development and have been chosen as the sectors most relevant for this study. In the forestry sector, illegal logging of precious woods in the Sava region’s National Parks surged to unprecedented levels in the context of the 2009 crisis. Estimates suggest that from January to November 2009, at least 1,211 containers of precious wood were exported, corresponding to a value of about US$ 175.8 million. This surge in logging risks undermining the fruit of two decades of conservation efforts. In the mining sector, two large-scale industrial mining projects, the QMM Ilmenite mine in Fort Dauphin and the Ambatovy cobalt and Nickel mine, are in the process of launching production and will reshape Madagascar’s economic landscape. An imminent boost in mining revenues risks exacerbating social inequality in mining communes and may stimulate a resource curse dynamic. While mining has not been a major political economy driver in the past, it holds the potential to eclipse other drivers in the future as Madagascar may enter the ranks of resource-rich countries. As such, the mining sector needs to be central to a critical study of change in Madagascar.

This study seeks to explain the root causes of why Madagascar has such a poor track-record in creating effective governance institutions and why it has been prone to political crises. It applies this analysis of Madagascar’s overall political economy to two natural resource sectors, because governance in these sectors has been strongly affected by the nature of neopatrimonial rule and the current crisis, given their rent-seeking potential. More specifically, the study focuses on explaining key challenges, governance institutional arrangements and the underlying political
economy drivers in Madagascar’s illicit timber industry and the industrial mining sector. This sectoral focus allows for a problem- and data-driven examination of political economy impacts along the sector’s respective value-chains. This report places a particular emphasis on the forestry and mining sectors as a lens for viewing political economy drivers of governance, given the increasing governance challenges in both sectors.

C. Scope

This study only presents a preliminary analysis of Madagascar’s political economy. It does not have the ambition to present a thorough evaluation of governance in Madagascar nor an analysis of the full political economy of the country. Rather, it gives the reader a flavor of some of the key political-economy challenges faced by the country, as experienced by task teams. The research for this study has been conducted under significant constraints, limiting its scope and depth. First, the World Bank’s policy dialogue with government is restricted, limiting the possibilities for interaction with government and a testing of hypotheses with government. Given the sensitivity of the political situation and the nature of the study, people interviewed were often cautious to speak out, whether in joint or individual meetings, including when anonymity was ensured. Second, empirical data, especially on the mining and forestry sector is limited, often unreliable and has been hard to obtain within a short time frame. The focus of the ESW has been further narrowed since the Bank’s Concept Note Discussion and the minutes. All of these factors serve to limit the scope and ambition of the study. Three, the specific issues to be addressed were chosen in line with the study’s objectives and leaving out those covered in other reports, either by the Bank (e.g. recent major policy note collection) or by other development partners. Finally, in line with the objectives, the study does not intend to provide detailed recommendations, but rather focuses on the diagnostics. A few more general recommendations are nevertheless included to spur the debate.

Nonetheless, this study explores relatively new ground in two ways. First, it has sought to bring to bear recent advances in the conceptual understanding of political economy drivers – in particular North et al.’s (2009) work –on a particular country case. Second, in a problem-driven approach, it seeks to trace specific challenges at the sectoral level back to broader societal forces, thereby enhancing the operational relevance of such analysis.

D. Structure

The report is structured in three core chapters and a final outlook. Chapter 1 provides an overall analysis of the political economy dynamics of governance practices – and crisis – in Madagascar. Embedded in this overall analysis, Chapters 2 and 3 focus on the implications of these dynamics for mining and forestry governance respectively. Building on the first Chapter, they seek to trace whether and how specific challenges and problematic outcomes in these sector find their root cause in the overall political economy dynamics set out in Chapter 1. Chapter 4 concludes with a brief summary and outlook with options for an effective re-engagement of the Bank to enhance development effectiveness. It also includes several annexes, (i) on the conceptual framework and methodology; (ii) on the 2009/2010 crisis; (iii) on civil society; (iv) on the political economy of artisanal mining, (v) on the mining sector and (vi) on the forestry sector.

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26 The analysis focuses on the rosewood sub-sector and does not intend to provide an overall analysis of the forestry sector.
E. Conceptual Framework and Methodology

This study views Madagascar’s political economy through the lens of a conceptual framework that offers a new approach to understanding the limits of governance reform and political crisis as suggested by North, Wallis, and Weingast (2009)\(^27\). North et al. provide an innovative theory of social orders that places the risk of violence\(^28\) “at the heart of any explanation of how societies behave”\(^29\). They argue that in so-called “Limited Access Orders” (LAO) such as Madagascar, a dominant coalition of interlocking public and private elites preserves stability by ensuring a balanced distribution of privileges among its members. If influential elites face incentives to defect from this coalition, the risk of open violence and political crisis increases. This mechanism sheds light on the root causes of the 2009 Malagasy crisis. North et al.’s framework also powerfully explains why governance reforms and development policies may fail in LAO countries. Strengthening competitive, open-access market and political institutions is often advocated as a first-best approach to development. Yet, competitive institutions tend to diversify stakeholders and threaten rent-seeking opportunities. They thus risk meeting with resistance, being undermined, or disrupting the careful equilibrium in place. This calls for designing “good enough” or second-best approaches to governance reform in Madagascar.

The study complements North et al.’s framework with a problem-driven approach to political economy analysis (Fritz, Kaiser and Levy (2009)) of the forestry and mining value-chain. North et al.’s logic of the LAO provides a powerful conceptual framework for understanding the larger forces shaping Madagascar’s destiny (see Chapter 1). This complementing framework is a problem-driven approach serving to tie sector-specific challenges and vulnerabilities into this bigger picture. A problem-driven approach allows focusing the analysis on key problematic governance outcomes in the forestry and mining sector – the surge of illegal rosewood logging and the risks associated with an imminent boom of mining revenues. Accordingly, the sector analysis in this review (Chapters 2 and 3) sets out by identifying key challenges and problematic outcomes along the forestry and mining value chain. Second, for each major stage of the value-chain, it analyzes the underlying institutional and governance arrangements and drills down to the political economy drivers that cause these challenges.

Qualitative and quantitative empirical data employed in this research are primarily the product of semi-structured institutional interviews with key stakeholders. Between February and March 2010, a total of about 80 semi-structured institutional interviews and 4 focus groups were conducted plus 8 informal discussions. Interview partners included staff from diverse ministries at the technical level, public and private operators in the forestry and mining sectors, and civil society. Field trips were made at this time to Anosy and Sava in order to triangulate findings between regional and national sources. There was no survey or quantitative component to this effort. However, this study draws effectively on large research conducted including political perceptions research conducted by the Lead Researcher over the course of his academic research, AFTCS-sponsored research in 2008-09 on civil society in Madagascar, Afrobarometer, government sources, and non-government organizations (most specifically recent work on popular views towards mining sponsored by CRS).

F. Audience

The final version of this review is aimed at both the external audience (government officials, private sector, civil society representatives and donors) as well as the internal World Bank

\(^{27}\) North et al. (2009), p. 258.

\(^{28}\) North et al. (2009) understand violence broadly as “comprising both physical actions and coercive threats.”

\(^{29}\) North et al. (2009) p. 258.
audience. Externally, it is intended as a contribution to stimulate a debate to better understand the governance challenges in Madagascar. Internally, it is intended to provide a different perspective on public sector governance analysis and help influence and design the next CAS. Given the sensitivities of the subject, the study has been carefully edited to strike a balance between the interests of the different audiences. A targeted dissemination and communication strategy will help share the report findings in a customized way with the different audiences as a basis for further dialogue.

30 Given some sensitivities, some issues might intentionally not have been addressed or only implicitly. Other issues, such as the role of the media, covered by other reports by other development partners, have also intentionally been chosen not to be covered in this study.
I. Chapter 1: The Political Economy of Governance in Madagascar

A. Introduction

President Marc Ravalomanana’s violent ousting from office in 2009 underlines the importance of the quality of governance as both a cause and consequence of political crises in Madagascar. Following a series of catalytic events in March 2009, President Marc Ravalomanana’s government was forced to resign after violent street protests. On March 18, 2009 Madagascar’s Supreme Court confirmed Andry Rajoelina as new president, to head a transition government under the High Authority of Transition (HAT). Rajoelina promptly dissolved the National Assembly and the Senate, and replaced the heads of regions with his own regional appointments. International aid, which represented nearly seventy percent of total government revenues in 2008, has mostly been frozen and foreign investment has declined. Negotiations led by the African Union (in complement to efforts by the Southern Africa Development Community and the United Nations) seeking to reach a power-sharing deal between the current leaders and opposition parties have stalled. The uncertain political situation will have negative economic repercussion, potentially paralyzing the high growth rate that the country has been enjoying in the last few years, further undermining governance in Madagascar.

Despite significant reform efforts over the past decade, governance remains a key challenge for Madagascar’s development. Even during the most active recent reform period (President Ravalomanana’s first mandate, 2002-2006) and despite the ambitious goals set in the Madagascar Action Plan for 2007-2012, the impact of governance reforms remained limited. While far-reaching reforms were attempted, their implementation saw deficiencies that undermine their overall effectiveness. In hindsight, it appears that the political economy constraints for governance reform might have been underestimated and the reform-space for strengthening governance might have been overestimated.

Chapter 1 analyzes the political economy of governance and political instability in Madagascar. First, it presents political economy conceptual frameworks that will serve to frame the analysis, in particular North et al.’s recent work on “Limited Access Orders” and the concept of neopatrimonialism, in light of the historic context. Second, it analyses the key institutions and stakeholders, i.e. their interests, incentives, constraints and positioning that drive Madagascar’s political economy. It concludes by providing a brief outlook and suggesting short-term entry-points for reform. Building on the findings of Chapter 1, Chapter 4 discusses in detail how Madagascar’s political economy delimits the space for governance reform and explores options for World Bank engagement in the medium and long-term.

31 “Governance” is broadly understood as “the manner in which public officials and public institutions acquire and exercise the authority to provide public goods and services, including the delivery of basic services, infrastructure, and a sound investment climate” (World Bank, 2007).
32 The press has characterized what happened as a “coup.” However, a “coup” in Madagascar requires an asterisk as it doesn’t look a lot like coups in other countries. In coups in Mauritania in 2005 and 2008, Guinea Bissau in 2003 and 2009, or in the Central African Republic in 2003, the military has served as a driving force. In Madagascar’s recent – and past – crises, it has not acted this way to the extent it has in other countries. While the mutiny of 2009 in Madagascar was a major event, overall there has also not been a sudden structural change driving instability as in São Tomé and Príncipe in 2003.
33 Madagascar’s Supreme Court is the High Constitutional Court (HCC).
34 The purpose of this report is not to enter into the current political fray but rather to consider the governance drivers in Madagascar. Given the political sensitivities associated with the events of 2009-10 a review and analysis of the current conflict is likely to be counter-productive, sidetracking the primary analytical concerns. For this reason the events of 2009-10 are addressed only as they directly impact the analysis of governance drivers in Madagascar in the larger picture and the relationship to the value-chain used therein.
B. Conceptual Framework

This study views Madagascar’s political economy using the conceptual framework proposed by North, Wallis, and Weingast (2009) as a starting point for viewing Madagascar’s political economy. North et al. (2009) argue that the history of human societies can be divided into three orders: a Primitive Access Order, a Limited Access Order (LAO), and an Open Access Order (OAO). Open access Orders (OAOs) limit the use of violence through institutions, based on a state monopoly over the use of violence. By contrast, in the absence of such a state monopoly, LAOs “limit violence by political manipulation of the economy to create privileged interests.” They limit access to institutions to generate rents and elites cooperate with collations in power to maximize their chances of rents. Social order in LAOs is sustained by a dominant elite coalition, which limits access to valuable political and economic functions as a way to generate rents. In these personalistic/personalized contexts, the creation and distribution of rents among elites encourages them to cooperate and make credible commitments within coalitions in power (rather than fighting in competition for privileges and status). LAOs vary in their capacity to curtail social violence with “fragile” LAOs.

According to North et al., Limited Access Orders can be subdivided into “Fragile” and “Mature”. They vary in their capacity to curtail social violence, in the durability of a dominant coalition, and in the extent of impersonal organizational forms. In a fragile LAO, as North et al. (2009) argue, the state is barely able to sustain state apparati in the face of internal and external violence. While institutional structures tend to be simple, commitments within the dominant coalition are fluid and unstable; shocks can easily lead to violence and the rise of new coalitions. In fragile LAOs it is difficult for elite coalitions to commit to particular rules (or at least the same rules over time). Basic LAO’s, by contrast, still rely on personal networks and organizational structures of the state may be simple, but they are durable and stable and last through time. Mature LAOs rely on durable impersonal institutional structures; support the development of elite organizations outside the immediate framework of the state.

Contemporary Madagascar is a LAO in North et al.’s sense and is potentially sliding from a “basic” to a “fragile” LAO. North et al.’s theory of social orders is seen as particularly powerful tool for understanding the limits of governance reform and political crisis in Madagascar for several reasons. First, it offers an integrated view of both the political and the economic environment and interaction. This is important in Madagascar as private sector and political interests are closely intertwined and sometimes inseparable. Second, political change in Madagascar has been cyclical and complex. A conceptual framework for Madagascar therefore needs to consider the underlying social currents driving instability along an historic continuum (1972, 1991, 2002, and 2009). North et al. do justice to the need for a historical perspective by seeking to explain change over time. In Madagascar, it is not a question of uncaptured political spaces where citizens act without consideration of the legal and juridical state structure. While there is a long history of local resistance to state efforts to enslave, tax, and conscript (Cole 2001, Larson 2000, Rakotoarisoa 1998, Esavoelomandroso 1995), the success of the Merina Monarchy and subsequent French colonialism, and particularly the violent end to the insurrection of 1947, is that the ability of communities – ethnic and social constructs – to strategically position social organizations, livelihood systems, ideologies, and oral histories against the extending reach of the

36 North et al. (2009), p. 258. See Annex I for further detail on North et al.’s conceptual framework as well as the problem-driven approach to political economy analysis, based on Levy et al. (2009) employed in this study.
37 Institutions deter violence “most obviously by stipulating punishment for [its] use” Ibidem, p. 16.
state has largely been muted. The state in Madagascar is weak and slowly unraveling due to its own internal dynamics not external socio-cultural or political resistance.  

**Clientelistic leadership is a primary governance driver in LAO regimes.** In Madagascar constitutional distribution of power, discussed below, is a destabilizing force but the specific form of clientelism, best be characterized as neopatrimonial, has proven insurmountable. North et al. point out (2009) that LAOs are characterized by patron-client systems. Given that North et al.’s concept of LAOs comprises a wide range of rather distinct regime types; neo-patrimonialism will serve for characterizing Madagascar’s specific patron-client system. Following Erdman and Engel (2007), neo-patrimonialism is a hybrid political regime between authoritarianism and democracy.  

It is understood as a mix of patrimonial and legal-rational bureaucratic domination in Max Weber’s classical sense (Weber, 1978). “The distinction between private and public interests is purposely blurred.” (Bratton and Van de Walle 1994, p. 458) The Malagasy state can be characterized as neopatrimonial in distinction from other forms of clientelistic rule. Madagascar has not suffered from kleptocracy (as for example the Democratic Republic of the Congo) or shadow states where leaders exist in lieu of state institutions (as e.g. in Somalia), and it does not have a history of “big men” (as e.g. in Zimbabwe). Rather, in neo-patrimonial Madagascar, there are formal institutional structures but they are embedded in personalized networks of powerful leaders.

**LAOs are prone to instability and crisis, as internal and external shocks can change the distribution of power and disrupt stabilizing co-operation within the dominant elite coalition.** In Madagascar no dominant coalition is permanent. Society faces unexpected shocks that can destabilize the internal relationships within the dominant coalition. Such shocks can be internal (e.g. political leadership mistakes) and external shocks (e.g. unpredictable changes in relative prices, climate disasters, bumper crops, technological change, and newly hostile neighbors). Such shocks are likely to affect the distribution of power within and composition of the dominant coalition, such that new powerful interests arise and old interests weaken. Any shock that changes the distribution of violence potential can force renegotiation of the distribution of rents; and violence and instability are a constant possibility. This dynamic will serve as a lens for understanding Madagascar’s most recent crisis (see Annex II for further analysis of the recent crisis).

North et al. argue that governance reforms and development policies fail because they tend to apply organizations and institutional forms from OAOs to LAOs without considering the fundamentally different social logics for both orders. LAOs implement limited access policies through the design of political or economic institutions in order to preserve stability. LAO institutions are meant to produce rents whose distribution gives powerful individuals incentives to co-operate. In the absence of real open competition, interlocking public and private networks control access to rents for maintaining control and avoiding violence. In contrast, “imported” open-access OAO institutions, such as universal impersonal rights and rule of law, reduce elite’s ability to create and distribute rent and thus their ability to maintain stability by opening access to markets and greater political freedom. These institutions are likely to work less well than the ones they replace and ultimately threaten to make people worse off, not better off. North et al conclude that the transplantation of unmodified institutions from OAO to LAOs, cannot, in and of itself, produce political and economic development. A key insight of this framework for governance and development is that organizations and institutions developed for one order will fail when imposed on another order.
development effectiveness is the recommendation to avoid imposing institutions of OAO to LAO, without recognizing the gap between formal and informal institutions and rules of the game. Their analysis points to the importance for international partners of aiming for tailored institutional reforms in awareness of the trade-off that institutions that enhance development effectiveness (e.g. competitive markets) may be detrimental to stability (e.g. by crowding out rents), thus advocating rather best fits than best practices. (For further information on the conceptual framework, refer to Annex I.)

Assuming that LAO institutions are meant to produce rents whose distribution gives powerful individuals incentives to co-operate then where institutions are weak it is difficult define rents normatively. It is often the case that “rents” can both serve to bolster government coffers while serve political networks. As found by Infante and Smirnova (2009) “in the presence of weak institutions rent-seeking plays a crucial role for achieving second best resources allocation.” For instance, in Madagascar funds derived from illicit timber sales are commonly defined as “rents” to signal that the manner of economic capture is illicit whereas funds derived from mining are commonly defined as royalties or taxes to signal that this is an expected legal activity with an economic benefit to the population. Yet, those funds can equally serve political networks and the population. Even the legal status of the rents within a particular activity can be difficult to ascertain. For instance, in the case of illicit timber (Chapter 3) executive orders allowing for the export of illicitly cut timber are deemed illegal by the international community. However, are tax revenues collected on the timber in Sava to the service of the population equally illicit rents? What is analytically (as opposed to normatively) important is not whether rents are “good” or “bad” but rather whether they are drivers of particular governance outcomes. As put by North et al. (2007): “Limiting access to organizational forms is a key element of rent-creation for elites. All states are at once coalitions and organizations. Systematic rent-creation through limited access in a natural state is not simply a method of lining the pockets of the dominant coalition. It is the essential means of controlling violence. Rent-creation and limits on both competition and access to organizations are central to the state, its institutions, and the society’s performance.”

In Madagascar elite capture and deals between elites are likely to dominate the political horizon for the foreseeable future. The implication is that elite deals can be made more efficient to both the benefit of stability and a longer time horizon. The discussion that follows herein does underscore the importance of certain institution-building (political parties, electoral code reform, presidential power). However, at the same time it points out that there are opportunities to encourage more productive investment even in an environment of persistent neopatrimonial activity. Even where elites benefit personally the population can benefit as well.

For the purpose of the application to this study on Madagascar, the North et al. framework has some limitations. On the one hand, it sketches LAO in poor countries like Madagascar in contrast to OAOs. On the other hand the study in the book itself is mainly about the specific transition experiences of Britain, France, and the U.S. from the natural state to an open access order. In normatively underscores the value of OAOs in terms of achieving democratic ideals and supporting a productivity enhancing capitalist economy. However, it does not emphasize a timeline – how long the road was in each case to an open access order or even the doorstep conditions into it. The takeaway message thus becomes that in the short and medium term it is important to acknowledge the conditions of the LAO, accept the challenges they create, and look towards ways of making it a more efficient (transparent, accountable) LAO. The framework helps us to understand the motivations of actors (both individuals and institutions) in LAOs on their own terms, but does not always so by providing operationally relevant guidance. Thus as this report considers the role of the legislature, the presidency, political parties, and the like, it
focuses not on the mechanisms to transition these institutions into parts of an OAO but the networks that drive the existing institutions and the measures that can be taken to strengthen institutions within this context, increasing efficiency and reducing the propensity for violent social action outside of the institutional context.

Supplementing the broader perspective of the North framework, this study adopts a complementary problem-driven approach to political economy analysis as suggested by Fritz, Kaiser and Levy (2009) that can be applied in environment of persistent elite domination over institutions. Chapter 1 employs the lens of North et al.’s framework to conduct a country-level political economy and governance assessment for Madagascar. It offers “a qualitative view of governance and political economy drivers for the country overall”, comprising key institutions and stakeholders that drive Madagascar’s political economy. Fritz, Kaiser and Levy’s problem-driven technique of political economy analysis is an effective complement to North et al.’s conceptual framework, enhancing its operational relevance. Rather than seeking to capture the “big picture”, the approach is “problem-driven” because it narrowly focuses on explaining specific problematic outcomes, e.g. at the sector level. Choosing specific “problems” as starting points allows drilling down from the broad characterization of the LAO to underlying institutional arrangements and political economy drivers. This approach is well-suited for identifying the political economy root causes of specific, operationally relevant governance challenges along the forestry-and mining value chain (see Chapters 2 and 3). These root causes in turn cannot be fully understand without seeing them as part of the “bigger picture” of Madagascar’s LAO political economy dynamics (see Chapter 1).

C. History of Madagascar’s Political Economy

The following section provides a brief historical overview of how Madagascar’s political economy has evolved since independence. It seeks to highlight established political economy patterns as background to better understanding the roots of the recent governance crisis. It outlines how (1) the principal elites, (2) their sources of rents and (3) political and (4) economic institutions have evolved over time. It concludes with Table 1, which summarizes the evolution of these four major governance features through Madagascar’s three Republics.

1. Pre-Independence: The Heritage of the Merina – Côtier Divide

Independent Madagascar inherited a deep ethnic divide between the center and coastal areas that continues to be the most prominent in Malagasy politics. “Côtier” is the collective term for ethnicities other than Merina. The Merina- Côtier dynamic can be traced back to a history of pre-colonial spatial domination and colonial policies. One historically critical component of this divide is between Imerina (the capital region of Antananarivo) and Ibetsimisiraka (the central east coast around Tamatava, the country’s most important port located on the east coast) can be traced back to the pre-colonial and colonial period. Former President Didier Ratsiraka comes from Tamatave and until the rise of President Marc Ravalomanana in 2001 it was virtually unimaginable that a Merina leader could overcome the burdens of history. It is also an ethnic divide between central “Merina” and coastal Betsimisiraka (a historically critical component of what is referred to as “côtier”, the collective term for ethnicities other than Merina). The Merina monarchy came to dominate the Tamatava region through expeditions in 1817 and 1823. Consequently, by the time the French arrived in 1895 they were seen not as conquerors in Tamatave but as liberators (Cole 2001). Over time, however, the French sharpened the central-coastal conflict by using the remnants of Merina monopolial authority to help fill voids

42 It is also a term for ethnicities not based in the highlands, e.g. Merina and Betsileo.
in the application of spatial power. In particular, the French colonial government introduced by
decree (2 November 1896) a system of land registration that allowed any vazaha (foreigner) to
take land from Betsimisaraka hands (Cole 2001) for five francs per hectare. Consequently, by
1960 Merina were considered just as foreign (vazaha) as Europeans in much of Ibetsimisaraka.
Today the transition government works to bridge the Merina–côtier fault but would-be national
leaders continue to draw on pseudo-ethnic divides leaving this an important issue.

2. 1960-1972: The First Republic

Madagascar’s First Republic was dominated by the pro-French Social Democratic Party. (PSD).
The 1959 constitution was largely modeled on the French constitution with a split
executive lending power to the presidency but with a unicameral legislature. Madagascar was a
multipartism democracy, but the PSD cemented its hold on power by strengthening central control
over the provinces43, co-opting relevant civil society and by relabeling competitive parties as
“enemies of peace”. Although the PSD’s continued predominance led to complacency amongst
its leaders and caused both Merina and coastal disquietude (Brown 1995), the PSD succeeded in
overwhelmingly winning both legislative and presidential elections until 1972. The business
sector was left to develop mostly unfettered by state constraints, allowing French and aristocratic
Merina families to grow new business opportunities. Close relationships to France encouraged
investment by French financiers and the “socialism” of the PSD was limited to state investive
in areas eschewed by investors, notably agriculture. There were clearly illicit rents in some
sectors (such as artisanal mining) but most opportunities for personal gain were in formal sectors.
Across sectors the benefactors of favorable position were primarily Merina from important
families.44 As President Tsirinana’s alignment with France continued, it sparked a rise in
nationalist movements and defections from the PSD party which was a coalition of diverse elite
interests more than a homogenous organization (Spacensky 1970). In antithesis to the Tsirinana
government, “nationalism,” “decentralization” Protestant, and Merina, aligned and formed a
pattern of intra-elite conflict that is still apparent in Malagasy politics today. In 1972, under
significant pressure to resign, and in fading health, Tsirinana had to hand over power to General
Gabriel Ramanantsoa, who later succeeded him as President.


The government under President Ramanantsoa, backed by a military directorate, did not
significantly change political institutions, but did bring a change in political culture and
dominant elites. Madagascar remained a multiparty system and the structure of local
governments was maintained. However, the 13 May 1972 conflict embedded ny tany malalaka,
the free space for popular expression, into Malagasy political culture.45 While the market
orientation of the First Republic and sources of rents remained largely unchanged, there were
clear shifts in elite power during this period. Franco-Malagasy and French elites were
marginalized in favor of, mostly, aristocratic Merina families and the role of the French shifted
from an imperial to a donor role. Coastal populations were also among the losers. They respected

43 In 1962 Tsirinana reinforced government control of the provinces by dividing each province into three préfectures and the old
districts became sous-préfectures with the préfets and sous-préfets appointed by the government (all were PSD). The fokonolona (the
community “spirit” or organization with a 500 year history of shifting roles; Lejamble 1963) was revived along with collectivités
autochtones rurales (CAR) to carry out development projects under the “community” political control of préfets. The PSD became
synonymous with “fanjakana” (government) and set off a debate over “federalism” still felt today.
44 Notable exceptions included Franco-Malagasy producers in the sisal sector, Indo-Pakistani families in the artisanal mining sector,
and local elites in the vanilla sector.
45 As put by the scholar Christiane Rafidinarivo (2003), where there isn’t ny tany malalaka – the free space – for popular expression
collective action is replaced by conflict. 13 May 1972 was that conflict forcing ny tany malalaka and is often thought of in
Madagascar as a “revolution.”
Ramanantsoa but bristled at not just Merina leadership but the loss of côtier influence in the halls of power. A Protestant, centralizing, capitalist, nationalistic, anti-French model, came to dominate. Malgachization mostly meant the replacement of French influence in favor of Merina influence. The most critical problem was not the dominance of the military, but rising factionalism in the military along lines of political networks and ethnicity (Rajoelina 1988). The military cabinet functioned as a sort of umbrella by comprising military leaders who represented different networks of confluent religious, social, economic, and political bases. In January 1975, fighting led to defections of important supporters from the military cabinet and ultimately forced President Ramanantsoa to hand power to Ratsimandrava, a Merina of modest “caste”, who, jointly with Didier Ratsiraka, then foreign minister, had joined the leftist parties with significant côtier support. Ratsimandrava’s assassination shortly thereafter gave way to Ratsiraka’s first presidency.


The Second Republic saw major changes in both political and economic institutions following the concept of “scientific socialism.” President Ratsiraka undertook substantial government reforms in the names of “socialism” and “federalism.” While the 1975 constitution seemingly decentralized, the new system rapidly became a conduit for top-down decisions from the executive. There was multipartyism and universal suffrage but all candidates regardless of party were asked to support the socialist ideals and be grouped under the National Front for the Defense of the Revolution to run. In line with the 1975 constitution and the socialist charter, the economy was brought under state control through either nationalization or heavy-handed marketing boards. Socialist policies led to rapid economic decline and debt crisis, forcing Ratsiraka to abandon the grander elements of socialism and embark on an IMF-led reform program in 1981. The economic crisis in the country during the early 1980s led to significant increase in donor programs. This was broadly perceived as personal support to Ratsiraka and at the expense of the Merina aristocracy which saw liberalization as opening up economic areas sectors it historically dominated. The rise of President Ratsiraka was not due to his strength in the military but because he was a perfect compromise candidate between different interests, including coastal and central elites and the French. While for the early part of his tenure, Ratsiraka maintained a good intra-elite balance, by 1977 important coastal and Merina leaders felt marginalized and the unity fractured, partly because the expanding state strangulation role across sectors threatened their rents. There were perceptions about high levels of corruption and cash crop production plummeted due to the inefficiencies of elite capture, with the exception of the vanilla sector. Despite crumbling political support, Ratsiraka’s AREMA party won both the 1977 legislative and the 1982 presidential elections in land sweeps, indicating that the space for competition was once again closed. Economic austerity measures, combined with elite factionalism resulted in severe clashes in 1986 and 1987. Political opposition grew in exile and in Madagascar Professor Zafy Albert led a movement that ultimately led to a strike that consumed 7 months of 1991. This forced Didier Ratsiraka to sign the Panorama Convention of October 31, 1991 launching a transitional government.

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46 It comprised Roland Rabetafika (aristoricatic, protestant, Merina), Richard Ratsimandrava (Merina, modest “caste”), and Didier Ratsiraka (Betsimisirika, Catholic, and pro-French).
47 In 1975, Ratsiraka used a federalist discourse (rather than real federal reform) for building ethnic animosity among provinces and subduing Merina interests. In 1975 the Federalist movement was a powerful force behind Ratsiraka’s “Red Book.”
48 According to the 1975 constitution, the fokonolona would elect the fokontany (village council) leadership, fokontany would elect the firaisampokontany (commune) leadership, the firaisampokontany would elect the fivondronampokontany (district) and the fivondronampokontany would elect the 6 faritany (province) leadership. While this looked like decentralization, the National Assembly was elected through popular elections and the fokonolona were discouraged from initiating meaningful policy.

The Third Republic is considered the birth of democracy in Madagascar. The eventual capitulation of Ratsiraka after a 9-month civil servants strike paved the way for a transitional government, the March 1992 constitutional referendum, true multiparty competition, and elections that brought President Zafy Albert to power in 1993. The 1992 constitution strengthened political competition. Major changes included the introduction of a split executive in which the president’s role was diminished by the power of prime minister elected by the National Assembly between 1992 and 1995, a new electoral code\(^49\) and party politics law and significant changes in the governing structure of the country as question of federalism arose in connection with potentially destabilizing violent actions in provincial cities. However, subsequent constitutional changes by Zafy Albert in 1995 and Ratsiraka in 1998 (after his reelection in 1996) served to restore Presidential power. Decentralization was used as a tool for stabilizing their power, while sparking a new rise in regionalism.\(^50\) Corruption continued to be perceived as a pervasive problem from the halls of power to the lowest functionary with early efforts to curb corruption achieving little success. There has been steady opening of the market system throughout the Third Republic, bringing forth new business elites. The early part of the Third Republic saw a deepening of the alignment of donors with Madagascar\(^51\) as it embarked on its political and economic liberalization efforts. The most important structural result was the emergence of a new business class, who benefitted from new rents, came in old bottles. Marc Ravalomanana was hallmark of this phenomenon. He became mayor of Antananarivo in 1999, after having built the Tiko Group into one of the country’s most important conglomerates. The rise of the new business elite\(^52\) came at a cost to Merina “big families.” While some adapted to the new market environment others saw their economic fortunes decline. Whereas liberalization led to rapid economic growth, market distortions in favor of rent-generation for particular political actors have in many sectors had a negative net effect on growth.

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\(^{49}\) A new electoral code was established through Ordinance No. 92-041 of 2 October 1992 modified by Ordinances No. 92-04 and No. 93-003 made it easier to run.

\(^{50}\) See Box 3 for further detail on how decentralization served as a tool for stabilizing political power.

\(^{51}\) When asked about his new economic program in 1989 Didier Ratsiraka said “it’s the one of the IMF and the World Bank.”

\(^{52}\) Most of the new business elite is also Merina though not necessarily aristocratic.
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<td>• High intra-regional (Merina) factionalism</td>
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<td>• Neo-patrimonial marked by fusion of public-private networks</td>
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<td>• Economy largely in the hands of a central elite</td>
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<td>• Centralized (&quot;Scientific Socialist&quot;) economy</td>
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<td>Principal Elites</td>
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<td>&quot;Big&quot; Families</td>
<td>Merina-France dominated</td>
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<td>Private Sector</td>
<td>Military factions (which shifted twice)</td>
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<td>Actors</td>
<td>Council of Christian Churches in Madagascar (FFKM)</td>
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<td>Exogenous Actors</td>
<td>&quot;Big&quot; Merina Families prominent</td>
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<td>French trade</td>
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<td>First France, then USSR, then France dominated trade</td>
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<td>&quot;Big&quot; Merina families scaled back importance</td>
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<td>Growing private sector</td>
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<td>Early: increased role of &quot;big&quot; families</td>
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<td>Later: increased role of private sector elites (largely close to the president)</td>
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<td>Influence of the Church of Jesus Christ (FJKM), national Church of Madagascar</td>
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<td>&quot;Rents&quot; as privatization</td>
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<td>&quot;Rents&quot; from privatization</td>
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<td>Natural Resources</td>
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<td>Mineral production</td>
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<td>production</td>
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<td>Cash Crops</td>
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<td>coffee, vanilla, rice, sugar</td>
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<td>agribusiness</td>
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<td>13.5%/year low</td>
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<td>Aid 3.5% of</td>
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<td>export earnings</td>
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<td>Corruption high</td>
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<td>(elite capture of rice, poultry, cash crops) e.g. by the Société de Promotion des Coopératives Socialistes, blending state and private activity</td>
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<td>Corruption high</td>
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<td>(elite capture of rice, poultry, cash crops, and light industry)</td>
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<td>Corruption high</td>
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<tr>
<td>Elite capture diversification from rice, poultry, cash crops and light industry to public contracts</td>
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<td>Rise of extractive industries potential</td>
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<td>Corruption high</td>
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<td>Elite capture shifting hands/networks</td>
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<td>Continued rise of extractive industries potential</td>
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D. Malagasy Political Institutions and the “Untamed Presidency”

In Madagascar, neo-patrimonial patterns of rule are characterized by a hybrid mix of patrimonial and legal-rational bureaucratic domination according to formal institutions. The exercise of power is not exclusively based on personal relations but impersonal formal institutions or “rules” remain weak and embedded in political networks. This section analyses the concentration of political power in Madagascar’s presidency and the balancing roles played by other powers.

1. The Executive

Since 1992, several constitutional revisions have built and cemented a concentration of executive and legislative power in the Presidency. Under the 1992 constitution until 1995, which formed Madagascar’s Third Republic, the Prime Minister was elected by the National Assembly and presidential powers in the legislature were largely marginalized. However, subsequent constitutional revisions through popular referenda in 1995 (under Zafy Albert), in 1998 (under Didier Ratsiraka) and in 2007 (under Marc Ravalomanana) restored and expanded de jure presidential powers over the legislature. Box 1 summarizes the expansion of the presidency’s powers vis-à-vis the legislature following these constitutional revisions. These referenda overall respected legal processes with relatively low concerns over electoral fraud. Nevertheless, their results were distorted in the interest of the respectively sitting President with the use of one-sided public information campaigns.


In September 1992, Zafy Albert sponsored the first successful constitutional referendum. This referendum restored presidential power. The Executive already held the primary competencies in international affairs, with the Council of Ministers, and head of the military. The President could also, under Article 58, dissolve the National Assembly and appoint the Prime Minister. However, the latter maintained great authority in both the executive and the legislature including the execution of laws and judicial decisions, oversight of the public service, defense policy, head of the Council of Government, and lead in economic development.

The subsequent constitutional revision sponsored by President Didier Ratsiraka (1998) and Marc Ravalomanana (2007) cemented the role of the president while expanding the powers of the executive in the legislature. Under the Third republic, under Article II.1.67, the president not only names the prime minister. He also determines the prime minister’s functions (I.1.53), issues of “national character” and the general politics of the state (I.1.54). In practice this has meant that the president, rather than the prime minister, shares executive and legislative functions.

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53 To give a comparative measure of degree it is possible scale the constitutional powers of the Malagasy presidency today against other countries. For instance, using a notable typology put forward by Shugart and Carey (1992) the powers of the presidency in semi-presidential systems like Madagascar’s can be measured across eleven indicators (Package Veto/Override, Exclusive Introduction of Legislation, Proposal of Referenda, Partial Veto (Line Item)/Override, Amending the constitution, Budgetary Power, Decree Power, Dissolve the Assembly, Cabinet Formation, Cabinet Dismissal, and Emergency Powers). Scoring powers between 1 and 4 on given criteria and summing the total the Malagasy presidency has a constitutional power score of 36 (out of 44). By Shugart and Carey’s measure countries like Paraguay in the early 1990s (with a score of 16) have a strong presidency. Compare this to France (with a score of 5), the highest score in Europe (Iceland, 11), and Russia (26). NB: Whereas the Europe scoring comes from Elgie (2009) and Staroff (2003) the Russia scoring comes from Troxel (2003). Troxel modifies Shugart and Carey but for the purposes of comparison her interpretations are used but recoded into Shugart and Carey’s original measure.

54 In a 1998 survey (n=1356) immediately following the 2007 referendum voters in three regions (now Anosy, Sava, and Vatovavy-Fitovinany) were asked whether they voted. Those responding in the negative were asked “why” and overwhelmingly (44 percent in an open question) the response was that the major did not give them their voting or national identity card in time (n=266 responding). Focus groups at the same time pointed to a campaign of color. Ballot papers for “yes” were red – the same as Ratsiraka’s ballot paper – and “no” was blue like Zafy Albert’s ballot paper. With little information disseminated, the balloting appeared to be referendum on the presidential elections the year before. See Marcus (2000).
The Presidency may have wide constitutional authority but traditionally maintains power through neo-patrimonial leadership. Neo-patrimonial leaders occupy office in order to grow status, acquire wealth, and, ultimately, support their personal networks that manage public space. In North et al.’s words, dominant coalitions in LAOs survive and maintain elite stability by investing in personalized networks and rent-seeking activities (North et al. 2009). In Madagascar’s mixed presidential system, dominant coalitions have relied on elite personalism, rather than ideology or law. Leaders occupy office in order to grow status, acquire wealth, and ultimately, support their personal networks that manage public space. They ascribe loyalty and dependence to formal political and administrative systems by controlling fiscal streams and patterns of rewards that tend to be exclusive to “loyalists”. Personal patronage appears to continue to be widespread. Each President has considered himself a reformer and has been an institution-builder in his own way. However, governance reforms were always subservient to the chief executive’s personal network, e.g. electoral reforms or decentralization reforms.

Box 2: The Electoral Code

Incumbents have used the Malagasy electoral codes as a tool for remaining in power. Until the recent Constitutional referendum, Madagascar used a multi-ballot system in which there is a separate ballot paper for each candidate. In contrast to a single-ballot system, voters take the ballot paper of their candidate of choice; put it into the ballot box and dispose of the remainder. The multi-ballot system can be simpler for the voter and less prone to voter error, but can lead to greater opportunity for fraud in this system. Ballots can more easily be “stuffed”. The multi-ballot system also creates financial barriers to universal application. As the cost of printing a ballot for each of the 7.4 million registered voters falls to the candidate, only the wealthiest can compete. In most elections, the burden of distributing their ballots was on the candidates, not on an electoral commission, although the capacity of someone from outside of the capital region to distribute the ballots nationwide is limited.

Irregularities in voter registration have been a concern, negatively affecting the electoral process. Among ‘progressive’ governance reforms, voter registration was a positive innovation in the 1990s. Yet, according to the independent electoral observer organization (CNOE), in some areas more than 35 percent of citizens may have experienced irregularities with the electoral card and registration process in 2006.

The level of controversy over the electoral code has been profound from inception, undermining a broad-based acceptance of election outcomes. Ratsiraka was accused of using the electoral code to manipulate his position in the 2001 elections, as was Ravalomanana in the 2006 elections. Yet, Ravalomanana staunchly defended the code even in the face of organized opposition and significant international criticism before the 2006 presidential elections. Unless the electoral code is changed, it is hard to imagine a presidential election producing widely accepted results. Incumbent central elites are unlikely to have incentives for undertaking such changes, as the current system biases results in favor of the center. Introducing a single ballot system and reforming voter registration would create new opportunities, particularly for less known candidates and smaller parties. The use of a single ballot system during the November 17, 2010 referendum is progress towards the goal of greater equality, especially regarding those parties which do not have a full presence throughout the national territory.

Electoral reform will remain a contentious yet critical issue, as it might increase rent opportunities for regional networks as opposed to wealthy political networks in the capital.

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55 This language draws on the seminal conceptual work on the concept by Bratton and Van de Walle (1994).
56 Patron-client ties take many forms that have been detailed by scholars. Madagascar does survive through patron-client ties but there is a functioning political system in place that has found success at elections (even if the results have been disputed or overturned with some regularity). It is not corporatist, patrimonial, or kleptocratic in character. It can be differentiated from many of Africa’s predatory regimes in resource rich states. Madagascar is a young democracy that continues to suffer from neo-patrimonial rule.
57 In a single ballot system, all names are on a single ballot and a pen, punch, or electronic tool is used to select the candidate.
58 Comparing adult population to voter registration shows that these areas were often in opposition strongholds (Tamatave and Tulear).
59 The electoral code is based on Organic Law No 2000-014 of August 24, 2000.
60 This has been done most notably at the behest of the FFKM (umbrella group of churches) and partnering “centrist” parties such as AVI and the RPSD. “AVI” means “Judged by Your Work”. RPSD stands for “Rally for Socialism and Democracy”.
Box 3: Constitutional Revisions and Decentralization

Every president in the history of postcolonial Madagascar has changed the constitution to suit his purpose. As a result, constitutionalism is relative. In particular, presidents have frequently changed the state’s territorial organization in order to strengthen their hold on power. Whereas constitutional referenda have been more or less compliant with legal rules, their results suffered from poor information campaigns. Campaigns prior to referenda have provided little information on the intended changes and instead have focused on how the constitutional changes will help development. Every constitutional referendum has passed. Popular choice during referenda has thus not been equated with the power of competition. Rather, given poor information dissemination, voting for the constitutional changes have not (necessarily) meant popular acceptance of the most fundamental institutional shifts.

For example, the creation of the system of regions can be seen as a move that consolidated the power-based in the capital while weakening citizens’ ability to voice concerns. Ravalomanana came to power as the first Merina president, the first Antananarivo president. In September 2004 he created a system of 22 regions that would supersede the provinces, but resisted seeking changes to the constitution until the April 2007 constitutional referendum. While the 2007 constitution did solidify the regions, it did not clarify the newly empowered role of the fokontany (the lowest level of government). As the mayors were the last level of local governance to be directly elected by the population, popular voice was a casualty of these institutional changes. In a recent survey conducted in Antananarivo, 80 percent of respondents argued that they prefer the system of autonomous provinces (created by Didier Ratsiraka in 1998) as opposed to 18 percent who prefer the system of regions. Survey results also suggest that the creation of 22 regions weakened citizens’ perceived ability to voice concerns.

All of this demonstrates that the capacity of the government to govern across levels, and particularly outside the provinces, remains a fundamental concern in Madagascar.

If the citizenry does not accept the most basic constitutional tenets, down to the country’s geographical division, it is not possible for the state to gain strength or for institutions to embed, perpetuating the fragile limited access order.

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61 Philibert Tsirinana, Madagascar’s first president, helped create the 1960 constitution. Didier Ratsiraka, upon taking power in 1975, jettisoned that constitution in favor of one supporting his Scientific Socialist design. The constitution of the Third republic was a product of the constitutional convention of March 1992. However, it was fundamentally altered by President Zafy Albert in a September 1995 referendum giving the president substantially increased powers including the right to appoint the prime minister. Didier Ratsiraka led a successful referendum to alter the constitution in 1998. Marc Ravalomanana made sweeping changes in 2004 without altering the constitution but then led a successful referendum to alter the constitution to match these changes in 2007. The only president who did not alter the constitution was Norbert Lala Ratsirahonana who was appointed president after the impeachment of Zafy Albert in September 1996. He served for five months during the new elections (coming in 4th place) and left office when Didier Ratsiraka was sworn in in February 1997.

62 For example, in the September 1995 constitutional referendum, Zafy Albert did not only increase his power but also pushed competition to the margins through a process of centralization. Zafy Albert’s powerbase was in his home region of Antsinanana and a core constituency in Antananarivo. The other provinces provided him significant challenge. In turn, after winning back the presidency in the 1996 elections, Didier Ratsiraka sought to once again move power away from the center to his provincial power base. To this end, he created a series of changes based on the concept of autonomous provinces. The constitutional changes of 1998 ensured increased power at the provincial level but because elections were indirect the president could still hold undue sway over who would sit atop provincial leadership. Notably, whereas Madagascar has an active federalist movement that has roots going back before independence, it did not support Didier Ratsiraka’s provincial system, arguing that it was just another tool for presidential empowerment.

63 President Ravalomanana’s Decree 1097/2007 articulated that the presidents of fokontany will be appointed by and answerable to the chefs de region rather than the immediately superior mayors of communes. The power and influence of the mayors was thus significantly hemmed as their subordinates were no longer answerable to them.

64 Source: Survey conducted in Antananarivo by Richard Marcus in January 2010, n=438.

65 Depending on the indicator, under Ravalomanana less than half of respondents saw the regions or national governance as transparent, accountable, or willing to interact with their constituents. This varied tremendously by region. The data from the 2008-09 AFTCS civil society study points to distinct regional differences in perceptions of governance and governance levels. For example, in Tamatave, historically the most at odds with the capital, the perception of marginality is disproportionately high. The data also appears to indicate that across regions, the higher the level of government, the lower its perceived legitimacy. Whereas communes were accepted about 2/3 of the time, the national government was only accepted about 1/3 of the time. This, and the comparative strength in the couple stray fokontany (most local level of governance), indicates that the fokontany is generally perceived by the population (as opposed to civil society organizations) as accountable, the commune less so, and higher levels of governance virtually not at all.
Following the pattern of neopatrimonial rule, an unprecedented dominant coalition of intertwined private business and political elites has emerged and dominated the executive over the past decade. While some significant governance reform progress has been made over the past decade, this has not fundamentally altered the pattern of neopatrimonial rule. Rather, the composition of the dominant coalition and consequently the way neopatrimonial rule is realized has changed. Over the past decade in the context of economic liberalization, the private sector came to substitute for the bureaucracy, military and other common bases of neo-patrimonial rule in Madagascar, creating an economic political fusion in a democratic context. Intertwined political and business elites benefitted from their private networks to grow political influence and used political influence to further their business interests. The space between the public and the private became blurred as network agents moved between the two sectors. This pattern continues in new and fluid forms.

Since the 2009 crisis, the line between neopatrimonialism and other forms of clientelistic rule is becoming less clear. The longer the transition government goes without returning to the ballot box and the longer it goes without establishing and legitimating a legislature, the more the bureaucracy becomes accountable to leaders rather than the state. Were this to happen, the leadership would become obliged to seek greater rents (e.g. from mining, forestry, and new business opportunities) to maintain power and a shadow state might begin to emerge.

2. The Legislature

Madagascar’s legislature is in fundamental crisis as it has become a marginal part of the system in service to, rather than in check of, the executive. Madagascar has a bicameral legislature divided into the National Assembly and the Senate, according to the 1992 Constitution of the Third Republic (Article 41). The Senate as the upper chamber has little legislative influence. A third of its members is appointed by the President of the Republic and was not created until 2001. The National Assembly as the lower chamber has a history of greater legislative sway and continues to be the center of legislative activity. One of the few historical signs of the legislature’s independent power was its vote to impeach Zafy Albert in 1996. Today, the National Assembly remains highly subservient to the executive. It is strongly politicized and subject to the direct institutional intervention of successive executives, undermining a system of effective checks and balances. This is also reflected in its public perception: “Of all public institutions in Madagascar, the National Assembly is most often cited as engaging in corrupt behavior.”

Successive Presidents have tried to change the role of the legislature to serve their respective purposes. Its limited power is due to a very limited margin of maneuver as a result of political isolation, underfunding, and limited technical capacity. Strong-arm tactics of successive Presidents for revamping the legislative make-up have undermined the separation and balance of

66 Neo-patrimonialism is distinguished from other forms of patrimony and clientelism by the coexistence of modern state infrastructure (Eisenstadt 1973).

67 Its President is the intended successor to the President of the Republic in times of crisis.

68 The remainder are elected proportionately by region.

69 In every election in the Third Republic the National Assembly has followed the party of the president.

70 “42% of Madagascans claim it engages in corrupt behavior (including 78% of survey respondents with a view on the subject).” The failure of the National Assembly is felt most acutely by the rural poor, whereas in urban areas presidential corruption is perceived a bigger threat. Source: Afrobarometer (2009). According to a survey conducted in Antananarivo by Richard Marcus in January 2010 (n=438), the Senate is scarcely considered by the population. Sixty-four percent of Antananarivo residents find representation by the National Assembly to be low and 70 percent reject the 2007 legislative elections.
powers.\textsuperscript{71} In particular, the electoral code and the law on political parties have had significant impact on the legislature’s composition. Without improved avenues of competition and interest aggregation by parties the legislature is likely to continue to be dominated by the executive. The opportunities for competition in the legislature will remain stymied, if all parties do not play by the same electoral rules, do not know what those rules are in advance, and do not see even application of those rules (dispersion of ballot papers and voting cards).

**The 2007 legislative elections were amongst the most significant examples of Presidential dominance and legislative weakness.** The President’s capacity to invoke his right to dissolve the National Assembly (Article I.1.59) and set both the electoral timetable and the statutes for party qualification, allows countering possible dissidence or new coalitions among parties. The number of parliamentarians was reduced from 160 to 127 and despite increasing popular discontent, the dominant party won 106 of the 127 seats (84 percent) compared to 108 of the 160 seats (67 percent) in the previous assembly. Party members close to the President came to control key legislative constituencies including the opposition strongholds of Tulear and Tamatave. While it is not uncommon in democracies that the President can dissolve the legislature and influence the electoral timetable, in a context of competitive electoral institutions such a step is risky and may strengthen rather than weaken opposition parties. By contrast, as the 2007 elections show, in Madagascar these rights tend to one-sidedly weaken opposing forces, given a lack of institutional frameworks for effective political competition (such as the party system and the electoral code).

**In the past, ethnic and ethno-regional lines (between Merina and côtier) shaped dominant cleavages within the legislature, but this pattern is changing.** The emergence of \textit{intra}-Merina conflicts does not fit this pattern and forces new coalitions to diversify their legislative powerbase to non-Merina members of the legislature, who represent seventy-four percent of the population. This is a relatively new phenomenon. There is a strong possibility that whoever is ultimately elected president in Madagascar will follow this model. The lack of effective fiscal decentralization ensures that these rents are largely controlled in the capital.

### Box 4: Political Parties

In Madagascar, individual leaders are behind the creation of new parties and parties represent neo-patrimonial relationships. Individuals have created political parties to recruit candidates, aggregate interest in candidates, and increase the electoral prospects of candidates. Individual elites use party organizations to act as nexus for political patronage towards the maintenance of power.\textsuperscript{72} The support of the elites is sought by the party leader through favors, jobs, and funding, in order to establish a political coterie that ensures that the leader can maintain office. The reason for which this often works so well in Africa in general, and in Madagascar in particular, is that parties based on patrimony succeed best where there is a large underclass, peasantry, or otherwise disenfranchised percentage of the population.\textsuperscript{73} In such cases, it is both easier to control the flow of media to the broader population and less expensive to maintain their support. Patrimony thus controls the “have nots” who can be used for maintaining leadership even where there are open elections. Patrimony can be used for bargaining with officials, it can be used for maximizing the vote, and it can be used for attracting party members.

**When parties are controlled by patronage, they often do not serve the public good.** Parties do not serve as a conduit for political participation, or as a political organization that recruits new leadership from some...
segment of society, usually civil society. If the leader creates the organization rather than the organization creating the leader, democracy is not served. The perpetuation of neo-patrimonial rule means that resources are tied up by the individual leader to maintain his office. Competition within the party system becomes a battle over purchasing loyalty rather than a competition over political ideas.

A new party law (2009-002) passed in January 2009 was criticized for appearing to create further opportunity for political networks to flourish in a clientelist party system. A draft document, elaborated by respected technocrats in December 2008, focused on regulation, organization, financing and access to the media for political parties. The stated goal was to suggest a credible law that would ensure a continuity of the state and democratic opportunity through competitive election. However, the final law passed looked little like the commissioned report. It ultimately served to make it more, not less, difficult to form a political party and for that party to institutionalize. It was seen in early 2009 as evidence of centralization at the expense of democracy. This demonstrates how even an initiative by technocrats from within the administration aimed at strengthening competitive political institutions was transformed in a way to limit competition, following North et al.’s logic of the LAO of facilitating the production of rents in order to preserve stability.

3. The Judiciary

The Judiciary in Madagascar cannot currently play its role as an independent branch of government and ensure proper checks and balances. The President has significant power over the judiciary in general and the Supreme Court (HCC) in particular. First, he is the guarantor of judicial independence (Article III.1.103 of the constitution). Second, he is the President of the Superior Council of the Magistrature (Conseil Supérieur de la Magistrature, CSM) and appoints its magistrate charged with upholding judicial independence and managing the careers of justices. Supreme Court justices have little trust in the CSM and are wary of its role. Third, the President of the Republic names three of the nine members of the HCC and has indirect influence over the two other members named by the CSM. The President of the Republic also names the President of the HCC. HCC justices serve at the will of the appointing body and can be removed by that body at will or by the president in extreme cases of justice malfeasance.

The Supreme Court’s confirmation of Marc Ravalomanana in 2002 and Andry Rajoelina in 2009 point to its practice of taking flexible decisions in line with “common law”. There has been no change in the composition of the HCC since 2002. Part of the reason for this consistency is the court’s flexibility to accommodate the incoming President’s interests. In particular, the HCC can interpret and reinterpret what it sees as contradictions in the constitution by drawing on common law in order to avoid any disturbing judicial decisions and possible violence. This was

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74 Key criticisms of the political party law included: First, there was concern that many parties that could be important within a region could not compete in mayoral elections, virtually assuring the dominance of powerful central parties far from the capital. However, the law staved off regionalization, by requiring party lists to necessarily include nine members representing at least six regions (1.S.11). Parties must not only be national in stature but must compete in all elections from local to national (3.S.25). Second, it was criticized that while the law requires party funds to be transparent (5.S.38), there is no limitation on private funds infused into public parties. This undermines not just competition between parties and the opportunities for small parties to enter the political sphere and the ability of individual parties to build independent political platforms from existing financial networks, thereby challenging the intent to move Madagascar away from its history of inchoate parties.

75 The High Constitutional Court is considered the judicial branch of government and the Supreme Court, Courts of Appeal and the lower courts are attached and the High Court of Justice charged with helping it carry out its functions (Article III.1.41 of the Malagasy Constitution).

76 The CSM is established by Article 103 of the Constitution to guarantee the independence of the justice, ensure ethical conduct by judges, manage the careers of judges (advancement, promotion, discipline etc.) and to advise on any measures, legislative or regulatory, relating to courts and judges. It also appoints two of the HCC justices.

77 Source: Author interviews with HCC justices, 2008.

78 The National Assembly and Senate each name two of the remaining justices, according to Article III.2.110 of the constitution.
of Madagascar law and weak institutional cover by invoking common law, when necessary. There are also important divisions in the judiciary, for example, between the Supreme Court and the CSM.\textsuperscript{82}

**Madagascar’s courts face perceptions of limited efficiency, corruption, and poor public image.** Public perceptions of judiciary are quite negative, and there are significant concerns about its independence, effectiveness, efficiency and impunity. According to a recent Afrobarometer survey, \textsuperscript{83} nearly 60 percent of Malagasy state that they think that at least some judges and magistrates engage in corrupt behavior.\textsuperscript{84} Reasons for judicial corruption can be traced to low salaries, frequent delay in salary payment during crisis, lack of training, and (overly) complex legal procedures on the one hand side and the pressure to allow impunity on the other. “One of the feelings that prevail among the general public is the impunity of corruption perpetrators, even those that are notorious in the matter. Such impunity can be interpreted as the existence of interference of politicians to protect those perpetrators from investigations or prosecution,”\textsuperscript{85} It does not appear that the judiciary is largely captured by executive rents but rather is powerless against those that are. An Anti-corruption Judiciary Unit (ACJU) is tasked to prosecute, investigate and judge cases of corruption that are referred to it, mainly by BIANCO. However, it has focused almost exclusively on local tribunals and not on larger corruption cases.\textsuperscript{86} Like BIANCO, the ACJU is underfunded, can review only a small number of cases brought before it, and lacks the power to ensure greater accountability.

**However, the judiciary has a record of significantly greater consistency than the other branches of government.** Individual justices across levels have largely survived regime changes even though they are politically appointed and do not hold life tenure. The Malagasy judicial system is loosely based on the French system and the institutional framework of the courts has been little altered by successive political leaders. There are 823 judges across levels in Madagascar, far too few given the nation’s juridical needs. Through the Second and Third Republics there has also been an effort to integrate culturally embedded traditional courts (dina rule-making institutions) to adjudicate civil disputes and there has been an increased effort to use dina systems for criminal cases to make up for justice shortages.\textsuperscript{87}

\textsuperscript{79} In a 2006 interview with the Richard Marcus one HCC justice put it: “[We rely on] common law because, you know, a constitution cannot be a complete code, but [rather] the constitution is legal principles that should be respected. Because the constitution is not a code that gives the court [power to interpret] organic law.”

\textsuperscript{80} Precisely, HCC Décision n° 03-HCC/D2 of 23 April 2009 found no constitutional precedent for the role of an Executive Military. It ruled that President Ravalomanana acted in contradiction to Article 52.3 of the constitution and transferred power to the military rather than the President of the Senate. The Chair of Military Management, by Ordinance No. 2009-002 of 17 March 2009, transferred full powers to Andry Rajoelina. The court ruled that outside of constitutional precedent it would recognize Andry Rajoelina for 24 months in order to afford him the opportunity to organize the transition and take all necessary measures to that effect. This was seen as using organic law to safeguard the public good.

\textsuperscript{81} The African Union has, for instance, barred the travel of all members the high court as a result of their role in the 2009 conflict.

\textsuperscript{82} Source: Author interviews with HCC justices, 2008.

\textsuperscript{83} Leaving out the survey respondents who claim they have no evidence for answering this question, the proportion of Malagascans who state that at least some judges and magistrates engage in corrupt behavior reaches 89 percent. Source: Afrobarometer (2009).

\textsuperscript{84} In an unrelated 2010 survey, 64 percent of Antananarivo residents described justices as between somewhat and very corrupt. In the same survey respondents viewed justices as corrupt 69 percent of the time and ten years before 72 percent of the time. Asked the same question in a 2006 survey Antananarivo residents found justices to be corrupt 55 percent of the time -- 46 percent found justice to be dealt unevenly amongst citizens. Source: Survey conducted in Antananarivo by Richard Marcus in January 2010, n=438 and October-November 2006, n=501.

\textsuperscript{85} Source: Ravalomanda, H. Thierry (2007).

\textsuperscript{86} Reported corruption is consistently in the form of petty bribery at lower court levels.

\textsuperscript{87} Decisions by dina are not subject to the formal procedural protections of the formal court system. The definition of dina, how they are applied, and how institutionalized they are, varies greatly intra- and inter- regionally. Sources Bérard (2006), Marcus (2008) and Andriananja et al. (2004).
E. Key Stakeholders

Given the dominance of the Malagasy presidency it should not be a surprise that national leaders neither tend to come from formal governing institutions nor rely on formal governing institutions for the maintenance of power. Key stakeholder groups beyond the body politic serve as the proving ground for national leadership. To wit, with the exception of the five month interregnum of Norbert Ratsirahonana who came to power through succession after the impeachment of Zafy Albert there is no case of a president in independent Madagascar coming from the executive, legislature, or judiciary. Thus understanding the political economy in Madagascar requires understanding key stakeholders outside of national government.

Madagascar’s political economy is dominated by historically embedded and new business elites with the military playing the role of a critical partner. This section presents key stakeholders that shape Madagascar’s political economy and their interests, incentives, constraints, positioning and changing influence within political networks. Careful decisions had to be made to prioritize the stakeholders covered in this report. A full stakeholder analysis was beyond the scope of this research given both the time and political constraints introduced by the conflict. However, key stakeholders and subsequent drivers are covered herein in order to highlight the mechanisms through which dominant coalitions are formed. Several important other stakeholders, notably the media, have been left out of the analysis in part because of the time and political constraints and in part because they are covered at length in other report efforts (such as the PCIA88). The composition of Madagascar’s “dominant coalition” differs significantly from many other LAOs in Africa and even Latin America. Clientelism is most commonly fed by the military. In Madagascar, a new business class that has emerged following market liberalization since the 1990s and historically embedded “big families” rather than the military dominate the country’s political economy. Traditional and new economic elites are thus at the core of this section, as well as the military as a critical partner. The section concludes with an analysis of civil society, which remains a weak counterweight to politically influential elites.

1. Traditional Economic Elites: The “Big Families”

Malagasy economic elites can historically be divided into different groups based on size, national origin, and integration into the formal economy: (a) an indigenous small-scale and traditional private sector; (b) an indigenous large-scale and formally established private sector; (c) locally established and resident entrepreneurs with foreign national origins or affiliations; and (d) the non-resident foreign private sector. (World Bank 1995) Table 1 provides an overview of how these elites have evolved over the past decades. In the 1980s, only a small handful of notable Malagasy “big families” represented the indigenous business sector. However, by the mid 1990s, newer, smaller export-oriented private firms were substantially outperforming larger, older firms. This eventually has led to the creation of a “new business elite” comprising locally established but internationally connected entrepreneurs that have benefited from economic liberalization in manufacturing and media sectors.

“Big families” have traditionally been a leading stakeholder in Madagascar’s political and economic development. In an effort to reduce the influence of historically entrenched noble Merina families, the colonial administration encouraged the emergence of a new elite among

88 Didier Ratsiaka rose out of the military ranks, Zafy Albert, a professor, rose through university leadership, and both Marc Ravalomanana and Andry Rajoelina were business men who launched their bid for the presidency from the Antananarivo mayor’s office.

Malagasy people. Three main parameters were used: religion, social class, and “tribe.” Lower “castes” and côtier were commonly converted to Catholicism. Ultimately, it is some of the descendants of these families from Catholic lower “castes” that became the “big families” of Madagascar today. Some big families grew with the help of the French as a reaction to nobility and their continued influence has come from their ability to launch and maintain businesses. They served as a counterbalance to aristocratic Protestants and “foreign” families (commonly Indo-Pakistani) that created important niche roles, particularly in coastal trade. “Big families” in Madagascar historically controlled access to markets and mechanisms of social and economic oppression not available to the majority of the population. Large côtier families have suffered in the postcolonial period from internal divisions and competition. Refuge for big coastal families today is the public sector and many remaining powerful families are politicians.

Historically, big families have been influential in civil society, in particular the churches. Strong involvement in the church was also a means to gain influence with the monarchy, and the French. During the 19th century, Protestantism within the Merina monarchy influenced these ideas. Noble families of Antananarivo competed in constructing churches on the Antananarivo hills to curry favour. The rise of the anti-nobility meant the rise of Catholic churches and thus challenges to the Protestant views of the ‘traditional nobility’ that was supported by the French. Today, serving the church can be considered less as building of civil society credentials and more as the building of alliances with certain longstanding political networks. New industries, e.g. mining, have not yet served as a mechanism to establishing important political networks.

The impact of economic policies and the rise of new business elites have challenged the dominance by the “big families”. At independence in 1960, Madagascar had an established class of “big families”. However, the shifting socio-cultural, economic, and political terrain in the last few decades have marked an erosion of power in both “côtier” and traditionally entrenched “Merina” big families. The dominance of big families in the capital is likely to further decline but they will continue using their traditional networks to defend their influence, in response to the shifting economic and political coalitions. Big family networks remain important and wield influence. However, these coalitions will not be stable in the long term. Most families have now begun to reconfigure their coalitions with other elites, individuals and groups.

2. New Business Elites

Structural change of Madagascar’s economy in the course of economic liberalization has brought forth a “new business elite”. While Madagascar’s economy has historically been dominated by a shifting combination of agriculture, services and industry, with economic liberalization, labor costs (at $0.15 per hour in 199) in Madagascar were markedly lower than Indonesia, Pakistan, China, or India and represented an opportunity. (World Bank 2005) This brought opportunities for marked growth in manufacturing and light industry in the 1990s and 2000s. These new business elites have benefited from Madagascar’s improved economic and export-led performance during the last decade. While Export Processing Zones proved only a portion of the growth, the structure of Malagasy exports with “traditional” (vanilla, coffee, cloves, and pepper) exports dropping approximately 30 percent as a percentage of exports between 1990 and 2008 (IMF 2010) in favor of a commensurate rise in light industry, most notably textiles Maminirinarivo (2006). Starting a business also became easier, particularly during Ravalomanana’s first mandate with simplified procedures, less time to create businesses,

90 The rise of the anti-nobility meant the rise of Catholic churches and thus challenges to the Protestant views of the ‘traditional nobility’ that was supported by the French.
91 In the early 1990s approximately 92 percent of citizens engaged primarily in subsistence agriculture, today it is about 72 percent. Madagascar’s dominant cash crops include vanilla, coffee, cloves and pepper.
and less cost. (World Bank 2010) Export Processing Zones grew largely through the drive of foreign corporate interests but the rise of a light industrial economy gave opportunities for domestic industrial interests to flourish in complement to and in addition to traditional economic activities.

The new business class emerged as more opportunities became available beyond a small segment of predominantly urban society. Starting in the late 1980s, new firms grew dramatically and a new business class emerged. The rising new business class could compete with Madagascar’s new families. This has intensified a new and politically destabilizing conflict as new entrepreneurs sought new opportunities at the expense of existing family enterprises. Young entrepreneurs of this era were net benefactors and they did not have any base in the big families.

The new business elite has played a key role in the dominant coalition of successive governments. At its current evolutionary stage historically dominant Merina families still dot the political landscape but “big families” are more commonly from the new business sector and no dominant coalition can survive without the critical assistance of key families that play critical roles in the Malagasy private sector. In this sense the private sector has played, and continues to play, a more critical role in shaping leader decision-making than either civil society or the military. The Merina-cotier dynamic has also driven the rise of several coastal families of note. On the one hand, in the short term this can help raise funds to the state and is stabilizing in the short-term; in the long-term it strengthens neopatrimonial networks in power.

3. The Military

The Malagasy military has remained under civilian control despite the instability in the dominant elite coalitions and has not been a dominant driver of change. The military has provided support to individual leaders and has intervened when it saw the necessity in order to preserve stability. But the military has not been a principal driver of change in Madagascar. Military strongmen have not dominated the political landscape. This was evident in the 2009 crisis when the military did not take over when it could have. It is indicative of the limited role of the military that only about 1.1 percent of Malagasy GDP goes to the military budget, i.e. about half of the health budget and a third of the education budget.

However, there are cross-cutting personal networks within the military and they have increasingly shaped its role in politics. The fracturing of the military in the 2009 crisis demonstrates the role of such networks in making the military’s “violence-potential” accessible to different elites. Over time the risk that there would be significant enough fracturing in the military to bring about civil war has decreased.

92 In several cases families that are powerful in business today are also historically critical families from the capital but this overlap now appears to be in a minority of cases.
93 There are two dominant theories of coups in Africa. In contrast to Latin American coups, both focus on the role of politics not the military itself. The first theory is that social, economic, and political problems serve as a magnet that pulls the armed forces into a power and legitimacy vacuum. Thus, following on Samuel P. Huntington (1968), “the most important causes of military intervention in politics are not military but political and reflect not the social and organizational characteristics of the military establishment but the political and institutional structure of society.” The second theory is organizational. The military is compelled to intervene to save the political arena from corrupt, inept, and self-seeking political leaders.
95 The military fractured primarily on the lines of the Collectif des Officiers (senior officers) and the Collectif des Sous-Officiers des Forces Armes (COSOFAM). The gendarmes quickly joined the military in saying it doesn’t take orders from the president any longer.
96 In place of fracturing, military de-professionalization has risen since the 2009 crisis. Individual, small groups and even units of the military are hiring themselves out as private security often for additional income, e.g. in the artisanal mining sector. Reports indicate that military units have been working as private protection to the benefit of unit members with the implicit support of their superiors. This is not an activity within the chain of command (where the state is using its strength to intervene in the sector to its benefit) but
4. Civil Society: NGOs, Associational Life and Churches

Madagascar has different types of organizations that can be considered as ‘civil society’. As shown in, the large majority of Civil Society Organizations (CSOs) are legally registered associations, defined as the agreement “by which two or more people permanently apply their knowledge or activities, with the aim other than sharing profits.” Each sector also has a variety of CSOs, ranging from informal community-based organizations; to weak development associations working on one or several issues, such as for example health, environment, education, human rights, with only intermittent funding. There are also ‘permanent and professional organizations, which often call themselves NGOs although they are legally not, with salaried staff, offices, equipment and more regular sources of income, although these represent a small minority. Finally, other groups include well-funded business associations providing support to the private sector; and professional associations or guilds bringing together professionals within their professional categories. NGOs, foundations, cooperatives and credit and savings groups can also be considered as part of associational life. While NGOs have stronger capacities than other types of CSOs, they only represent a small number and a small proportion of CSOs (9% of the survey sample), due to the requirements for registering as one e.g. demonstration of a sustained source of income). (See Annex II for more information on Civil Society).

Figure 2. Types of Civil Society Organizations as registered and CSO Financing

Key challenges faced by civil society organizations include a weak enabling environment, their limited presence throughout the country beyond the capital, governance constraints and a lack of sustained financing. CSOs in Madagascar have struggled to play the liberal role that is typically ascribed to civil society as an essential prerequisite for the growth of a ‘liberal capitalist economy by being an arbiter between state and society, and a watchdog of public policies. While there are recent improvements in the functioning of Madagascar’s Civil Society, CSOs are only nascent and remain fragile. According to a recent survey on CSO in Madagascar, key constraints to the effectiveness of CSOs in Madagascar include the following:

- **Limited coverage, as most CSOs are concentrated in the capital region.** 78 percent of CSOs are based in the capital region, weakening voice from the majority of Madagascar’s population living in rural areas.

- **CSOs are financially dependent on their leaders.** CSOs show a low level of interest in serving as watchdogs due both to governance constraints (12%) and the paucity of sustained institutional financing for this sector. CSOs tend to be financially dependent on leaders who are politically embedded, resulting in upward rather than downward accountability. This creates a gap between CSO leaders and members that often exceeds the gap between CSOs and the state, resulting in limited representativeness of citizens’ concerns throughout the country.

- **With the exception of the church, CSO umbrella organizations are relatively weak and closer to the state than to local level constituents throughout the country.** This undermines the representativeness of civil society, particularly regarding citizens in the rural areas.

- **The enabling environment for CSOs is quite limited.** Access to information and transparency is often quite limited, making it difficult for civil society to access information and hold the state accountable. In fact, two of the biggest obstacles are the failure of the government to create 14 of the requisite 22 regional committees required by law to certify a new NGO, and lack of information about the process. This makes it virtually impossible for CSOs in those regions to form formal NGOs. These limitations on organizational choices further limits CSO funding options.

These weaknesses make it difficult for CSOs and CSO coalitions to serve critical functions to hold government accountable to the public, particularly important in times of crisis. While a vibrant civil society can play a key role in counterbalancing the power of the state, and of the private sector, to date this role has thus been somewhat limited. During the recent political crisis, while there has been an increased visibility of the CSO sector (for example via representation in an Economic and Social Commission to participate in the political transition), there have also been signs that political parties will start to enter the CSO sector in greater

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100 This study was conducted under the World Bank technical assistance program on social accountability. It covered civil society capacity, internal governance, and perception of the enabling environment. It included an assessment of the degree to which these organizations have the capacity, power base, or distance to serve as effective counter-weights to limit state power, particularly on higher-level governance issues such as oversight in mining and extractive industry. Source: AFTCS Civil Society Assessment, The World Bank (2010).

101 CSOs also suffer from internal governance challenges. With the exception of the church, umbrella organizations are relatively weak and are closer to the state than to local level constituents throughout the country (for the largest organization only 8% of those surveyed confirmed that they were members).

102 The NGO law (1997) requires that NGOs have a permanent organization structure (including board of directors) general assembly, management committee, financial comptroller as well as ongoing activities and regular flow of income. The regions with the requisite bipartite committee include Analamanga, Vekinankarata, Alaotra-Mangoro, Analanjiforo, Itasy, Betsiboka, Bongolava, and Boeny.
numbers, and the risk that political parties create CSOs to support political goals leading up to elections.\textsuperscript{103}

\textbf{Despite Madagascar’s history of a liberal political culture there is relatively little space for robust and dynamic civil society}\textsuperscript{104} or organized civic life.\textsuperscript{105} Even through democratization, the deeply rooted centrality of the state has ensured that most associations, where they exist, lack the capacity to interact with the political sphere. Worker unions remain weak and students take to the streets but do not effectively form part of a bulwark from the state. Business lobbies, human rights organizations, watchdog groups, budgetary oversight organizations, taxpayer associations, and the like have limited strength where they do exist. In stark comparison to other African countries such as Ghana, Kenya, Zambia, or Senegal, Madagascar’s civil society does not provide a training ground for the recruitment of political leaders. Rather, political leaders at times constitute civil society groups to further political agendas.

\textbf{Church-based networks are more effective than other non-NGO coalitions and among the strongest civil society advocates.} The Malagasy Council of Christian Churches (FFKM) is the umbrella organization for the country’s four principal Christian denominations. Due to their extensive country-wide networks, long track record of development work with donor funding, and credibility in the public arena, the Christian churches have played an important role in the development in Madagascar. They have acted as service providers as well as civic educators (on issues such as anti-corruption) and democracy watchdogs (human rights and election monitoring). Although the FFKM has sometimes taken an overt position on political issues, in the political arena it has often served as a mediator, bringing together antagonistic factions. Both the FFKM and CSOs created by affiliate churches (Justice and Peace, FJKM-SAF) have served the roles of civil society to stimulate political participation, increase civic education, promote a democratic political culture, reduce conflict, and monitor elections. Donors and the government view them as crucial players in the country’s development agenda, but their influence seems to be on the wane.

\textsuperscript{103} For example, as of December 2009 political parties were going to be represented, with a majority of seats, in the Economic and Social Commission.

\textsuperscript{104} Distinct from the market and the state, civil society is defined here as the arena in which citizens come together to pursue common interests through collective action, neither for profit nor for the exercise of political power. These can include religious and professional organizations, labor unions, the not-for-profit media, grassroots organizations, and NGOs (World Bank, 2003b).

\textsuperscript{105} \textit{Source:} Afrobarometer 2005, Marcus et al, 2001
Box 5: The Role of the Church in Madagascar

The relationship between the church and the state take a particular form in Madagascar. A study of the Malagasy political life would be incomplete if it didn’t take into account the important role played by the historical Christian missions implanted at least since the XIXth century with the knowledge of the Catholic Church (EKAR), the Church of Jesus Christ of Madagascar (FJKM), the Lutheran Church (FLM) and the Church of England (FLM). The association of “Protestant” and “English, Catholic” and “French” has become blurred. There has been significant Protestant recruitment in the coastal areas, especially after Ravalomanana took power in 2002. Thus while once “Protestant” was associated with the central highlands and “Catholic” was associated with the coastal regions, this is no longer so clearly the case.

Protestant churches have had a dominant influence on the intellectual elites of Madagascar with significant impact on political development. From 1953 the Catholic Church remained largely at the political margins. As Catholics came to dominate the political sphere in 1962 they worked to control the church rather than the inverse. This pattern continued under the (Francophone, Catholic) rule of Didier Ratsiraka during the Second Republic. The day after the adoption of the Constitution of 1975 the churches resoundingly rejected the “Malagasy Socialist Revolution Charter.” It is only since 2008 that the Catholic Church has re-entered the political fray in a significant fashion as a provocateur.

Christianity’s development in Madagascar has grown in the belly of competition between the different missions on the one hand and the positioning of the political regime on the other. The role of churches isn’t newly instrumentalized; rather the churches have remained sensitive to political changes over time. Every church is positioned based on its historic context. Sensitivity to national affairs and political relations is integrated into the ecclesiology of Malagasy churches.

The FFKM has come to be seen as a moral force in Madagascar. It has been one of the few effective components of civil society, intervening between the state and the citizen. It legitimizes itself by pointing not towards voluntaristic activities but towards the 60 to 70 percent of Malagasy society who claim to be Christian.

After more than 25 years, the FFKM is the only consistent association of civil society. In recent years the FFKM has sought to promote a new electoral code and has pushed for other political reforms. However, the role of Marc Ravalomanana as lay-Vice President of the (Protestant) FJKM and formidable opposition rising in the business elite alongside (Catholic) EKAR brought about significant splits in the FFKM. By 2008 the Catholic Church refused to give the president communion. After March 2009 lay-FJKM leaders found themselves arrested and assaulted with some fleeing the country. Today the social forces of the FFKM (FJKM-SAF, Justice et Paix, etc.) maintain vertical structures of importance. The ecclesiastical position of the FFKM is unwavering in its support for Madagascar as a national entity but it has lost much of its political force and, in turn, its capacity to serve as a handmaiden between state and citizen.

106 Parts of this Box are based on unpublished Political Economic work conducted by Richard Marcus and Solofo Randrianja under the auspices of AFTCS in 2006.
F. Implications for Governance

Madagascar’s governance system and the limits it poses to the development of competitive political institutions can be characterized as neo-patrimonial. Governance reforms aimed at strengthening competitive political institutions have shown mixed results in the past because they have relied on an executive branch that depends on institutions failing to compete with it. Rather than through competitive institutions, governance in Madagascar takes place through interlocking public and private networks seeking control of rents as a mechanism for maintaining power and stability. Currently, commitments within the dominant coalition are fluid and unstable, shocks can easily lead to violence and the rise of new coalitions, it is difficult to commit to particular rules, and institutional structures tend to be simple. The specific mechanism for the patron-client relations is neo-patrimonial, in contrast to “big man rule” or kleptocratic regimes in other African countries. In Madagascar, there is no separation between the president and the presidency. Personal rule is typified by the use of semi-feudal system of patronage and supported by a regulatory environment and system of contract enforcement provided by the non-state actors that do not have a legitimate use of force.

Madagascar’s system of neo-patrimonial rule is characterized by a common conflation between legitimate revenues and illegitimate “rents.” North et al. (2009) acknowledge this common occurrence in LAOs and define rents without normative attribution. Madagascar has never had opportunities for massive rents from a single sector. It has eschewed the challenges faced by large rent economies such as those found in DRC and Liberia and the political risks that come with it. Instead rents in Madagascar have come in the form of elite capture of relatively small markets, particularly agriculture and cash crop exports. The line between an illicit “rent” and market activities is often thin, as these activities are commonly legal, but generate rents by privileging (market) access. The battle over rent distribution thus takes place between shifting allegiances within neo-patrimonial political networks divided on divergent identity lines. This is emblematic of Madagascar’s recent history of an economy driven by agricultural exports and light industry. In the future, extractive industries could pose the risk of eclipsing those two economic engines.

The history of Malagasy state capture by private elites has been facilitated by the weakness of the state. The Malagasy state can plan, organize, even regulate. Where it fails is at bargaining and enforcement of its rules. While there is an often impressive legal framework, it is not enforced. This makes implementation an unusually severe challenge across sectors, resulting in perceptions of widespread impunity. In Madagascar, it is far easier for individual networks to capture a resource or negotiate an outcome that benefits them for a short-term gain, rather than consolidate an ‘impersonal’ state system that can survive changes in leadership. Madagascar’s so-called “big families,” parts of civil society (particularly churches), and the new business class, all discussed above, have each played roles in shaping the Malagasy state this way. Joint visions of development objectives and development effectiveness are rare, and political leaders are often more driven by individual short-term objectives rather than long-term collective objectives.

Governance reforms have had limited success in the past because they have relied on an executive branch that depends on oversight institutions failing to check it. Presidents have varied by ideological orientation but each has considered himself a reformer and each has been an institution-builder. In most cases reform agendas have been pursued by presidents earnestly

107 Importantly, Madagascar’s form of clientelism is not kleptocratic, where patrons may be seeking to rob the country of its resources solely for personal enrichment. Madagascar has not suffered from decades of “big man” rule. Its history looks little like that of Gabon, Ivory Coast, or Congo and it has not suffered from the civil-military rule conundrum of Nigeria.

108 North et al. 2009 (19) define rents to include a return to an economic asset that exceeds the return the asset can receive in its best alternative use regardless of whether it is peaceful or violent, formal or informal (North et al. 2009, p. 19).
believing their efforts are best for the country even as the reforms have served key political networks and nexi of power.\textsuperscript{109} The analysis of core branches of government and political institutions converges to show that while they have been significantly reformed, they have been reformed to the benefit of each sitting president. The lack of independence of key branches of government undermines their core function of establishing effective checks to the power of a predominant executive. Overall, institutions, including oversight institutions, are rather in line with the personal direction of political leaders, rather than following the institutional direction and constraining political leaders. The instability of overarching political institutions, in particular the constitution and the territorial division of the country has also reduced the chance of success for governance reforms that build on these foundations. No matter how grand or well-seeking reforms can be, if they are ultimately viewed as narrowly self-serving and institutions remain subservient to the interests of shifting political leaders, no sustainable and credible reforms will take place and governance is likely to continue to be weak. Therefore, governance reforms reliant upon particular levels of leadership carrying out activities have rarely become fully implemented before those levels of leadership have been transformed.

**Weak governance and political institutions in turn undermine the legitimacy and authority of the Malagasy state itself.** The state can only govern authoritatively and with minimal coercion if its citizens accord it legitimacy. In a liberal democracy (an Open Access Order in North et al.’s 2009 formulation), competition via free, fair, and open elections is the primary tool for legitimizing leadership. While formally such elections take place in Madagascar, similar to most neo-patrimonial regimes, in practice, as shown above, they nevertheless presents some important flaws.\textsuperscript{110} From a popular perspective, the process in Madagascar is strong but ambiguous (Afrobarometer 2005b). Democracy is considered a good in Malagasy political culture but the population doubts that the democratic process is functional in producing a representative result (Unpublished survey data, Marcus 2005-2010, Afrobarometer 2005b). Electoral processes are viewed as transparent but the political class is roundly discredited\textsuperscript{111} and accountability is perceived as low. “Deeper” aspects of legitimation such as a de Tocquevillian network of civil society associations at the grassroots expressing the will of the electorate remain insufficient. In short, a reasonably competitive process is perceived to take place. However, it takes place between a limited number of individuals looking out for their own political network to keep them in power rather than representing the population at large. Given such a fragile process of legitimization, political “competition” tends to take place outside of institutional bounds. As social movements are a place for competition not a wholesale rejection of democracy or the regime itself in Madagascar, they are urban and not revolutionary.

**A vicious circle of limited accountability has further undermined government and development effectiveness.** The weaknesses of effective checks and balances by the Legislature

\textsuperscript{109} North et al. (2009) ask the question this way: “Why do elites transform their unique and personal privileges into impersonal rights?” Their answer is that elites expand open access for themselves to political and economic organizations while concurrently creating incentives to expand access to the nonelite population. They consider the rise of such impersonal conditions among elites to be “doorstep” conditions (marking a step towards an Open Access Order with institutional fervency. Such efforts require institutional arrangements that enable elites to create the possibility of impersonal intraelite relationships and they require a condition under which a leader finds such impersonal relations to his advantage. In recent years Madagascar has seen certain doorstep conditions emerge. However, incomplete efforts have in fact proven destabilizing (as North et al. warn).

\textsuperscript{110} The constitution accords all adult citizens the right to vote. There is an effective apparatus for polling countrywide. Voter turnout, while in decline over the past decade, is well within the bounds of expectations set by the experience of advanced industrial democracies. Where fraud is of concern it is rarely tied to Election Day: ballots are not commonly stuffed or found down river, intimidation at the polls is scant.

\textsuperscript{111} As put by Afrobarometer (2005b): “84% of Citizens say politicians make (always or often) only promises to get elected... 64% said they would donate gifts for campaigns. Meanwhile, only 10% say they keep their promises once elected and 11% think they are doing their best in terms of development after the elections. These results support the idea that there is a general discrediting of the political class, a striking deficit between supply and demand policy, [and] intermediaries that are democratic parties and politicians, without whom representative democracy cannot work, do not play a role.”

31
and Judiciary, together with the weakness of informal oversight through social accountability mechanisms by civil society are key determinants for limited accountability in Madagascar. Such limited accountability allows for transparency gaps, further reducing the level of transparency, as no effective formal and/or informal oversight will prevent and allow a fight against transparency, resulting in greater impunity. This is turn leads to limited government efficiency due to leakages and underperformance, thus undermining government effectiveness by negatively impacting service-delivery outcomes. Together with the reduced private sector effectiveness, and government effectiveness combined with limited state capacity, the outcome is significantly reduced development effectiveness. In turn, weak state capacity implies that there will be only very limited capacity to hold the state accountable despite transgressions to demand greater development effectiveness, once again reinforcing limited accountability.

Any support for future governance reforms will ultimately have to come along the lines of changing political networks in power. Elite support for reforms is both difficult to assess and an ever-changing field. Many of the reforms of the past are at risk of being reversed as reforms may be one means of distributing rents. Those within the network will support them and those outside of the network in power will oppose them. No leader is likely to fundamentally reform the power of the executive while growing institutional strength and there would be little elite support for it. Drawing on the institutional and stakeholder analysis above, possible support for governance reforms as well as potential allies could come from the following stakeholders:

- The new business elite is the most critical alliance for the political class. There are political divides within the elites however, many of the governance reforms would be in their interest and could be supported.

- Civil society would support governance reforms, but has not sufficient capacity and space to effectively advocate for such reforms. Given their limited presence, voice and visibility, it will be difficult for this stakeholder to bring about reforms. However, for any future champion in government willing to have serious governance reforms, civil society could be a clear and supportive ally.

- Churches are a significantly less important player today than in the past. Churches were critically important in the 1991 political debacle, continued but somewhat less important in 2002, but are a significantly more marginalized elite group today.

- The military’s role has largely been supportive but not directive in political change. It could have taken power in 2009 but chose not to and has shown for more than three decades remarkable restraint. There is no reason to assume that the military would be an obstacle to reforms unless it significantly undermined the façade of democratic practices.

While institutions have gradually increasing capacity, they remain subservient to a neo-patrimonial logic and leadership. In Madagascar’s basic and fragile Limited Access Order with competing neo-patrimonial networks, institution building at the bottom is ultimately constrained by institutional malleability from the top. At core there is a disjunction between how institutions function at the top from how they function at the bottom. While overall technical capacity is low, there are islands of reasonable technical capacity in some sectors in Madagascar. Some administrations have shown significant strength in accomplishing their core missions in recent years. Above the fairly professionalized level of Directors General, ministers have tended to serve the needs of the executive network more than the goals of the ministry. Ministers gain power and prestige, through this service. Leaders within the executive tend to recycle themselves, moving between political networks as opportunities present themselves. The persistent pattern is thus the building of institutions to the point that they don’t threaten executive power and undermining
them where they do. This comes into focus as in considering the role of legitimacy, the changing sources of rents, elite support for reforms, and the places where rents control violence.

**Even if overall institutions are subservient to political elites, the Malagasy state is not monolithic and elite capture can vary from one institution to another.** Coherent organization with strong societal linkages in some sectors can lead to “embedded autonomy”. (Peter Evans, 1995) From this long lineage of conceptualizations emerges a pattern that associates rents – or at least the capture of economic resources by elites whether for state gain, personal gain, or both – with the control of violence. Certain sectors in Madagascar do see greater embedded autonomy. Generally these are sectors with significant international investment driving improved governance. For example, Madagascar’s Independent Anti-Corruption Bureau (BIANCO) has been relatively successful in controlling small-scale corruption. However, it has not yet managed to effectively check grand corruption and has thus found its limits where major rents are at stake. Other sectors, in the main agricultural trade and light industry have provided important opportunities for elite capture. For instance, rice is the country’s food staple and rice imports are a source of both significant economic proceeds and market control.

### G. The Way Forward: Key Challenges for the Current Transition Government

The current transition government faces political and economic challenges. It came to power by subverting the constitution and dissolving the National Assembly. The transition government needs to hold together a diverse coalition of elite supporters and seek to strengthen its legitimacy both domestically and internationally in preparation of elections. In addition, economic contraction and the freeze of donor funding confront the transition government with severe fiscal pressures.

**Economic fallout from the crisis is dramatic.** Private sector flows and donor funding have slowed. The government survived 2009 through savings accrued during the previous administration, increased austerity, state capture from increased rent-seeking activities, new mining revenues, and a fortuitous agricultural season. The government has, overall, demonstrated greater restraint than some may have expected (there was no run on banks, illicit transfer of public funds, printing of money to pay for pet projects, nationalization of industry, or other activities seen elsewhere). Indeed, banks acted with caution and government appeared to give them the latitude to do so. However, the limited opportunities for growth across sectors, the suspension from the African Growth and Opportunities Act (AGOA), sanctions, and continued limitations of donor funds is a major constraint for 2010. One of the key priorities of the government will be to pay the civil service first, because discontented public sector unions could mean a major threat to its persistence in office, as shown by the ousting from office of President Ratsiraka. It will be challenging to do so if this means decreasing rent-seeking activities, which might be potentially further destabilizing. How recent revenue streams from China will impact fiscal pressure remains an open question.

**The transition government needs to confront more than elections, it also needs to address deep governance concerns in order to gain more credibility.** These include the party politics law, the electoral code, and the constitution itself. It may be able to enter into parliamentary elections without addressing some of these issues but it will be very difficult to move towards presidential elections as legitimacy could be challenged. Even the constitutional reform process and the advent of the Fourth Republic may not resolve the underlying governance concerns.

**The continual pulling apart at the seams of the body politic over the most basic governance design questions, outlined above, continues to erode state capacity.** The transition government
has to continuously negotiate challenging political divides and rent-seeking opportunities. Further, the street actions of 2009 were deeply detrimental to the process of establishing government legitimacy and the authority of virtually any potential national leader. Even without future conflict, state capacity is likely to keep sliding in the near and mid-term. A clear exit strategy from the crisis is still in the making. As of November 2010, a road map is being constructed, despite calls for more inclusiveness including the organization of a national conference and a national referendum on November 17, which has adopted a new constitution, officially establishing the Fourth Republic. A new unity government should be established in December 2010, with elections planned to take place in May 2011. However, it is not clear if this proposal and the way it will be implemented will meet sufficient national and international consensus.

The new business elite presents both opportunities and risks. It is likely to continue in the near term to be a more significant elite influence than those in the civil society, military and other sectors. The new business elite often competes with Madagascar’s historically embedded “big families.” The potential implications of this competition within elites are significant. It is possible that interests could line up behind a new leader giving him an opportunity to create reforms and it is possible that this alignment holds the potential to open space for competition and institutionalization of formal institutions (political parties, revision of the electoral code, etc.) providing an entry point for reforms to overcome legacies of the neo-patrimonial state. However, it is more likely that intra-elite competition risks escalating violence due to competing efforts to control sources of rents.

Given the perseverance of discrete political networks it is unlikely the current political path will grow regime stability in the short term and it remains an open question whether Madagascar’s emerging coalition, in the medium or long-term, will build stateness. Stateness could be built by facilitating the establishment of durable and stable elite organizations for the state, supporting impersonal public organizations that can exist apart from the (captured) state and strengthening sophisticated private organizations that put competitive pressure for more sophisticated organizations and institutions to emerge within the state (North et al 2009, 13-14.).
II. Chapter 2: Political Economy and Governance of Madagascar’s Mining Sector

A. Introduction

Madagascar’s mining sector holds major promises and significant risks for the country, and could lead the country into the ranks of resource-rich countries. Important progress in the sector, including improved mining sector institutions since the late 1990s has opened the door to the valuation of Madagascar’s significant industrial mining potential. While artisanal mining has a long history, the last decade has seen a surge in international interest in exploring its industrial mining potential. A first large-scale industrial mining project has entered the production phase in 2009 and a second is about to enter production in late 2010. These two major investments, together totaling about US $5 billion are fundamentally reshaping the country’s economy. The mining sector’s contribution to GDP is expected to grow from less than 1 to 15 percent in 2011. It is projected to contribute about 18 percent to total budget revenues by 2018. Future large-scale investments are a distinct possibility.

Mining governance will be critical to reaping the potential benefits of Madagascar’s resource endowment for its development. As mining proceeds increase, the risk grows that these proceeds will serve to strengthen particular political networks at the expense of the population and lead to increased opportunities for corruption. Industrial mining expansion represents a seismic shift in rents within the Malagasy form of neo-patrimonial rule, as shown in chapter 1. Whereas longstanding artisanal mining has predominantly been a source of illicit rents, potential rents from new industrial mining projects are much larger and the distinction between legal and desirable state revenues and illicit rent-seeking is clouded. Short-term rent-seeking by political elites risks further destabilizing Madagascar. It may also put at risk the newly established institutions crucially needed for the sector’s long-term development. For example, recent violations of transparent mining right governance have given rise to concern. Recent attempts by the transition government to extort payments from mining companies have alerted observers to the risk that future governments may not be inclined to respect fiscal commitments made by their predecessors. Ultimately, mining proceeds conjure the risk of weakening governance institutions in a natural resource curse-type dynamic. As an alternative source of revenues, they risk to make government less dependent on – and less accountable to the voice of citizens and taxpayers. Importantly, the emergence of royalty revenues from industrial mining projects has raised major decentralized governance concerns regarding their equitable distribution among affected communes, their accountable use and the risk of revenue capture by the central state.

Chapter 2 provides a political economy analysis of mining governance, with a focus on the challenges associated with the imminent surge of revenues from industrial mining. The analysis focuses on the political economy of present and future governance challenges posed by the revenue boom from current industrial mining projects throughout the value-chain, with a special emphasis on the political economy of transparent governance of mining rights. As mining revenues are only beginning to emerge, the analysis, to some extent, is based on projections. The chapter first provides a technical overview of the mining sector and key mining institutions have evolved over the past 15 years. Second, it provides an analysis of how the political economy of the Malagasy state as set out in Chapter 1 has shaped mining governance institutions and outcomes along the value chain. Finally, building on the value-chain-analysis, it summarizes how the political economy varies across resources and across time. Chapter 4 identifies entry-points to reform to enhance the sector’s contribution to Madagascar’s development effectiveness.
B. Technical Introduction to Madagascar’s Mining Sector

I. Madagascar’s Mining Resource Endowment\textsuperscript{112}

Until a decade ago, Madagascar was essentially an artisanal mining country. Artisanal mining has remained largely informal, but far from marginal for the country’s economy. Alluvial gold has been a key element of artisanal mining for centuries in numerous regions across Madagascar (see Annex Table 2 for the gold value-chain). Peaking at 47 metric tons per year 1908-09, (Campbell 1988)\textsuperscript{113} today’s yearly gold output is estimated at 2-5 tons per year.\textsuperscript{114} Madagascar is known around the world for its precious and semi-precious gemstones, including sapphires, rubies, aquamarine, tourmaline, topaz, amethyst, and emerald. Sapphire rushes\textsuperscript{115} in the early 1990s have made the country the world’s largest sapphire exporter. At the peak of production, the sector, including informal gold mining, employed about 500,000 persons and is one of the largest sources of employment in Madagascar – far behind agriculture, but five times larger than for example the textile and clothing industry. Annex Table 1 sets out the different actors involved in the domestic gemstone value-chain.\textsuperscript{116} While the domestic gemstone value-chain has remained nearly entirely informal, a significant share of gemstone exports has – at least temporarily been formal, due to the presence of international buyers in Madagascar.

Madagascar’s significant mineral potential, a surge in mineral prices and rapid improvements in the exploration management entailed a surge in mining explorations in the early 2000s. Within a few years, most mining exploration permits were allocated and noteworthy exploration activity was under way. Exploration activity suffered a major backlash due to a “perfect storm” caused by mineral price declines following the world financial crisis in 2008 and the domestic political crisis in 2008 and 2009. Yet, given Madagascar’s significant potential, an industrial mining sector is likely to emerge once the country has recovered from the current crisis.

Two large-scale industrial mining projects about to enter the production stage are likely to boost the mining sector. Post-colonial industrial mining has essentially been limited to chromite production by the state-owned company, Kraoma\textsuperscript{117}, operating since 1969. Since the 1970s, QMM (a joint venture between Rio Tinto and the Malagasy government, represented by OMNIS\textsuperscript{118}, the government agency that has historically retained the associated mining titles) has explored an Ilmenite mine near Porte Dauphine and since the 1980s, a cobalt and nickel mine has been explored in Ambatovy/Toamasina. Following large-scale investments (1 billion for QMM and 4 billion for Sherritt), QMM began production in 2009 and Sherritt is scheduled to start production by 2011.

- The QMM Project. The Ilmenite (a titanium mineral) mine, a US$900 million investment by QMM/Rio Tinto entered production in March 2009. The US$900 million investment was

\textsuperscript{112} This section strongly draws on Pelon (2010).
\textsuperscript{113} Campbell (1988).
\textsuperscript{114} Given the long-standing presence of gold-mining in Madagascar, well-established trading networks have emerged. The Annex sets out the different actors typically involved along the value chain. Gold miners are sometimes organized into co-operatives and use partially mechanized production tools.
\textsuperscript{115} Annex figure 19 shows major rush areas, including Ambondro-mfehy (1993), Ilakaka and Sakahara (1998), Vatomandry (2000), Andilamena (2001) and Ranotsara (2006). It illustrates the importance of mining activity compared to other sources of livelihood in these gem and gold mining areas.
\textsuperscript{116} Rough estimates suggest that Sapphire miners receive on average about 5 percent of the international retail price for (cut) Sapphires, given the difficulty of judging the market value of gemstones.
\textsuperscript{117} Kraoma’s production still makes Madagascar the tenth largest chromite producer in the world, although its production is hardly significant in comparison with South Africa, the world’s top producer. Under French colonial occupation, small industrial production of uranium and coal also existed. Numerous permanent or temporary employees exploit ornamental stones or construction materials. In particular, ultra-pure graphite of very high quality is produced and considered a light industry.
\textsuperscript{118} National Mining Office.
undertaken by QMM, a joint venture between Rio Tinto and the Malagasy government, represented by OMNIS\textsuperscript{119}, the government agency that has historically retained the associated mining titles.

- **The Ambatovy Project.** The nickel-cobalt mine near Ambatovy is expected to enter the production stage by early 2011. At a cost of US$4.5 billion, the mine is developed by the Ambatovy project, a consortium led by Sherritt. This project, one of the largest under development worldwide, includes not only the mine but also the nickel treatment and transformation factory.

In the medium-term, Madagascar may enter the ranks of resource-rich economies. Depending on mineral prices, QMM’s and Sheritt’s exports are expected to account for the equivalent of 30 to 60 percent of Madagascar’s total exports in 2012. While forecasts are uncertain, both projects, together with the government-owned Kraoma mine, are projected to increase the sector contribution to government revenues from presently less than 1 percent to 18 percent of fiscal revenues by 2018. The mining sector will thus approach the weight it has in some other developing countries with a strong mining sector, such as Guinea or Papua New Guinea. Save significant success in new production contracts under other permits, it will however fall short of the weight it has in mining-dependent economies, such as Botswana.\textsuperscript{120} Yet, a number of other large-scale mining projects might be launched over the next decade, including coal in the Sakoa area, gold in Betsiaka, Maevatanana, and Dabolava, iron ore in Soalala, and, not least, oil in the tar sands deposit of Bemolanga explored by Total. While evidently uncertain, the realization of such projects would make Madagascar enter the ranks of resource-rich countries.

2. **Evolution of Mining Institutions**

The surge of international interest in exploring Madagascar’s mining potential has been associated with an effort to strengthen the sector’s governance over the past decade. To attract international investments in the mining sector, its key legal frameworks and institutions were fundamentally overhauled since the late 1990s. This overhaul put an end to a period of discretionary, non-transparent governance of the mining sector, as follows:

The renewal of the mining legislation began during the Ratsiraka Administration (1996-2001). In a Framework Document on Mining Policy of 1998, the government declared its commitment to the goal of attracting private mining investments to Madagascar. It defined the role of the state as regulator, abandoning the past predominance of government-operated mining (designed under Ratsiraka first mandate, 1975-1992). These orientations were reiterated in a renewed Declaration of Madagascar’s Mining Policy in 2003. Box 6 presents the two major laws through which the new mining policy was implemented:

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\textsuperscript{119} Office des Mines Nationales et des Industries Strategiques.

\textsuperscript{120} This ratio is estimated to be 62.5 percent for the period between 2000-2005.
Box 6: Major Mining Laws in Madagascar

A new Mining Code adopted in 1999 laid the foundation for the renewal of the sector’s governance. (Law No 99-002 of 19 August 1999) It stipulates that all natural mineral deposits are owned by the state and created the Mining Cadastre Office (BCMM), established as an arm’s-length agency under the authority of the Ministry of Mines, funded through administrative mining fees. The BCMM replaced a discretionary system of mining permit management with a first-come, first-served principle, facilitating access of international exploration companies to Madagascar’s mining resources and provides the basis for formalizing artisanal mining. The Mining Code was revised in 2005 to make it more operational (Law Nr. 2005 – 021) and its application decree dates of December (Decree Nr. 2006-910).

The Mining Code was completed in 2002 by the adoption of a special legal framework for large-scale mining investments. The Law on Large-scale Mining Investment (LGIM, Law Nr. 2001-031) provides a privileged tax régime for mining projects above an investment threshold of about $100 million (US). The privileges include an exemption from value-added tax and a reduced income tax level. The law provides large-scale investors with fiscal stability by guaranteeing conditions for the duration of the Exploitation Permit (which can go up to 40 years). The law also aims at encouraging industrialization by offering a reduced income tax level to companies that transform mineral resources in country. So far, the Ambatovy project owned by Sherritt is the only project governed by the LGIM. Like the Mining Code, the LGIM was revised in 2005 (Law Nr. 2005-022), lowering the eligibility threshold for the LGIM to about US $25 million. Before the Mining Code was enacted, companies could negotiate with the government. This is why the QMM project is governed by a unique framework agreement dating of 1998 which has the status of a law but is valid for 25 years.

C. Value-chain Analysis

1. Overview

The political economy analysis of key mining governance challenges follows a problem-driven approach, as suggested by Fritz, Kaiser and Levy (2009). Accordingly, the analysis is structured in three layers, as depicted in Figure 3. For each stage of the value-chain, the analysis sets out by identifying outcomes that mark key vulnerabilities and challenges. Second, it assesses institutional governance arrangements, which are associated with those outcomes. The third layer of analysis seeks to identify the political economy drivers and their interactions which explain the persistence of the limited institutional effectiveness and consequently the challenges and vulnerabilities identified at the outset of the analysis. The analysis focuses on selected aspects of the mining value chain that are highlighted in Figure 3, including in particular mining right management, oversight capacity, fiscal regime and transparency in revenue collection and the distribution of mining revenues among affected communes.121

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121 This selective focus seeks to address those aspects of the value chain that are of acute concern in Madagascar. Two important omissions are noteworthy and merit further research: efficiency and integrity in revenue administration and transparency and accountability in budget execution. Both process areas will dramatically gain importance as Madagascar’s two large-scale mining projects enter the production phase. Strengthening both processes will be crucial for enabling the Government of Madagascar to effectively collect and use mining revenues. In particular current weaknesses in budget transparency and scrutiny (see PEFA assessment by Mathis, J. et al., 2006) suggest a high risk that mining revenues will be misused in the spending process.
The political economy analysis will focus on selected key challenges, primarily in industrial mining. Figure 3 provides an overview of the key challenges the study will focus on. A primary focus will be on industrial mining, given the importance of large-scale mining for the transformation of Madagascar’s economy and possibly its political economy. It starts with the management of mining rights (step 1) which is crucial for encouraging exploration of Madagascar’s mining potential and continues with key institutional arrangements for overseeing industrial mining projects (step 2), collecting revenues from them (step 3) and distributing these revenues (step 4). Regarding artisanal mining, the analysis focuses on the political economy of the persistent informality of gold and Sapphire mining (steps 1/2). In terms of export value, these are the highest value products, but given high informality, revenue collection from the sector remains negligible (steps 3/4/5). Please refer to Annex IV for the analysis of the artisanal mining sector.
2. Discretionary and Transparent Management of Mining Institutional Governance Arrangements

Madagascar’s system for managing mining rights has gained international recognition as a good practice. Yet, it is exposed to two fundamental challenges:

The untransparent management of mining rights. After having successfully established and used a transparent permit management system in 2000, signs of political interference have emerged over the second half of the past decade. Such interference risks undermining exploration activity and the valuation of Madagascar’s mining potential.

Persistent informality of artisanal Sapphire mining. Sapphire production has, in the main, remained informal and beyond government control. Government attempts at formalizing artisanal Sapphire mining or of controlling the sector via interdictions have failed and entailed adverse (unintended) consequences. Please refer to Annex IV for the political economy analysis of informality in the Sapphire mining sector.

a) Institutional Arrangements

Madagascar has accomplished a major shift from discretionary towards more transparent mining permit allocation system over the past decade. A transparent and nondiscriminatory awarding process for mining rights is crucial for attracting risky investment in mining exploration, needed to uncover the geological information necessary to attract industrial mining investments (Colby, 2009). However, prior to 2000, mining permits were attributed, extended and revoked at the discretion of the Minister of Mining, severely limiting demand for mining permits. A major milestone in moving towards greater transparency has been the creation of the Mining Cadastre Office (BCMM), which is responsible for attributing mining rights on a “first-come, first-served” basis. In order to ensure its funding and protect it from direct political interference, it is set up as an arm’s-length agency under the authority of the Ministry of Mines. According to its statute, it has financial and managerial autonomy. Its functioning is fully financed by administrative fees that permit holders pay annually. In line with good practice, fees increase over time, in order to discourage passive speculation with mining rights. Annex Table 6 sets out the different types of permits awarded by the BCMM.

The move towards greater transparency in mining right management has been associated with a surge of demand for exploration permits and nearly resulted in a “clearance” of mining rights. Until 2000, few risk-seeking exploration companies were interested in Madagascar. But from 2005 onwards, booming mineral prices and initial exploration successes had boosted international interest in exploration activity. Figure 4 shows the surge in demand for research permits. This implies that between 2002 and 2009, the growth in awarded research permits alone corresponds to about 216,000 km² or over 35% of Madagascar’s total surface area. Prior to the 2008 crisis, almost the entire mining surface in the country was thus allocated to permit holders. This surge in demand for mining permits has also led to significant revenue

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122 Prior to 2000, mining companies faced an uncertain environment of political rather than administrative decision about the allocation of mining rights. Allegedly, there was overt rent seeking by according only part of the requested mining permits to the respective company or requiring it to collaborate with a local partner, who would share part of the profit. In addition, companies faced the risk of arbitrary revocation of their mining titles. Consequently, given the risk of insecure holding rights, demand for exploration permits, especially by large-scale international companies, remained limited.

123 The BCMM is governed by Law Nr. 98-031 of 20 January 1998, bearing definition of public establishments. It is an “Etablissement Public à Caractère Industriel et Commercial” (EPIC).

124 The BCMM’s responsibilities include according and revoking mining titles, delimitating mining perimeters, updating cadastral maps, monitoring mining titles, collecting administrative fees and transferring them to beneficiaries. According to the Mining Law of 1999 (CM) and its subsidiary texts, BCMM is composed of six interconnected offices located in the main cities of former provinces, with an additional six regional offices located in more remote mineral rich zones. While the accordance of a mining title by the BCMM requires the visa of the Minister of Mines, this should be a mere formality, as the substantive evaluation of applications is conducted by the BCMM.
collection from the mining administrative fee, amounting to about 10 billion Ar, equal to an estimated US$5 million in 2008 and 2009.\textsuperscript{125}

\textbf{However, since 2006, the transparent mining right management has not been regularly applied.}

Until 2005, available evidence suggests that the mining right allocation process scrupulously followed existing regulations. But since 2006, political interference in mining right management, sometimes in open violation of existing regulations, have called into question the transparent governance of mining rights, based on the “first-come, first-served” principle (Box 7).

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure4.png}
\caption{The Surge in Demand for Research Permits\textsuperscript{126}}
\end{figure}

\textit{Source}: BCMM.

\textbf{Following the 2009 political crisis, the permit management process appears to have reverted to a more discretionary management.} The BCMM appears to have de facto lost its permit allocation function and permit allocation decisions are directly made by the Ministry of Mines. Allegedly, approximately 1200 older applications, and another 2500 new applications currently remain on stand-by.

\textsuperscript{125} \textit{Source}: BCMM.

\textsuperscript{126} Research permits are obtained for exploration for potential industrial mining projects.
Box 7: Major Fractures in Transparent Management of Mining Rights since 2006.

- **Gold mining rights were attributed to an entity under the control of the military in 2006 in a non-transparent manner.** 86 mining squares in a gold-rich area were given to an entity under the control of the military by Presidential order.\(^{127}\)

- **The permit allocation process was de facto frozen from January to December 2007.** This freeze put on hold new exploration activity in a period of high international interest by investors.

- **A transparent permit auction for iron ore deposits in the Soalala region in 2008 was diverted into a discretionary process, screening out most interested bidders through high upfront payments.** Only three bidders remained interested and negotiations between government and interested parties have been opaque.\(^{128}\)

- **The transition government increased the mining administration fee twofold in 2010, disregarding the provisions of the Mining Code.**\(^{129}\) In response, major mining companies addressed a letter to the Minister of Mines, claiming that the decree violates the Mining Code, as it was passed without prior consultation of the National Mining Committee, and as it only allows for inflation adjustment of the administrative mining fees.

- **Research permits for large surface areas have been allocated non-transparently to single companies, de facto disrespecting legal ceilings on holder concentration.** While there is a formal ceiling on the number of permits to be held by a single company (25,600 titles for exploration research permits)\(^{130}\), there are examples of circumventing this rule by registering a single de facto company under different names. For example, in a prominent case, six different companies which share an identical single postal address jointly hold 140,000 mining squares – corresponding to over 56,000 km\(^2\) or nearly 10 percent of Madagascar’s total surface area.\(^{131}\)

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**b) Political Economy Analysis**

A powerful push towards transparency in permit management in the early 2000s and subsequent signs of political interference demonstrate changing trends in mining right management. In the early 2000s, the potential benefits of strengthening transparency in mining right management were high, while the costs to Malagasy elites were low. Opening access to mining rights bore the promise of valuating Madagascar’s largely unexplored mining potential. QMM’s early exploration activity and planned investment made the prospect of industrial mining investments palpable and international partners provided the financial and technical support for managing the transition. At the same time, the political costs of establishing transparent management of mining rights were minor:

First, liberalizing access to Madagascar’s mining potential did not threaten major vested interests of the Malagasy elite. The push towards transparency was part of a general move towards a liberalization of the Malagasy economy under the second Ratsiraka Presidency from 1996-2002. Ratsiraka shifted from his formerly socialist interventionism to liberalization policies,

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\(^{127}\) Source: Anonymous interview.

\(^{128}\) In 2008, the Government of Madagascar launched the procurement process for iron ore deposit permits in the Soalala region. Due to raising iron ore prices, there was significant initial interest in the deposits: about 15 companies purchased the cahier de charges. However, a high upfront payment of $100 million (US) imposed by the government on the winning party screened out most reputable international companies.

\(^{129}\) On 25 January 2010, the Ministry of Mines passed a decree (Decree Nr. 023/2010) that doubled the level of mining administration fees for 2010 compared to its previous level.

\(^{130}\) Code Minier and Decree d’application

\(^{131}\) Source: Excerpt from mining cadastre.
under pressure to generate growth. International and public pressure was sufficient to push liberalization forward e.g. in the telecommunications or banking sector even though it threatened domestic market power and rents of Malagasy elites and risked to destabilize the dominant coalition of elites. Yet, in industrial mining, such vested interests did not exist – it was mostly a tabula rasa. Besides the government-owned Kraoma mine, Malagasy elites possessed neither the experience or nor the technical know-how for effectively launching industrial mining projects. To the contrary, private sector interests in exploration activity were international and had a stake in liberalizing access to Madagascar’s mining resource endowment.

Second, the loss of potential rent-seeking opportunities in the Ministry of Mines has probably been minor. Discretionary management of mining permits had possible undermined intentional demand for mining permits, reducing opportunities for grand corruption. However, it appears that the creation of the BCMM met with heavy resistance from within the Ministry of Mines. The political cost-benefit ratio has clearly been favorable to the sector’s liberalization.

Following the move towards greater transparency, booming international interest in exploration activity in Madagascar is likely to have raised awareness of potential rents in the mining sector. Strong international demand highlights the value of Madagascar’s resource endowment and thus provides an incentive for political elites to extort rents by interfering with transparent permit management. As the examples in Box 7 show, permit management is highly vulnerable to rent-seeking as opportunities abound and the rent is immediate (Dunning, 2008).

In addition, the reduced transparency in mining right management coincides with a change of leadership style. After 2005 there was a general tendency towards more authoritarian leadership and less emphasis on meritocratic staffing of key positions with technically capable staff in the Ministry of Mines leading to a less liberal attitude which might have been responsible for the halting of permit allocation during 2007.

These trends indicate a growing risk that transparent mining right institutions will be undermined by the rent-seeking logic of the natural state. The apparent reversion to discretionary allocation by the Minister of Mines reflects the weakness of institutional checks, such as the independence of the BCMM vis-à-vis executive leadership set out in Chapter 1. In North et al.’s (2009) terms, by establishing the first-comes first-served-principle, Madagascar transplanted an open-access order institution into the context of the neo-patrimonial state at a time when it did not run counter to its logic. Yet, as rent-seeking opportunities in permit attribution are likely to grow with increasing international demand for exploration in Madagascar, these institutions risk to be subverted by the logic of a Limited Access Order. The need to stabilize a dominant coalition of Malagasy elite through rent-distribution may make political leaders privilege immediate rents over potential long-term benefits from transparent permit management.

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132 Source: Anonymous Interview.
3. Monitoring Operations

Madagascar faces two major challenges in monitoring mining operations:

- **The mining administration has limited capacity to exercise its oversight function over small or large-scale mining.** The lack of oversight capacities of both large- and small-scale mining by the Malagasy state is one of the weakest links in the mining value-chain.

- **Lacking an enforcement capacity severely undermines the functionality of other governance institutions along the value-chain.** In particular, week enforcement capacity is a key cause of persistent informality in artisanal mining. Regarding revenue collection, it entails that government largely depends on self-declarations made by industrial mining companies for tax calculations. These repercussions are discussed further in the respective Sections (B and D) of the value-chain analysis.

a) Institutional Arrangements: Administrative Oversight

Institutional arrangements limiting the administration’s oversight capacity include:

- **Staff and capacity shortages.** The key capacity constraint for the Ministry of Mines is a shortage of qualified staff in the field. The ministry only has about 1-6 staff members in each of its six deconcentrated offices, responsible for overseeing a territory of hundreds of square kilometers and often poorly equipped with means of transportation. Staff numbers have further declined due to a hiring freeze in the 1980s. This has also entailed significant aging of the workforce. Consequently, today the Ministry finds itself with a workforce of few qualified mining engineers with an average age over 50. Mining engineers are poorly qualified for tackling the complex task of governing the emerging industrial mining sector, given that their professional experience has focused on the artisanal mining sector. At Fort Dauphin, where QMM makes its declarations, only a single mining technician is present to oversee the export. The low budget of the Ministry of Mines opens a very limited margin of maneuver for strengthening this capacity.

- **Staff incentives.** Public service pay is generally low and, if positions were opened, would be insufficient to attract the types of qualifications needed for effectively governing industrial mining. In addition, abuse the Ministry for political rent seeking has nourished frustration among its professional staff. Given that artisanal mining mostly takes place in isolated areas without basic infrastructure access, it would be hard to motivate staff from the center to move to such areas in order to strengthen the presence of the central administration.

- **A dysfunctional mining inspectorate and mining police.** A mining inspectorate as a potential enforcement instrument for ensuring industrial mining companies compliance with mining regulation so far does not exist. The mining police only have nine staff members for the entire territory. Recently the mining police has been stocked up by recruiting an additional 50 staff and put under the command of the head of the Special Intervention Forces. There are indications that these measures, if applied, can serve to turn the mining police into an instrument of the state. One of the Mining Police’s first actions was the arrest of gemstone traders and seizure of their gems, allegedly because the traders lacked the required documents (laissez-passers).

b) Political Economy Analysis

The discrepancy between major regulatory reform – the LGIM and the CM – and a lack of accompanying capacity building at the mining ministry as a key oversight agency is a marked feature of Madagascar’s mining sector reform trajectory over the past decade. Surely, one major reason is that building enforcement capacity is harder and more costly than
establishing a sound legal framework on paper. Yet, given the predictable need for competent staff to interface with large-scale mining projects once they enter the production face, it appears stunning that no major attempts to develop this capacity have been made.

A possible political economy explanation for this discrepancy is that mining regulatory reform clearly has powerful advocates, which mining enforcement capacity may lack. A sound legal framework and fiscal regime are key preconditions for private sector investment in industrial mining projects. Thus, mining companies, government and donor interests seeking to advance the development of Madagascar’s natural resources are broadly aligned in creating an effective regulatory framework. By contrast, from a company standpoint, the attractiveness of extracting a mining resource does not crucially depend on the state’s capacity to enforce sector regulation. For international companies it is important that they can rely on the state to protect their rights, whereas limited state capacity to enforce their duties is not necessarily to their disadvantage. If companies must have found a role in the consultation steps of the legal fiscal framework and the establishment process of the mining cadastre, there is no clear equivalent advocacy role in the process of building capacities in their relevant Ministry. There are also non-negligible opposing forces and constraints to major capacity-strengthening efforts. Building sound capacity for oversight of industrial mining would be costly, building sufficient capacity for overseeing gem-mining at the source, is and likely remains beyond the means of the Malagasy state. Given possible vested interests within the Ministry of Mines, it seems at least questionable whether key stakeholders within the administration would welcome the significant change and inflow of fresh staff needed for building an effective interface with industrial mining companies. Donors may also have scruples to invest into an administration’s capacity that has a mixed track-record or may simply face similar capacity building demand from other priority Ministries. In sum, regulatory reforms in the mining sector is likely to appear as a high benefit/low cost endeavor to key stakeholder – whereas, from the same perspective, building equivalent enforcement capacity entails definite costs but uncertain benefits.

4. Collection of Taxes and Royalties

Madagascar’s fiscal regime faces two major vulnerabilities:

- The risk the future governments will renege on the fiscal regime in place. Current mining legislation provides a strong stability regime to investors. The analysis will assess the implications of Madagascar’s current political economy for the credibility of these commitments.

- The risk of abusive use of mining revenues due to lack of transparency in revenue collection. After having been admitted as a Candidate Country for the Extractive Industries Transparency Initiative (EITI), by February 2010, Madagascar risked EITI suspension due to limited progress made. This has given rise to concern about the sustainability of transparent mining revenue collection.

This section seeks to assess the two above risks based on a prospective analysis. The application of fiscal regimes is only about to begin as the QMM and Ambatovy–projects enter their production phase between 2009 and 2011. The following analysis is therefore necessarily speculative. It seeks to make political economy predictions based on the de jure characteristics of the fiscal regime, without yet disposing of actual outcome data.

a) The Fiscal Regime for Industrial Mining

(1) Institutional Arrangements: The Fiscal Regime

In order to attract international investment in large scale-mining, Madagascar’s fiscal regime underwent a fundamental overhaul in 1999-2002 under the Ratsiraka Presidency.
As a result of this overhaul, the fiscal regime for mining consists of three distinct regimes for different mining companies in the production phase\textsuperscript{133}. First, most mining companies fall under the fiscal regime of the Mining Code, which is close to to the common tax law with specific provisions like the royalties. Second, companies above a minimum investment threshold can apply to be governed by the LGIM, which offers privileged conditions. The eligibility threshold was originally set at ±US$100 million in the 2002 LGIM, but was lowered to ±US$25 million in the 2005 revision. Additional eligibility criteria are the approval of the investment plan by the government, and a minimum of 25 percent equity financing. Abatovy/Sherritt is today the only project governed by LGIM. Third, QMM as the first large-scale investor in Madagascar is governed by its own convention, which has the status of a law, and was signed in 1998 and is valid for 25 years.

The fiscal regime offers long-term stability guarantees to industrial mining investors. The Mining Code offers a special fiscal regime for mining companies, providing a stability guarantee for mining companies above a minimum investment threshold of ±US$250,000 (US). The LGIM guarantees investors the fiscal regime as of 1999 for the duration of the extraction permit (maximum of 40 years). At extension of the permit, the fiscal regime is non-renegotiable. Only favorable adjustments to the fiscal regime are applicable to mining investors. Consequently, for example a recent increase in the value-added tax is not applicable to mining projects governed by the LGIM.

(2) A preliminary assessment of Madagascar’s fiscal regime suggests relatively low direct government revenue generation from the major mining investments. While revenue projections are subject to high uncertainty, a Bank simulation\textsuperscript{134} suggests that annual tax revenues from the Ambatovy project will peak at about $133 million (US) per year in 2020 and that revenues from QMM will peak at about $6 million (US) at the same time (see Annex Tables 8 and 9 World Bank, 2009). With 2% or 1% royalty levels respectively, government participation in profit-independent output is low by international standards. In sum, the Government of Madagascar’s share in mining profits appears to reflect a historical decision to attract investors with significant fiscal incentives. The Political Economy of Fiscal Commitments.

Within any governance context, an obsolescing bargaining dynamic poses a risk to the credibility of fiscal commitments made. Fiscal stability is a crucial criterion for long-term mining investments. Unilateral contract revisions by government typically have adverse consequences for the business climate in the mining sector. Yet, it is generally hard for governments to credibly guarantee to mining companies that their successors will honor fiscal stability commitments in the future. In addition, the bargaining power of firms and governments over mineral rent allocation shifts markedly over the life of a project, a phenomenon that Raymond Vernon (1974) has termed obsolescing bargaining. Prior to a risky investment decision, firms are in strong positions to obtain favorable fiscal regimes because governments are eager to attract their investment. Once high upfront investment costs are sunk, the firm loses the outside option of withdrawing from the country and uncertainty about profitability is reduced. This strengthens the host government’s negotiation power for claiming a higher share of mining rents.

\textsuperscript{133} The fiscal regime for the exploration phase is not discussed in this section. Yet, it should be mentioned that according to the current fiscal regime, mining companies in the exploration phase do not have access to special tax regimes and do not benefit from tax incentives. While a preferential tax regime exists for large-scale mining projects – the Law on Large-Scale Mining Investments - exploration projects do not have access to the LGIM. In this regard, Madagascar shapes an exception compared to many SADC countries which provide exemptions for value-added tax and tariffs on imported materials in the exploration stage. With a cumulative tax burden of 25 percent TVA and X percent import taxes, the incentives for exploration are not strong.

\textsuperscript{134} Not based on cash-flow data.
The risk of obsolescing bargaining is likely to be enhanced by the volatile political economy of Madagascar’s neo-patrimonial state. A key risk factor is that institutions are subservient to political leaders and easily malleable, as shown in Chapter 1. This malleability may also apply to the fiscal framework for mining companies. The discussions about the transition government wanting to demand a large one-time payment from the large mining companies is symptomatic of this risk. A related symptom is that the transition government officials have publicly been discussing the idea of prescribing a mandatory government share in all future large-scale mining investments. A number of reasons suggest that this risk will persist in the future:

First, today’s fiscal stability regime was adopted in a period when the government faced strong incentives to attract large-scale mining investments but lacked capacity for anticipating the fiscal implications of choices made. Box 8 summarizes the key political economy factors that helped encourage the current fiscal stability regime in 1999-2002.

Box 8: Factors encouraging the Creation of the Current Fiscal Stability Regime

- The Government of Madagascar faced economic pressure/incentives for opening the economy to international trade and investment. After the economy’s dramatic decline under Ratsiraka’s socialist policies, the 1990s and the late Ratsiraka Presidency were marked by a general push towards opening the economy to international markets and investment and a major inflow of foreign aid supporting (the former socialist) president in this move. Mining investments—in particular the QMM and Ambatovy projects, which had been under exploration for many years—bore the promise of unseen government revenues.

- By contrast to other sectors, opening the economy to mining investments entailed only minor (negligible) political costs. Opening the economy was politically costly e.g. in the banking and telecommunications sectors, as it threatened long-standing monopoly rents, however opening to industrial mining investments had no significant domestic cost. There were no vested domestic interests in industrial mining. Except for the government-owned Korama mine, Madagascar’s mining sector had been limited to artisanal gold and gem mining.

- The Government of Madagascar’s experience with and capacity to anticipate the impacts of industrial mining regulation was very limited. Due to the lack of experience with large-scale mining projects, the Government of Madagascar had limited capacity to regulate the sector and to assess anticipate the regulatory impact on government revenues. This is manifested in the QMM convention of 1998, which, depending on the Ilmenite price evaluation, offers tax advantages despite the fact that the Government has a 20% purchasing option in the venture.

Source: Authors.

Second, in the years ahead, public expectations of government revenues from mining projects are likely to rise while actual revenues are likely to remain limited. Once the two large-scale mining projects enter the production phase in 2009-2011, this will provoke expectations as to government revenues. However, the government capture of revenues generated by the two large-scale projects is likely to remain relatively modest over the next 5-10 years because income taxes will be limited. While this was anticipated, the launch of production between 2009 and 2011 will for the first time make mining revenues from the sector visible to the public – and may raise debate about whether Madagascar is getting its fair share.

Third, mechanisms that mitigate political pressures for reneging on commitments are comparatively weak in Madagascar’s current fiscal regime. In a “good enough governance” approach, fiscal regimes can be designed in order to mitigate the risk of their unilateral revision and the ensuing deterioration of the business climate. Such designs seek to minimize the likelihood of political discontent with mining rents occurring to the state by somewhat protecting government from downside risk and sharing part of the upside (see Box 9).
Forth, the current fiscal regime demonstrates no room for adjustments for an extended period of time. Stability is a key criterion that can trigger investments in high country risks. However, some fiscal regimes still provide an opportunity for fiscal adjustments without reneging after a limited period of time (e.g. after 15 years in Ghana). According to the QMM convention and the LGIM, the Government of Madagascar has committed itself for 25 and 40 years respectively, once investments have been made. Dunning (2009) predicts that “the stronger and more potentially restrictive a policy is, the greater the likelihood that political incumbents and others will have strong incentives to reneg on the agreements ex-post.”

For these reasons, the current rather rigid de jure fiscal stability regime risks becoming self-defeating in practice. Due to the high malleability of Madagascar’s institutions, recurrent political crisis and the Government of Madagascar’s inexperience in regulating large-scale mining projects, the risk that long-term commitments made in the Mining Code and LGIM will not be honored by future governments is not negligible.

Box 9: Mechanisms to Mitigate Political Pressures for Reneging on Fiscal Regimes

When mining projects are not profitable (e.g. due to low resource prices), the Malagasy governments risks receiving few revenues. If revenue is primarily tied to company profits rather than output, production might continue while government makes no revenue. This can make mining companies vulnerable to allegations that they are “stealing” national resources for free. Royalties tied to output rather than profits can be an important safeguard against public accusations of “selling out” natural resources in such periods. However, the relatively low levels of royalties, the major tax tied to output (2 percent of export value for QMM and 1 percent for Ambatovy do not protect particularly well Madagascar against that low commodity price risk.

Inversely, in periods where prices exceed expectations, the Malagasy state will only be able to capture windfall profits to a limited extent. Progressive profit taxes can help protect the government from accusations that it missed acquiring the appropriate amount of money to the detriment of the public interest. While there is a 10 percent tax on dividends paid, it is not progressive. Given that both projects are expected to only reach profitability in a few years, low tax collection by the government until then may give raise to reneging pressures. However, while anticipating political pressures in a fiscal regime can be beneficial, it comes at a price. In order to compensate investors for increasing costs and reducing upside benefits, the overall tax burden may not be reduced accordingly.

b) Industrial Mining: Transparency in Revenue Collection

(1) Institutional Arrangements for Transparency: EITI

Madagascar successfully applied and was admitted as a candidate country to the Extractive Industries Transparency Initiative in February 2008. By setting a global standard for transparent revenue management in the extractive industries, the EITI Initiative aims at strengthening the prudent use of natural wealth as an engine for sustainable economic growth. On October 16, 2006, the Minister of Energy and Mines announced Madagascar’s intention to apply for candidacy. This was followed by a supportive public statement of the Government and key oil and mining companies operating in Madagascar, which sought to establish a technical committee and to identify stakeholders for implementing the EITI Initiative. In February 2008, Madagascar applied and was admitted as a Candidate Country for the EITI.

135 This relatively low level of the mining royalty for Ambatovy has historical roots. It reflects it a strong political will to incentivize industrialization in Madagascar by encouraging the transformation of minerals in country. Ambatovy benefits from a reduced royalty level, because the project comprises a nickel treatment and transformation factory.
However, in early 2010 Madagascar risked de-listing. At a workshop held in February 2010 it was determined at this time that it had made only limited progress towards achieving EITI compliance and risked de-listing from the initiative in its validation process. A major reason for non-compliance was slow progress-made towards reaching agreement on the members of the multi-stakeholder group steering the initiative. A revised multi-stakeholder agreement was signed in order to facilitate an extension request. On April 16, 2010, the EITI board extended the validation deadline for Madagascar’s admission to the Initiative, but Madagascar still risks de-listing for little progress.

The Political Economy of Transparency

A major factor that slowed Madagascar’s progress towards EITI compliance was the challenge of identifying suitable civil society representatives. The Malagasy EITI leadership sought to involve the local population and civil society in the Initiative, by building regional EITI fora. National civil society representatives in the EITI initiative were supposed to be designated as a result of this process. However, this bottom-up process proved to be time-consuming. To a significant extent, this process reflects the challenges posed by the weakness of Madagascar’s civil society as described in Chapter 1. Central CSOs are often captured by political elites (see Chapter 1) and do not or poorly represent the local population affected by mining projects. Yet, on the other hand, local CSOs often have limited capacity or depend on mining companies for funding. Madagascar’s ethnic divides are likely to have enhanced this difficulty. Local NGOs e.g. from Fort Dauphin are seen as “Cotier” whereas central NGOs are perceived as representing “Merina”-interests. Consequently, in contrast to a number of countries, where international and local NGOs have vigorously pursued EITI-type standards, in Madagascar CSO has rather been a bystander than a driver of the EITI process.

The changing role of the government-owned company Kraoma may also have contributed to the hold-up of the EITI process. Whereas Kraoma initially declared its readiness to publish payments made in compliance with EITI transparency standards, it did not declare its payments in the course of the preliminary EITI exercise undertaken in 2009/2010. This change may be due to political influence following the 2009 crisis. Prior to the crisis, the Kraoma management had strong incentives to demonstrate compliance with standards such as the EITI Initiative, as it was in the process of seeking a joint venture with international mining companies. Following the crisis, Kraoma’s incentive seems to have changed.

International mining companies appear to have been powerful drivers for promoting transparency of payments made to government in Madagascar. International companies presumably have an interest in limiting “bribes and other extra-legal payments, as long as their competitors are also so limited” (Dunning, 2009). Strong internal accountability of public companies (shareholder interests, financial audits etc.) makes large-scale corruption risky for managers. The two large-scale investors, QMM and Sherritt, have declared their readiness to comply with the EITI initiative and to continue compliance with EITI payment publication standards in case Madagascar should be suspended from the initiative.

Vested interests within government against transparency may have formed recently. Political incumbents may rarely have strong incentives to promote transparency (Dunning, 2009), if transparency threatens their ability to use rents to promote their hold on political power. Indeed, transparency under the EITI initiative might have threatened rents from some companies.

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136 The revised multi-stakeholder agreement includes 6 government officials selected from the regions and center, 6 NGOs (2 from the regions, and 4 from the center), 3 companies’ representatives (mining, oil, and small scale mining, a national assembly of stakeholders of 90 persons (5 from each of the three constituencies, from each of the 5 regional MSGs and the central MSG).
However, as Madagascar has never had significant mining revenues, powerful vested rent-seeking interests have not yet had reason to shape. The emerging production start for the two industrial mining projects potentially opens a window of opportunity for strengthening institutions to prevent the formation of vested interests. When the country was only in the exploration phase and seeking to attract further investments, the government had at least some incentive to establish a reputation of transparent mining revenue management. Now that production is starting, incentives against transparency may be emerging and explaining recent delays in EITI implementation.

- In sum, ensuring transparency in mining revenue management may be “one of the easier-to-implement reforms” (Dunning, 2009) in Madagascar. Despite the recent hold-up of the EITI Initiative, the two large-scale mining companies have a significant stake in pushing for transparency and they do not face a major opposing force within government, as large revenues have not accrued. This opens a window of opportunity for transparent revenue management. Key concerns however include the weakness of civil society, and the EITI scope, making it harder to associate small-scale mining companies in Madagascar to transparent revenue management.

5. Distribution of Mining Revenues

The phase of managing and allocating mining revenues is a crucial part of the value chain as it determines how the wealth arising from industrial mining is used. One of the major governance challenges Madagascar faces in using industrial mining revenues is their equitable and transparent distribution among affected communes. The redistribution rules for mining royalties as previewed in the Mining Code concentrate resources on a few communes while other neighboring communes do not benefit. While the revenues of selected communes are bound to multiply by more than factor 100 in the next years, communal management capacity and local accountability remain weak. These weaknesses risk entailing an exacerbation of social and economic inequalities, and could cause social unrest in mining areas.

- Institutional Arrangements: Mining Royalty Revenue Sharing Rules

Royalty payments to communes and regions adjacent to industrial mining projects will lead to dramatic revenue increases at the local level. Madagascar stands out by having adopted the good practice of directly transferring mining royalties to territorial authorities. Such direct redistribution can be a very effective means of encouraging local development. Royalty transfers will lead to dramatic revenue increases for entitled communes in the periphery of large mining projects. While subject to significant uncertainties, one revenue projection for territorial authorities’ revenues from the QMM and Ambatovy project (see Annex Figure 1) shows that

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137 The institutional challenges addressed in this chapter for sound mining revenue management are by no means comprehensive. In particular, the political economy of transparency in the budget process is not covered here. Madagascar’s public financial management system’s key weakness is the lack of internal and limited external oversight, external audit, legislative scrutiny and the public scrutiny. Whereas the spending process is a key risk area, the political economy of weaknesses in expenditure control is not a focus of this study, partly because it is a cross-sectoral challenge that is not specific to the mining sector. Other, omitted core institutional arrangements are a sound macroeconomic framework and resource saving funds.

138 As shown below, the inequitable distribution of mining royalty revenues according to the Mining Code has to some extent been alleviated by a recent decree of the Anosy region (October 2009)

139 1.4 percent of total mining royalty revenues are directed to territorial authorities (“ristourne”) in whose areas the mining activity takes place. According to the Mining Code, communes receive of largest share (60 percent) of these transfers regions receive 30 percent and (former) provinces 10 percent (see Annex Figure 3 for a detailed breakdown).

140 QMM has already made the royalty payments for its first shipment and similar transfers will emerge from the Ambatovy project, once it enters the production phase.
Royalty payments will represent by far the largest share of mining revenues of territorial authorities.\footnote{The professional tax, which represents the second largest revenue item, has recently abolished. However, there is still uncertainty about the applicability of this change to mining companies.}

- **However, according to current legislation, only a few of the communes in mining projects areas are entitled to receive royalty payments.** The 1999 Mining Code royalty redistribution rules are not designed for high revenues generated at a single point resource, as in industrial mining projects. The code was primarily drafted in view of dispersed small-scale mining that was happening at the time. According to a literal interpretation of the current Mining Code’s provisions (Law Nr. 2005-021 of October 17, 2005), royalty payments are exclusively directed to communes directly adjacent to mining squares.\footnote{“Communes d’extraction”, see Annex Figure 4.} For the QMM project, this implies that only two\footnote{In the 2001 ILO survey the population of Ampasy Nahampoana was 5600 and the population of Mandromondromotra was 3590. The population for the 24 communes of the (ancien) fivondronana was 303,691.} out of about 64 communes in the Anosy region would be de jure entitled to receive royalty transfers. Consequently, these two communes would become very rich very quickly whereas other adjacent communes would not. Even if the beneficiary communes might change as the extraction moves from one commune to the other, inter-communal discrepancies will likely further be exacerbated by future royalty payments. A similar disequilibrium in royalty transfers is expected for communes affected by the Ambatovy project in the Alaotra-Mangoro and Atsinanana regions.

- **In order to temporarily improve the fairness of royalty allocations among affected communes, the Anosy region passed a regional decree that alters the provisions of the Mining Code.**\footnote{Regional Decree No. 026 –MATD/REG/ANOSY was released on October 6, 2009 indicating the distribution of mining revenues as it relates to Ilmenite from the Mandena site. In line with the mining code, communes receive 60 percent of the “ristourne miner”, the region of Anosy receives 10 and 10 percent originally directed to provinces, which no longer exist are allocated to a Mining Foundation for Communal Development (FMDC).} The decree is an attempt to apply the principles embedded in the Mining Code while respecting local realities and the need to find practical solutions. According to the Mining code, Fort Dauphin would not be entitled to receive royalty payments. It therefore allocates 15 out of 60 percent to the Urban Commune of Fort Dauphin, while the remaining 45 percent are retained by the extraction communes.\footnote{Ampasy Nahampoana (Extraction and Separation Plant) receives 30% and Mandromondromotra (Extraction) receives 15%} However, the list of beneficiary communes is still very limited. In addition, such an attempt to alter a national law by a regional decree points to a profound governance problem across levels of government. The region did not exist when the original mining code was written and lacks the legal authority for passing decrees potentially questionable with regards to national legislation.

- **The proposal of creating a Mining Fund for Communal Development as a means for redistributing royalty revenues across communes and over time has been discussed controversially.** A regulatory amendment for the Mining Code Application decree was developed in late 2008, providing for the creation of a “Mining Fund for Communal Development” (MFCD).\footnote{According to the proposal, 40 percent of the “ristourne minière” would flow to the MFCD, 40 percent to the region and only 20 percent (instead of 60 percent) to the communes currently benefiting from the transfer. Half of the MFCD inflows would be allocated to needy households across communes immediately and half would be invested into a regional fund in order to generate savings beyond the production period of the respective mining project.} The fund was meant to both redistribute royalties across communes and make savings for the future. Such a fund could be an effective instrument for achieving a better allocation of royalties across communes and time and could be well-targeted and avoid discretionary handling. However, the creation of the fund can be seen as undermining the decentralization process, and its governance structure could raise significant challenges in term of
payments capture and local ownership. Whereas the design of an equitable distribution mechanism for mining royalties thus remains an open discussion, there is broad agreement on the good practice that affected territorial authorities should directly receive part of the mining revenues, rather than indirectly via central government transfers.

b) Political Economy Analysis

- Inequitable redistribution rules for industrial mining are symptomatic of top-down policy making from the center, little constrained by checks from local government or civil society. At least in hindsight, it seems surprising that the unsuitability of the royalty redistribution rule for industrial mining was not anticipated. It is true that industrial mining seemed unrealistic until the first investment was committed in 2005. However, after that point, large royalty payments from QMM were foreseeable. The fact that redistribution rules were not altered is possibly indicative of political elites seeking to avoid the risk of opening the Pandora’s Box of fiscal decentralization. Yet, it might also be indicative of top-down policy making by political elites at the center, with few built-in mechanisms for feeding citizens’ concerns into the policy-making process.

- The imminence of the first high royalty payments by QMM has significantly altered the political economy of their distribution. The first payment by QMM in March 2009 has generated high visibility and public debate about an equitable distribution of mining revenues among affected communes. This visibility has created pressure to tackle the issue, which is not only in the interest of communes in the Fort Dauphin area and QMM itself, but also a concern for communes adjacent to the Ambatovy project and other/future oil/mining investment areas. High visibility and donor involvement are likely to make the change of redistribution rules for industrial-mining project royalty payments only a matter of time. For example, the suggested amendment of the DACM for creating the “Mining Fund for Communal Development” from late 2008 is motivated by this context. In redesigning distribution rules, key political economy concerns regarding governance across levels of government (see Chapter 1) need to be taken into account. In particular, if mining royalties are transferred to the regions (rather than communes) which as deconcentrated entities depend on the center, the risk of central rent-capture and weakened bottom-up accountability is significant. Also, changes in distribution rules risks undermining governance if they do not respect the competencies of different levels of government (such as the Anosy regional decree amending the Mining Code).

- In the Anosy mining region\textsuperscript{147}, public perception of the QMM mining project and its view by local civil society and affected communes gravitates around three major concerns:

  - First, communes are concerned about the social effects of the limited distribution of mining royalties. The leadership in Ampasy Nahampoana, a recipient commune, expressed fears that social pressures will mount with their increased wealth. They claim that their financing of schools and health care has led to migration pressures and that security has decreased. The Commune Urbaine of Fort Dauphin is concerned about the impact of limited distribution of

\textsuperscript{147} This study focused its local governance investigation predominantly in Anosy. Public perceptions of industrial mining have different dynamics in the two primary industrial mining regions – Moramanga and Anosy. First, the resources being extracted are quite different making for different labor needs and the projects are at different stages. Second, QMM’s Anosy project is next to the new Port of Ehoala. It is also manager of port activities so the company can maintain control from the point of extraction to loading. By contrast, Sherritt’s Ambatovy project requires sending the slurried laterite along a 220km pipeline to the nickel refining facility near the Port of Toamasina. Third, QMM’s Anosy project began exports in 2009. Sherritt’s Ambatovy project has planned on late 2010 but the combination of low nickel prices on the international market and fears of social unrest along the pipeline have put that date in question. Finally, the level of intervention by donors and international NGOs has been much higher in Anosy than in Moramanga and the (approximately 3 dozen) local NGOs are long established.
revenues amongst urban communes and has complained of increases in banditry. Non-recipient rural communes expressed that they were affected by mining but receive none of the proceeds.

- Second, survey data suggests that the population adjacent to the QMM project perceives that living conditions have worsened over the past five years. A recent survey by CRS finds that all surveyed communes adjacent to QMM perceived conditions becoming more negative over the past five year – even those communes that have reaped significant economic profits. Major improvements in local infrastructure (roads, operators, transportation, and the port) are seen as positive impacts. However, people argue that there is an increased cost of living and relatively little progress in public access to health care, education and basic infrastructure. Despite QMM’s effort to communicate, such a survey tends to show that the public remains poorly knowledgable about the mining project and its impact. Exercises such as participatory budgeting in Ampasy Nahampoana and Mandromondromotra (funded by PGRM) have clearly been quite encouraging and very effective in helping increase public information levels and could be complemented by other social accountability mechanisms. On the other hand, key reasons for public malcontent include poor accountability of local communes to their populations, negative social impacts and concerns and expectations regarding job creation.

- While it will be crucial to address public perceptions of worsening living conditions, these perceptions need to be considered in the context of international experience. Frustration among populations adjacent to mining projects is commonplace in many settings. This is particularly true during the construction phase of mining projects, which has been the dominant experience for populations adjacent to the QMM project. Typically inflation is very hard to avoid, when an investment close to a billion is realized in a remote area with an unprepared economy. As in many countries, during construction, negatively perceived impacts on the local population tend to be high, whereas territorial authorities do not yet benefit from royalty payments, which could help mitigating or compensating such impacts. Managing expectations is thus one of the biggest challenges of mining companies worldwide.

- The concern about lack of counterpower to the company is exacerbated by the weakness of administrative and civil society oversight capacity. Negative impacts seen include perceptions of a rising corruption of the state and a rising role for the private sector in the governance domain. Tribunals are seen as weak, underfunded, and corrupt. Local communes expressed concerns over the treatment of national governing entities like the National Environment Office (ONE) which has had little success at demonstrating the power vis-à-vis the mining company. With a weak state, there are perceptions of high risks, that there will be high investment, high socioeconomic and ecological costs, and scant benefits. Following the discussion in Chapter 1, civil society in Anosy is relatively weak and does not manage to exercise a constructive role in the oversight of mining operations. Typically some service delivery-

148 A popular perceptions survey was beyond the mandate of this study. However, a recent study of this type was conducted by CRS. Catholic Relief Services/Consortium CAST-MDev. « Etude de base sur la gouvernance de l’exploitation minière à Madagascar. » Rapport final. Janvier 2010.
149 Indeed, the percentage of households in Ampasy Nahampoana who report positive impacts at the household level is 24 percent (58 percent for Mandromondromotra). The percentage of households in Ampasy Nahampoana having found negative economic impacts were 88 percent (63 percent in Mandromondromotra), social impacts were 78 percent (50 percent in Mandromondromotra), and environmental impacts 88 percent (66 percent in Mandromondromotra).
150 Very few adults in the surveyed populations of Moramanga, Tolagnaro, and Tsiranoanomandidy knew the amount of money the company invested (3.25 percent), the amount paid by the state IE (4.30 percent), the laws on the IE (3.86 percent), or the company’s social and environmental obligations (9.72 percent). While percentages vary by region in no case are the figures significant.
151 The percentage of adults who reported information on the income generation by the mining was only 20 percent at the communal level. This figure was much higher in the communes that received royalty payments, (60 percent in Ampasy Nahampoana and 44 percent in Mandromondromotra).
oriented NGOs are strong and sophisticated, but they often exercise contracts with the mining company, undermining their ability to function as independent watchdogs.

- **Strengthening local oversight and accountability mechanisms for mining operations in Anosy is likely to be important for preserving social peace.** The popular perception that the mining companies are there for the benefit of the few is heightened by the perceived lack of transparency mechanisms built into the emergent system. Mining companies do not need to act egregiously to provoke social unrest. They need to be perceived as having acted egregiously to provoke social unrest. Communes receiving direct benefits do see mining as more positive than the surrounding communes. However, even their citizens appear to doubt the costs are outweighing the benefits. If this is not rectified the relatively contained social actions witnessed to date (such as limited blocking of the port) could worsened. With a 220km pipeline to protect, Sherritt in particular has reason for concern over the disjuncture between corporate actions and the perception of mining sector lack of control.

D. The Political Economy of Mining Governance in Madagascar

- **Resource characteristics and time dynamics matter for the political economy of mining governance reform.** Building on the value-chain analysis, this section seeks to provide a summative political economy analysis of mining governance from two angles: *across resources and across time*. First, mining resource characteristics matter. The section argues that the different characteristics of gold, gemstones, industrial mining products – and, by analogy, rosewood (see chapter 3) – powerfully predict different political economy dynamics and governance outcomes. It claims that resource characteristics strongly influence the rent allocation among different stakeholders, the degree of formality, revenue collection and state capture by private interests (Section 1 below). Second, time dynamics matter. Madagascar’s mining sector is a sector in rapid transition and its political economy is all but static. Based on a summative view of how the political economy of mining governance has evolved over the past decade (Section 2 below), this section seeks to extrapolate into the future. In the light of this political economy analysis across resources and time, it seeks to identify reform implications and entry-points.

1. Different Resources, Different Political Economy

- **Mining resource characteristics matter for political economy and mining governance outcomes.** Resource characteristics matter for the sector’s political economy because they affect the ability of different stakeholders – artisanal producers, domestic entrepreneurial elites and the state – to extract rents from the resource. Who gets how much of the resource rent in turn determines governance outcomes. It matters for government revenue collection and for whether powerful private elite vested interests exist and risk capturing government policymaking in the sector. It also has important distributional implications. If market mechanisms ensure that artisanal miners get a fair price for their labor, the rationale for government intervention may be weaker than if they risk to be exploited. The following first sets out the major channels through which resource characteristics influence rent allocation and political economy and governance outcomes. It then discusses how these play out in the gold, gemstone and industrial mining sector.

- **The most relevant resource characteristics include dispersion, the value-volume ratio, the homogeneity of the product and its extraction history.** While gold and gemstones are *highly dispersed* and have a *high value-volume ratio*, Ilmenite and Nickel are industrially mined point resources with bulky, low value-high volume products (even though nickel metal does reach picks on a cyclical basis). Gold can be traded quasi-currency like because it is a highly homogeneous product, whereas judging the value of gemstones requires significant expertise.
Also, gold—like vanilla and subsequently rosewood in the Sava region—has been extracted in similar locations for centuries in Madagascar, whereas gemstone rushes are a recent phenomenon. Annex Figure 7 classifies Madagascar’s major resources according to their characteristics in further detail.

- **These characteristics influence how mining rents are distributed between the Malagasy state, business elites and artisanal miners.** Oversight and revenue collection from dispersed high-value-low volume resources such as gold and sapphires requires significantly higher enforcement capacity than for bulky resources such as industrial mining or rosewood. Powerful private vested interests in resource trade tend to emerge where resources have been extracted for a long time, such as gold or vanilla / rosewood in the Sava region. In both sectors, Malagasy elites dispose of well-developed networks in the field of the Malagasy state and have attained a significant extent of state capture. By contrast, sapphire rushes have created open-access to rents for newcomers, beyond the control of elites. In contrast to Sapphires, the currency-like homogenous nature of gold entails that 80% of its value accrue to artisanal producers, mostly in rural areas. Figure 5 provides an approximate overview of the resulting rent allocation for Gold, Sapphires, industrial mining products and, as a renewable resource, rosewood (see Chapter 3 for details).

- **The rent distribution among stakeholders in turn has major implications for political economy and sectoral governance outcomes.** For each of the major mining resources—gold, Sapphires and industrial mining products—the following sets out the implications for the key governance outcomes of state capture revenue collection and the sector’s formalization.

- **In gold mining, government revenue collection and formalization are very low and the gold trade is dominated by specific communities of traders.** About 350,000 artisanal gold panners capture the highest share of gold rents (about 80 percent of the gold spot price) because of its homogeneity. Yet, the gold trade is dominated by influential exporters of Indian decent, who make high profits by trading large quantities. The identity of these traders is not known. The importance of Indian families in the gold sector is the result of social networks that have grown around gold export (to India) for over a century—largely untouched by the central state. Majors and regional presidents in gold mining areas such as Vohilava Ampasary typically tolerate or are partly actively involved in informal gold trafficking, indicating some extent of local state capture. As for rosewood in the Sava region, local politicians often depend on financial support by gold traders for their electoral campaigns. In order to evade domestic revenue taxes and to transform gold into hard currency, practically the entire gold production (insiders estimate that production could potentially reach several tons per year but there is no precise information) is informally smuggled out of the country and sold abroad. Given its high value-volume ratio, enforcing export controls is difficult and costly for the state. As a consequence of these dynamics, the gold mining sector has remained vastly informal, and the current, domestic vested interests will oppose attempts to enforce central tax collection or control.
Figure 5. Approximate Rent Distribution along the Value Chain for Natural Resources

Source: Rent allocation is based on rough estimates and only indicative, (based on author interviews).

- **Sapphire exports have at least temporarily been formalized and powerful vested interests are absent from the sector.** Governing the gold and Sapphire sector presents similar challenges in many regards. Both sectors have a high value/low volume ratio and dispersed and open-access findings, requiring significant enforcement capacity to govern them. Consequently, revenue collection from Sapphire mining is similarly low as for gold. However, the political economy and governance of Sapphire mining also differs in fundamental ways:

  - **First, the political economy of Sapphire governance is rather influenced by a new bourgeois constituency of gem intermediaries than by vested elite interests.** Whereas gold has been exploited with relative continuity, the Sapphire rush dynamic has made it impossible for elites or government to gain control of or secure rents of the gem production and trade. Rather, sapphire rents have mainly accrued to “new faces” – at a small scale to fortune-seeking diggers, and at a larger scale to self-made intermediaries and traders often connected to the bourgeoisie in Antananarivo, which shapes an important electorate. Major government interventions in the sector over the past decade (such as halting issue of sapphire permits from 1999-2004 or halting the raw gem exports in February 2008) can be seen as attempts to gain control of a sector. Today, about 150,000 households (estimates vary a lot) depend on gemstone mining. In particular, gemstone trade intermediaries connected to the bourgeoisie in Antananarivo were negatively affected by the export interdiction and opposed to it.

  - **Second, the influence of foreign export companies have contributed to greater formalization of gemstone exports than gold exports.** While gold exports leave practically no traces in export statistics, a significant share of gem exports have been exported formally

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152 One hundred percent of the respective resource value refers to the prices for gold bullion, for raw Sapphires, to the export value of ilmenite / nickel and cobalt and rosewood (tunks, planks) as exported from Madagascar.
(estimate: 50 percent) since the export ban was lifted in 2005. A key reason for this difference is the influence of foreign exporters. Prior to the crisis, a major share of gemstones has been purchased by formal foreign traders on Madagascar’s territory who have an interest in formalizing exports. By contrast, gold is exported nearly exclusively by domestic traders. In sum, whereas influential elites in the gold sector are likely to oppose attempts at formalizing its trade and tax collection, foreign gemstone traders actually have a stake in formalizing the gemstone trade.

- **For the two large-scale industrial mining projects, revenue collection and formality are projected to be high.** It is relatively easy for the government to oversee and capture rents from industrial mining products because they are point sources at a low value/volume ratio with a sophisticated governance structure of their own. In addition, stock-traded international investors have a significant self interest in transparent mining governance due to their accountability to shareholders and their interest in minimizing exposure to corruption. This is for example manifest in QMM’s and Sherritt’s driving role in the EITI Initiative. Given that Madagascar is only entering the exploitation phase, government incentives are broadly aligned with investor incentives in creating a transparent and predictable governance structure. As revenues from large-scale mining are only about to be realized, vested interests - e.g. within administration - have not yet emerged, opening a window of opportunity for establishing a sound governance of the sector.
## Table 2: Overview of Vested Interests / Political Economy Drivers in Madagascar’s Mining Sector (with Rosewood as comparator)

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<th>Explanatory variables</th>
<th>2. Vested Stakeholder Interests</th>
<th>Explained variable</th>
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<td>“Small holders”</td>
<td>Domestic Entrepreneurial Elites</td>
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<tr>
<td></td>
<td>Competitive market, electoral power</td>
<td>Market power (artificial monopolies)</td>
</tr>
<tr>
<td>1. Resource Characteristics (see Table 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gold</td>
<td>Number: High (~300,000) Rent share: High (~80% of spot price), due to homogeneity, competitive markets</td>
<td>Vested Interest: Strong, due to longstanding extraction Indian by Elite: Indian super traders</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sapphires</td>
<td>Number: High (~150,000), due to high dispersion, artisanal production Rent share: Low (~5%), due to heterogeneity, competitive markets</td>
<td>Vested Interest: Weak, due to recent rush dynamics Elite: no major traditional elite involvement, interests, source of wealth for newcomers</td>
</tr>
<tr>
<td>Ilmenite / Nickel</td>
<td>Number: Low (~10,000), due to industrial production Rent share: Medium, salary payments</td>
<td>Vested Interest: Weak Elite: no major traditional elite involvement</td>
</tr>
<tr>
<td>Rosewood</td>
<td>Number: Low (~5,000) Rent share: Low (~2%)</td>
<td>Vested Interests: Strong Elite: Timber Barons at the periphery</td>
</tr>
</tbody>
</table>

*Source: Authors.*
In sum, resource characteristics are powerful predictors of rent allocation and – via political economy dynamics – of governance outcomes. Government revenue collection from gold and sapphire mining has remained low, due to their high value/low volume-ratio. By contrast revenue collection is predictably high for industrial mining goods and has evidently been very significant recently from rosewood exports, as both are bulky commodities. The degree of state capture by elites involved in extracting a resource is significant for gold and rosewood, as both resources have a long history of stationary extraction; facilitating the emergence of local elite trade networks with powerful vested interests (Timber Barons, Indo-Pakistani families). By contrast, the rush nature of gems has not brought forth such powerful vested interests. Formality is to a significant extent the product of the presence of international trading partners in Madagascar, who have incentives to ensure the formality of their exports. This explains why gold exports have remained nearly entirely informal, while gemstone exports have – at least temporarily seen significant formalization.

2. The Political Economy Dynamics of Mining Governance

Along the value-chain, shifting political economy dynamics over time are key to delineating the reform space for strengthening mining governance in Madagascar. After a major push towards transparent management of mining rights in the early 2000s, discretionary management of mining rights has increasingly reemerged since 2005. A strong fiscal framework has been established, but recent declarations by the transition government on both mining and petroleum contracts may send early signs of a future reneging risk. Institutions for revenue distribution established in the early 2000s today prove to be highly inequitable, entailing the risk of social unrest. The future boom of resource revenues, together with weak accountability and transparency of the budget process makes a resource-curse type dynamic possible. Mining institutions were established (more or less) on a “tabula rasa” at the beginning of the last decade. Since then, major progress has been achieved. Exploration interest has surged, major investments in industrial projects have been made and large rents begin to emerge from the sector. Mining institutions bear the potential to significantly enhance Madagascar’s development. Yet, as mining rents grow, the risk grows that sound institutions fall victim to short-term rent-seeking interests of elites, following the neopatrimonial logic of the Malagasy state (see Chapter 1). This section provides a concluding overview of how political economy dynamics evolved along the value-chain.

Growing fractures in transparent mining right management are symptomatic of the rent-seeking logic of the neo-patrimonial state. International interest in exploration titles has surged (see Section 2) in the last years, thanks to transparent permit management by BCMM. With growing demand for mining rights in Madagascar, the temptation of political interference in transparent permit management is bound to increase. Discretionary allocation of mining rights provides political elites with an immediate and this attractive way of extracting rents from the mining sector. Major recent discretionary allocations of mining rights are symptomatic of this risk. The intransparent bidding process of the Soalala iron ore deposits has screened out major international investors. Administrative mining fees have been doubled in violation of the mining code. Under the transition government, the mining cadastre has allegedly been stripped of its core function, with decisions on permit allocation anew being made at the discretion of the Minister of Mining. If widespread, such rent-seeking will risk undermining investments in exploration and thus valuation of Madagascar’s mining potential in the long-term.

Persistent informality of artisanal gemstone and gold mining primarily reflects a lack of state capacity, together with powerful vested interests in informal gold trade. The domestic
The gold and gemstone mining value-chain has primarily remained informal because the Malagasy mining administration is far from having the capacity to govern these resources. As artisanal mining is dispersed in remote areas and as small quantities of high value can easily be smuggled, significant state capacity would be required to formalize the sector. With few and poorly trained and paid staff in artisanal mining areas, the Ministry of Mines is far from having the required enforcement capacity for formalizing gem / gold production at the mine. It lacks the capacity to collect reliable information about artisanal mining. Whereas in gold-mining powerful vested interests of influential Indo-Pakistani elite are likely to resist attempts to formalize gold exports, such vested interests are not strong in Sapphire mining. To the contrary, international gem traders actually have a stake in formalizing their gemstone exports. They have urged the government to allow them to pay royalties for informally purchased gemstones at the point of export, rather than to purchase laissez-passers on the black market under current regulation. Whereas artisanal gold miners receive about 80% of the gold spot price, gem miners receive only about 5% of a gemstone’s final market value. Limited state capacity, different vested interests and different distributional effects of gold and gem mining should be key to informing sector interventions.

The risk that political elites will seek to renege on the fiscal framework for large-scale mining companies is likely to increase in the future. Within the Malagasy neo-patrimonial state, dominant coalitions of ruling elites are fluid and will continue to change, encouraging a short-term perspective of political leaders. Especially when under fiscal strain, political elites may thus place their short-term incentive to extract rents from industrial mining companies over the long-term goal of attracting future investment through credible commitments. The temptation to do so may be reinforced by the design of the current fiscal framework (CM / LGIM). While the recent declarations by the transition government to obtain payments from mining companies is indicative of this risk, their failure also points to the fact that institutions have some persistence and reneging a cost that the transition government has shied away from.

Transparency in mining revenue collection is likely to be sound from the current two large-scale investments, but is at risk for Kraoma and potentially other mining companies. QMM and Sherritt have been pushing for Madagascar’s adherence to the EITI initiative and, given their internal governance structure, have a stake in ensuring transparency of their tax-payments. By contrast, Kraoma as government-owned company is potentially at a higher risk of being subverted to the rent seeking logic of the neo-patrimonial state. The company’s initial commitment to the EITI initiative and later rejection to participate may indicate rent extortion by the transition government. Importantly, smaller domestic mining companies or future international investors with different internal governance structures may have weaker incentives to make their tax payments transparent. Even where transparency and legality in revenue collection is ensured, this is not necessarily an effective safeguard against the use of these revenues for feeding neopatrimonial networks.

Inequitable redistribution of mining revenues among affected communes reflects top-down policy-making within the neo-patrimonial state, little constrained by bottom-up accountability. While the principle of sharing mining revenues with decentralized authorities is embedded in the mining code, the ill-defined redistribution rules are indicative of a top-down policy-making process, with little consultation of local stakeholders. Similarly symptomatic, communal capacity building for managing a foreseeable explosion of their budgets has been neglected. Communes starting to receive disproportionate revenues express concerns about transparency, accountability, insecurity, in their management. Regions have been given a key role in managing revenue redistribution, but risk to be a source of rent capture by central government, being upward-accountable to the center, rather than downward to the people. Local development effectiveness of redistributed mining revenues thus risks to be significantly hampered both by
supply and demand side governance. Key factors include the lack of institutional capacity at the state level, an unclear legal-juridical environment, the disconnect between the regions and the communes and the relative disconnects between the commune leadership and their population, the weakness of civil society organizations and the dearth of watchdog organizations.

**Given the weakness of the institutions of the neo-patrimonial state, Madagascar is vulnerable to a resource–curse type dynamic.** Madagascar is likely to enter the ranks of resource-rich\(^{153}\) economies over the next two decades. Mining revenues are likely to significantly reshape the intra-elite distribution of rents by creating a valuable prize for those who control political power. By limiting the need for revenue collection e.g. through taxation, mining revenues risk to further weaken the accountability of the Malagasy state to its citizens and may weaken, rather than strengthen the capacity of state institutions. Resource rents will not be large enough to become “the only game in town”. However other key factors suggest that Madagascar is highly vulnerable to a resource curse dynamic: political power is concentrated in the executive, policy commitments are made difficult by price volatility or political instability and the distribution of resource rents aligns with existing political-economic cleavages.

\(^{153}\) According to the IMF, resource-rich countries are defined as (a) having a share of fiscal revenues from the petroleum or mining sector that is larger than 25% over a certain period and (b) the share of export revenues from the petroleum and mining sector is larger than 25% over a certain period
Chapter 3: Political Economy and Governance of Madagascar’s Forestry Sector

A. Introduction

Madagascar’s natural forests are both host to a unique biodiversity and a crucial resource for its population. The island is recognized as one of 17 mega-diversity countries worldwide, combining high biodiversity and endemism. Its natural forests are primarily located along the coastal regions around the high plateau (see Annex Figure 14). They cover about 16% of its surface area or about 9.4 million ha (USAID, 2009) and comprise different ecosystems. Since President Ravalomanana declared the expansion of Madagascar’s protected area system in Durban in 2003, the part of Madagascar’s forest cover dedicated to protected area has grown to about half. The other half comprises mostly non-protected natural forests and Pine and Eucalyptus plantations. Madagascar’s natural forests are also a crucial resource for Madagascar’s population, in particular for widespread so-called “Tavy” slash-and-burn rice agriculture, which has led to rapid deforestation over the last half century (see Annex Figure 8). Firewood and charcoal cover 80% of household energy consumption and domestic wood consumption amounts to about 21.7 million m3 per year (USAID, 2009).

Chapter 3 focuses on the political economy of illegal precious timber logging in Madagascar’s protected areas, one of the forest sector’s most acute vulnerabilities. A surge of precious timber logging in the context of the 2009 political crisis has moved forest governance in Madagascar into the limelight of international concern. The felling of an unprecedented number of rosewood (Dalbergia spp.) trees in the Sava region’s National Parks has caused major losses in natural assets and potential public revenues from Madagascar’s natural capital. In addition, Timber traders’ commercial interests are in direct conflict with conversation efforts in National Parks. Logging of precious wood today focuses nearly exclusively on National Parks, because Dalbergia trees of marketable size have practically been eradicated outside of protected areas in the Sava region (Global Witness, 2009). The felling of rosewood trees causes significant damage to the surrounding ecosystem.

Efforts to strengthen Madagascar’s forest governance institutions over the past two decades have had limited success. At the end of the 1980s, Madagascar’s ecosystems were in rapid decline and Madagascar’s forest institutions, inherited from the colonial period, were ineffective for governing the sector. Since 1990, when Madagascar for the first time integrated environmental protection in its policy agenda, significant efforts have been made to improve forest conservation and governance, supported by international development partners (Environmental Programs I-III) and conservation NGOs. Box 10 summarizes the evolution of Madagascar’s forestry institutions over the past two decades. Yet, despite some advances, including the creation of a National Park System, weak forest governance remains a major challenge.

Footnotes:
154 Madagascar comprises as much as 12,000 plant- and 1,000 vertebrate-species, most of which are endemic (9 700 plant species and 770 vertebrates) (World Bank, 2010). One indicator of its outstanding status is that it is home to about 25% of all African plants although it occupies only about 1.9% of the mainland’s surface (World Bank, 2003).
155 The major types of forest ecosystems are the mid-altitude humid tropical forests centered on the eastern escarpment (“humides”), the greatly diminished range of dry forests in the west (“sèches”) and the highly unique spiny (“fourré”/ “épineuse”) forests of the southwest (World Bank, 2003).
156 Annex Table 7 summarizes the forest classification into protected and non-protected areas as of 2005, by forest type. Annex Figure 14 shows the geographical distribution of protected areas. With about 291000 ha (2005), plantations represent less than 1% of the total forest coverage.
157 Aubert et al. (2008) provide a detailed discussion of the impact of Tavy agriculture on deforestation in Madagascar.
158 The Sava region is located in Madagascar’s North-East and host to the Masoala and Marojejy National Parks, which have been most affected by rosewood logging.
159 The Malagasy Forest Law Nr. 97/017 of August 8, 1997 laid the foundation for the country’s “New Forest Policy” adopted in 1997.
constraint to effectively valuating or conserving Madagascar’s forests. The 2009 surge in rosewood logging has brought to the fore how vulnerable forest governance institutions such as the National Parks system are to powerful vested interests that adversely affect Madagascar’s political economy.

Box 10: The Evolution of Madagascar’s Forest Governance Institutions

The Environmental Charta and the Madagascar Environment Action Plan adopted in 1989-1990 laid the foundation for a fundamental renewal of environmental and forest governance. The government adopted an ambitious 15-year investment program with the goal to ensure that “natural resources are conserved and wisely utilized in support of sustainable economic development and a better quality of life” (PAE, cited after World Bank, 2003). The PAE was developed in co-operation with and benefitted from major technical and financial support by donors and conservation NGOs. The World Bank, other donors and international conservation NGOs have strongly supported the NEAP through a program called Environmental Program (EP) since 1990. The total support provided through the EP will amount to 400 Million US$ by 2010. The EP has been implemented in three phases.

The first phase of the Environmental program (1991-1996) focused on defining the institutional framework for forest governance. In 1990, the National Agency for managing National Parks (“Agence Nationale de Gestion des Aries Protégés”, ANGAP) was created, separating National Park Management from management of non-protected forests. Other Environmental Agencies, like the National Environmental Office and (ONE) and the National Association for Environmental Action (ANAE) were created in 1991. Rural Development Plans were first initiated in 1995 based on a participatory process that was legislated in 1998, in order to ensure synergies between rural development and the population.

The second phase of the Environmental Program (1997-2003) sought to strengthen conservation activities on the ground and to integrate the environmental program with national development. This period was marked by the creation of legal frameworks for community forest management. The corresponding application decrees Nr. 2000-27 of 13 January 2000 and Nr. 2001-133 of 14 February 2001 defined the application of Communal Forest Management (GCF), through which the state transfers part of its competencies to village associations and local communities. This phase also saw the drafting of the Malagasy forest Law 97/017 of August 8, 1997, incorporating the “New Forest Policy”, and its application decrees.

During the second Environmental Program the first major ban on logging of precious timber was passed. Following significant logging of precious woods, it was decided to stop the delivery of logging titles by Decree Nr. 12702/2000. At the same time, the National Forest Observatory was created, in order to identify irregularities and to ensure transparent permit allocation. Generally, Forest oversight was strengthened for fighting illegal forest exploitation during Environmental Program 2. In 2000 the decision was taken to undertake a comprehensive forest zoning as the basis for effective forest management, classifying forests by their purpose (conservation, protection, production) and management status. During EP2, the management of National Parks was fully transferred to ANGAP by international conservation NGOs.

The third and final phase of the Environmental Program (2003-2009) was aimed at consolidating the achievements of the first two phases. It focused on improving the protection and sustainable management of critical biodiversity resources at the field level, mainstreaming conservation into macroeconomic management and sector programs, establishing sustainable financing mechanisms, and, critically, transferring forest management from international NGOs to Malagasy state operators. Given the current political crisis, the program was extended until 2011. ANGAP was renamed to Madagascar National Parks.

161 A detailed description of the evolution of Madagascar’s Environmental Programs I-III is e.g. provided in Carret et al. (2010) and Rajaonson (2010). A detailed analysis financed by USAID and entitled “Paradise Lost? Lessons from 25 Years of USAID Environment Programs in Madagascar” has recently been published.

162 International partners supporting the EP include USAID, Inter Coopération, the World Bank and the GEF, and three major conservation NGOs (Wildlife Conservation Society, Conservation International and World Wildlife Fund for Nature). More recently, Germany (GTZ and KfW) and France have joint them.

163 Source: Carret et al. (2010).

164 Law Nr. 96-025 of 30 September 1996, concerning the Local Management of Renewable Natural resources (GELOSE)
Chapter 3 provides a problem-driven political economy analysis of the drivers of precious timber logging in protected areas along the value-chain. Chapter 3 is structured as follows. Section B offers an introductory overview of the illegal logging challenge Madagascar faces in the Sava region and its history. The Chapter’s core is Section C. It provides an in-depth political economy analysis along the value-chain. Section D concludes the political economy analysis by summarizing key stakeholders’ interests, incentives, constraints, and positioning as well as the evolution of political economy dynamics of precious timber logging over time. Chapter 4 suggests entry-points to reform.

B. The Governance Challenge of Precious Timber Logging in Madagascar

Illegal logging of precious woods and forest corruption are inherent vulnerabilities of forest governance across developing countries. The reasons are adverse incentives of involved stakeholders. Generally, many public benefits from forests, such as conserving Madagascar’s unique biodiversity, are realized only when they are preserved, whereas private benefits are realized through harvesting or destruction (rosewood logging). While therefore a high level of government intervention in the sector is needed (Kishor, 2007), ensuring effective enforcement of government rules is hard. First, high scarcity rents (e.g. for rosewood) create powerful incentives for grand and small corruption. Second, government agents’ discretionary powers (e.g. in issuing “exceptional” permits, overlooking logging activity) provide opportunities for corruption. Third, the often dispersed nature of forests makes ensuring top-down accountability difficult and creates a conductive environment for corruption (Rose-Ackerman, 1999).

These resource characteristics provide the state’s agents with powerful incentives to put their own interest over the public good and collude with private agents.

Logging of rosewood, pallisandre and other precious timbers in the Sava region offers enormous profit margins and has persisted over the past decade. The Sava region has for long been isolated from the influence of Madagascar’s center, situated far from the capital and connected with poor infrastructure. It is host to the Marojejy, Masoala and Makira National parks, which were established in the late 1990s and contain significant quantities of Dalbergia. While logging has been prohibited since 2000 in protected areas, the trade with precious timber offers enormous profit margins and thus powerful incentives for illegal logging. The market value of a fright container of rosewood is estimated at about US$140,000 with negligible production costs. Illegal logging in National Parks and the timber trade has grown over the past decade, driven by a limited number of individual exporters. These “timber traders” exert major influence over the region’s economy and local and central politics. Box 11 provides a brief portrait of the Sava region’s “Timber Traders”. The timber traders are supplied with precious wood through a supply-chain of intermediaries, but reap the lion’s share of the timber’s export value (see Annex Table 8 for details on the timber supply chain). The precious timber from the Sava region is predominately exported to China via the local ports of Antalaha, Sambava and Vohemar, with a small share shipped to Europe (Global Witness, 2009).

165 Compare to Klitgaard’s formula: “Corruption= monopoly on power + discretion – accountability – transparency”;
166 For comparison, see the discussion of resource characteristics and their impact on political economy in Chapter 2.
In the context of Madagascar’s political turmoil in 2009, the SAVA region has seen a systematic and organized expansion of the precious timber logging and trade. While rosewood logging in Sava’s forests has been a major governance challenge over the past decade, it has surged to unprecedented orders of magnitude in the context of the country’s political crisis, starting prior to the formation of the transition government. Armed gangs openly log rosewood within National Parks. Exceptional export permits have facilitated rosewood exports. While sound statistics are not available, available data suggests that extent of rosewood logging has increased over 100-fold. Madagascar’s Ministry of Environment and Forest estimates that between January 28 and September 21, 2009 238,700 (rosewood) trees had been felled, compared to an estimated 1800 trees in 2008. In 2009, on average about 100 to 200 rosewood trees worth $460,000 US$ of rosewood were illegally felled in the Sava region per day, according to Global Witness and the Environmental Investigation Agency (EIA) (Global Witness, 2009).

The surge in logging has caused a severe loss of precious natural timber assets and potential public revenues as well as significant destruction to the Sava region’s National Park. Estimates suggest that over 90 percent of rosewood has already been cut. It is estimated that from January to November 2009, at least 1,211 containers were exported (GTZ, 2009), corresponding to an estimated quantity of about 26 thousand m3 and a value of about US$175.8 million (assuming an average value per container of $140 200/price and a unit price of $6 per kg). Officially, only 249 released containers of rosewood were released under exceptional export allowances in 2009. As rosewood is an unusually dense wood averaging 196 kg in weight, its felling process takes a toll on the surrounding forest. One fallen tree can result in the loss of twenty meters of forest cover. It takes six people to drag a tree out of the forest thus additional damage is done through the intra-forest transport process.

C. Value Chain Analysis

1. Overview

The political economy analysis along the value-chain for precious timber follows a problem-driven approach.

Figure 6 shows the three layers of analysis along the precious timber value-chain. The analysis focuses on the volatility of rosewood regulation (step 1) and the budget revenues that the transition government generated from “legalized” rosewood exports (step 3).

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168 Rosewood also plays a critical role in the ecosystem. It “belongs to the Leguminosae family and forms nodules in symbiosis with Rhizobia. So, as a result of its nitrogen-fixing symbiosis, D. Monticola improves soil fertility.

169 Source: Interviews with Marjejy National Park staff.

170 Source: Interviews with “Task Force” members charged with arresting tree cutters in Marjejy National Park.
2. **Regulating Rosewood Logging and Export**

The volatile regulation of precious timber logging and exports is a key weakness in Madagascar’s governance of illegal logging. The recurrence of exceptional logging and export permits facilitates precious timber logging and de facto legalizes the activity of timber traders.

(1) **Institutional Arrangements: A Chronology of Volatile Export Regulation**

**Over the past decade, Madagascar has seen strikingly frequent shifts in the regulation of precious woods exports.** Madagascar’s regulation of rosewood logging and exports has been highly volatile, oscillating between bans and frequent new exceptions. Figure 7 and Annex Box 1 provide an overview of the major regulatory changes since 2000. In Figure 7, green squares mark exceptional export permissions and red square mark export interdictions. Rapidly changing and often unclear export regulation has created a complex and self-contradictory legal environment that is ill-suited as a basis for sound enforcement and for effectively containing logging and export of precious timber.

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171 This section draws heavily on Global Witness (2009).
Figure 7. Regulation regarding Rosewood Exports and Extraction in National Parks

**Sources:** Global Witness (2009) and referenced regulation.

Regulatory changes regarding rosewood salvage and exports have been closely associated with cyclones that frequently affect the Sava region. Salvage and export permits have regularly been issued in the wake of cyclones (highlighted in blue in Figure 7) with the declared goal of capturing the value of trees uprooted or damaged by a cyclone. However, by lack of damage inventories, such “collection permits” have been widely abused as an excuse for uncontrolled active logging within the Marojejy and Masoala National Parks. Annex Box 1 traces the major milestones in precious wood collection and export regulation during the last decade.

The first export licenses that contributed to the surge of rosewood logging in the context of the 2009 crisis were issued under the Ravalomanana Presidency. Shortly before President Marc Ravalomanana’s ousting from office, on 28 January 2009, Ministerial Decree No. 003/2009 approved exceptional export licenses for raw rosewood and ebony for thirteen listed operators from the Sava region within a limited timeframe. It directly contradicted prior regulation which banned rosewood logging and exports. The declared intent of the decree was to clear existing inventories of cut rosewood.

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172 The decree had a sunset clause stating that after April 30, 2009 there were to be no more exceptions issued.

173 Order 11832 of 2000 (see above) which banned the export of rosewood and ebony wood except under the form of semi-finished and finished products and Inter-ministerial Order 16030 of 2006 which bans all extraction of Rosewood and ebony and the export of ebony and Rosewood.
The surge in rosewood logging has been facilitated by a breakdown of the rule of law in the Sava region following the 2009 political turmoil. Fact gathering missions to the Sava region in July and August 2009 (Global Witness, 2009) concluded that there was a breakdown in the rule of law with regard to the logging, transport, storage, and export of rosewood. Harvesting continued at a rate of 100 to 200 Rosewood trees per day in a context of significant confusion regarding the legal framework and its application not only on the part of operators but on the part of the Ministry of Environment and Forests.

However, research for this study points to a transition government effectively collecting tax revenues from major quantities of rosewood. In a critical test event in April 2009, a Sava operator received an appropriate export authorization.\(^\text{174}\) It became clear that, despite the change of government, an operator was held to a regulatory environment enforced by the Ministry of Environment and Forest and the customs authorities. The state collected 10 percent in taxes from the export. While some of the cut rosewood remained outside the capacity of state control, some was “captured” by the state. In September 2009, a new decree\(^\text{175}\) by the transition government moved export legalization – and government revenue collection from legalized rosewood exports to a new order of magnitude. Inter-Ministerial Decree 38244 issued a maximum quota of 25 containers to each in a list of operators and announced an export tariff for rosewood equivalent to about 30% of its market value. The decree allowed to partly releasing accumulated stockpiles\(^\text{176}\) of rosewood. According to revenue figures reported by the General Treasury of Sambava, it generated government revenues of 38 billion Ariary (about US$17.96 million) between October 2009 and March 2010. Another indicator of the transition government’s ability to control rosewood exports to a significant extent is that an intense controversy over the legality of Inter-Ministerial Decree 38244\(^\text{177}\) and international pressure led to regularized delays in export of trees throughout 2009 and early 2010.\(^\text{178}\)

\(^{174}\) On April 4, 2009 one of the operators, Laisoa Jean Pierre, was issued the appropriate export authorization from the Regional Director of the Ministry of Water and Forests (No. 496-09/MEFT/SG/DREFT SAVA) enabling him to export 99,617,000 Ar ($47,100) worth of Rosewood. He paid 10,326,492 Ar in export fees ($4,882 (US)). The product left the Port of Vohemar on April 16, 2009.

\(^{175}\) Inter-Ministerial Decree 38244 dated September, 21 2009 granted exceptional and nominative rights to export ebony and Rosewood. Export rights were accorded based on previously established inventory for operators who have complied with forestry taxation and administrative requirements.

\(^{176}\) As of September 21, 115,002 of the 146,941 (78 percent) of cut logs of Rosewood were left without export documents. There was an additional 91,759 logs sitting that were cut without ministerial agreement.

\(^{177}\) It contradicted 11832/2000 and 16030/2006 as well as the clause in Decree 003/2009 concentrating on existing inventories.

\(^{178}\) At time of mission (February 2010), 249 containers (representing approximately 2400 logs per container or 4,807 trees in total) were waiting for authorization. No authorization was forthcoming either from the Ministry of Environment and Forest or from the Duane. The prime minister visited the Port of Vohemar with the expressed purpose of ensuring the release of the containers. This cleared the way for the existing empty containers to be filled and shipped resulting in a reported 697,044,000 AR ($329,571) in state tax revenues collected.

\(^{179}\) The detailed analysis of political economy causes for the surge in illegal rosewood logging is conducted in Section 4, as it is closely associated with government tax collection from rosewood exports.

\(^{180}\) ‘State capture’ occurs when a small number of firms (or such entities as the military) are able to shape the rules of the game to their advantage through massive illicit, and non-transparent provision of private benefits to officials and politicians.

\(^{181}\) For example, it is reported that a delegation of Antalaha traders went to Antananarivo on 10 April 2009 for a meeting with the transition government to “discuss” the ban on timber exports from the port of Vohémar (Global Witness, 2009).
various export authorizations reflects the political sway of the timber exporters. Authorizations are for example justified on the basis of “economic reasons […] and are following the complaints arising from the forest operators and exporters”,\textsuperscript{182} Third, the rent generated by timber traders is appealing to politicians as it comes from a region that could potentially be in opposition. The timber traders’ longstanding networks and influence grown through their involvement in the Sava region’s vanilla trade provides them with a powerful standing for exerting political influence. They are not part of the new business elite that dominates Madagascar’s political economy in the capital, but shape a major influence in the Sava region.

**Box 11: The Sava Region’s Timber Traders**

A limited number of about 10-30 individuals export precious wood from the Sava region. Their names are well-known and publicized.\textsuperscript{183} The role and influence of these Timber Traders in the Sava region needs to be understood against the backdrop that the Sava region has for long been the world’s main producer of vanilla, which is its major cash crop.\textsuperscript{184} Not only are most Timber Traders located in Antalaha, one of the Sava region’s centers, but Antalaha is also nicknamed the “world capital of vanilla”, where many of the region’s vanilla exporters are located. The vanilla trade has brought forth wealthy and influential families who have traditionally exerted significant economic and political influence in the Sava region. There is at least strong anecdotal evidence that the some Timber Traders are in some cases connected to these vanilla-exporting families.\textsuperscript{185} This close connection may explain the coincidence between the increase of precious timber logging in the region over the last decade and the decline of world market vanilla price between 2003 and 2005.\textsuperscript{186} Some vanilla exporters appear to have grown precious wood exports as vanilla prices became less attractive, building on their existing rural supply-networks.

**International support for biodiversity conservation in Madagascar clearly appears to be the major counterbalancing force that contains rosewood logging.** Domestic forces pushing for forest conservation in Madagascar are scarce limited mostly to academics with little political influence and some parts of civil society movements working with international NGOs. Rather, it is likely that the major inflow of funding for National Parks and conservation efforts from international environmental NGOs and donors has been the major countervailing force. For political leaders, openly undermining conservation efforts by facilitating illegal logging thus came at a high price of legitimacy loss in the eyes of the international community. The strong engagement of international partners in the sector was also evident in efforts to put an end to the recent logging crisis, in which the World Bank has been very proactive. The World Bank, together with all the major players in the sector carried out a highly visible heads of agency’s mission to the Sava region in March 2010 with the objective to show a united front from technical and financial partners in denouncing the situation. The decree issued by the government on 24 March 2010 that put into place a moratorium on any harvesting, transport and export of rosewood and ebony is an important step in this direction.

**Volatile rosewood export regulation is likely to reflect the incentives of political elites to balance the need for legitimacy vis-à-vis international partners while at the same time accommodating vested interests.** In particular the cyclical issuance of exceptional export titles

\textsuperscript{182} Service Note 923-05, Source: Global Witness, 2009.

\textsuperscript{183} For example, inter-ministerial Order Nr. 003/2009 officially recognizes 13 “operators” as exporting precious wood (Global Witness, 2009). Wilme et al. (2009) identify a total of about 25 timber traders, mostly located in Antalaha, one of the Sava region’s centers.

\textsuperscript{184} The vanilla industry employs around 80,000 planters on Madagascar, with 70,000 located in the Sava region. Source: Packer (2008).

\textsuperscript{185} While a systematic stakeholder mapping was beyond the scope of this study, at least in one case there is clear evidence that a major timber exporter (see Interministerial Decree 003/2009) is also engaged in the vanilla trade (Societe Roger Thu Nam).

\textsuperscript{186} A decline from a peak of about $400 (US) in 2003 to less than $50 (US) per kg after 2005 heavily impacted the local economy (see Annex Figure 15).
in the wake of cyclones can be interpreted as a way for political elites to balance legitimacy with the protection of the Sava families’ private rents. Political leaders have justified exceptional authorizations in the wake of cyclones with the need tovaluate the cyclone-felled timber. However, it is debated whether cyclones have a severe impact on rosewood, given that mature trees generally have well developed root systems. Past experience makes it easy to predict that such “collection permits” risk to be abused as fig leaves for illegal logging in protected areas. Cyclones as an exogenous event and natural disaster for the region thus may provide political leaders with a welcome opportunity to give in to timber traders’ pressures by de facto opening the door to illegal logging, while not losing face vis-à-vis conservation partners as they would if exports were legalized without a legitimizing reason.

3. Monitoring and Oversight of Forest Operations

Lack of enforcement capacity is a key weakness in Madagascar’s forestry value-chain, similar to the mining sector. Madagascar faces two major challenges in monitoring and oversight in protected areas:

The National Park administration (MNP) lacks authority and means for arresting illegal loggers or traffickers in protected areas. A Joint Task Force was created to strengthen oversight capacity but has recently been dismantled by the newly appointed Minister.

Attempts to engage local communities in delegated forest management and oversight have shown mixed results. In particular, hopes to engage communes adjacent to National Parks in exercising a watchdog function for preventing illegal logging have proven a difficult long-term exercise.

a) Central Government Monitoring and Oversight Institutions

(1) Institutions Arrangements: Oversight Capacity

Oversight capacity is marked by a striking discrepancy between the core forest administration and Madagascar National Parks (MNP). MNP is the agency responsible for the management of protected areas, the Ministry of Environment and Forest (MEF) and in particular the Forest Directorate (DGF) is primarily responsible for the management of non-protected forests, but also enforcement in National Park areas. While Madagascar National Park is under the authority of the MEF, it is managed independently as an agency and is mostly funded by international partners. The core administration is responsible for overseeing a forest surface about thrice as large as the National Park area under MNP’s responsibility.

(a) The Core Forestry Administration

The core forestry administration has limited ability to fulfill its oversight task, given its capacity constraints. This lack of capacity follows a pattern frequently found in developing countries, according to Kishor (2006). In line with this pattern, Madagascar’s core forest administration faces severe challenges:

- Shortage of staff. Staff shortage is the most palpable symptom of the MEF’s weak capacity. For example, in the critical Sava region, a single forest agent is on average responsible for about 215 km2 of forest cover, nationwide the average forest cover per (de-central) forest agent is about 140 km2. This shortage is partly the result of a hiring freeze since the late

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187 For example, an assessment of the impacts of the cyclones and flooding in Madagascar in May 2007 conducted by the Joint UNEP/OCHA Environment Unit of the United Nations concluded that Masoala National Park “did not sustain direct damage as a result of the cyclones”.

188 MNP is under the authority of the MEF, which chairs its Board of Directors.

189 MNP is only responsible for directly managing part of Madagascar’s protected areas.
1980s, leading to a significant decline and aging of MEF staff. This shortage is aggravated by a very uneven regional distribution of forestry staff. As shown in Annex Figure 12, the regional staff distribution is in no proportion to the forest coverage. As forest staff is often not from the region it works in and may not speak the local dialect, it often has difficulty in integrating community efforts and risks to be seen as handmaidens of government reforms that are distant from local concerns. Given that most forests are located in Madagascar’s coastal areas, with about 38% of forest agents working at headquarters in Antananarivo, the forest administration is markedly centralized.

- **Shortage of equipment.** Often, forest agents do not dispose of rudimentary means of transportation and communication. Consequently, they are frequently unable to collect reliable information about the forest under their responsibility and communicate them to the center. Forests staff thus often depends on permit holders for doing their rounds of control.

(b) **Madagascar National Parks and National Park Oversight**

While MNP disposes of significant resources for detecting illegal logging activity, its capability for effectively deterring and prosecuting illegal logging is severely compromised. With a total of 33 staff in Marojejy and 62 staff in Masoala and solid equipment for transportation and communication, at least under normal circumstances, MNP is well capable of monitoring and overseeing the parks. In both parks, amounts of rosewood logged have been closely monitored by park agents. Yet, while the probability of detecting illegal logging activity may be significant, its deterrence effort for loggers is undermined by a low or negligible probability of arrest or prosecution. MNP’s weakness in logging prevention is that it has not been attributed the right to ascertain an infraction, which has remained the reserved domain of the core administration. Thus, to make an arrest, MNP depends on both forest staff and the Gendarmerie, who have little presence and mobility in the Sava region.

A **Joint Task Force (JTF) was created in response to the surge of illegal logging but has shown limited effectiveness.** The JTF was created in October 2009 and comprises the army, police, and gendarmes. The JTF was tasked with sectoral oversight: patrolling the forests, coordinating with the Ministry of Environment and Forests, and arresting those who cut trees. The Task Force patrols in groups of four throughout the Sava Region, particularly in Masoala National Park, Marojejy National Park, and at the Port of Vohemara. In the period of November 30, 2009 to February 10, 2010 approximately 200 arrests were made. However, few of the arrests have led to prosecution. In all cases these were local villagers hired by Timber Barons to cut rosewood and haul it from the forest where a truck would then pick it up. The relationship between the Task Force and the population appears to be positive. The Task Force works effectively with the population through the Committee of Vigilance and Local Security, representing the commune, park staff, forestry department staff and the fokonolona. There have been, however, limitations to the Task Force’s capacity and there has been an important controversy regarding the rising power of the Task Force, partly leading to the departure of forest agents, who were initially part of the Task Force. It was recently dismantled under the suspicion of collusion with the illegal loggers and because it was deemed too expensive in comparison with the results it achieved.

(2) **Political Economy Analysis**

Two remarkable features of Madagascar’s forest administration appear as symptomatic outcomes of the sector’s underlining political economy: First, the striking capacity discrepancy

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190 Interviews with Task Force and the Committee of Vigilance and Local Security
between the core administration and MNP. Second the fact that MNP lacks the decisive authority it needs for countering its most pressing threat: the authority to confront/arrest illegal loggers. Put pointedly, MNP is a park protection authority without ultimate enforcement authority or an established governance framework which allows for critical collaboration to facilitate intervention in cases of illicit activity.

A key reason for the unequal capacity distribution within the forest administration is the presence of powerful interest concerning protected areas – and the absence of similarly powerful interests concerning the management of non-protected forests. As argued in the introduction to this chapter, the conservation of Madagascar’s unique biodiversity has for long drawn major engagement by international conservation NGOs to the country, and Madagascar has been the world’s largest recipient of conservation-dedicated aid. At the same time, at least in the Sava region, the Marojejy and Masoala protected areas have been exposed to the powerful opposing vested interest of timber traders. Compared to this field of conflicting forces, stakeholder interests in timber production in non-protected areas appear as pale. This presence versus absence of powerful interests has affected the forest administration primarily via three channels, as set out in Box 12.

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191 A number of international partners, e.g. USAID and the GTZ have been very active in building capacity for sustainable forest management, but these efforts remain of much smaller magnitude than conservation efforts in protected areas.

192 In non-protected areas, the major interest outside the administration is that of mostly artisanal and informal timber producers, – who, as in gemstone mining, have been operating in the void beyond the grasp of the central administration.
Box 12: Political Economy Factors influencing the Capacity of the Forest Administration

First, powerful conservation interests have shaped and built the capacity of Madagascar National Parks. The institutional set-up of ANGAP and later MNP as an agency at arm’s length from the Forestry Ministry has been powerfully advocated by conservation donors, against resistance within the core administration. This set-up served the goal of building effective management capacity for protected areas, after donor conservation funds had been used unreliably by the core administration. Reflecting this influence, the lion’s share of the MNP budget remains donor-funded. The capacity or existence of MNP would be inexplicable without this inflow of foreign funding primarily directed towards conservation efforts.

Second, in the absence of powerful performance pressures from the outside, the forestry administration has further lost capacity due to long-standing internal politicization. A rapid succession of Ministers – typically with no prior experience in the sector – associated with frequent changes in the hierarchy, has spawned a hostile, dysfunctional climate in the MEF that undermines performance (Rajaonson, 2010). Also reflecting a Merina-Cotier divide between the forestry corps and other crops in the administration, conflicting networks have emerged within the administration, which compete in seeking access to leading positions at every ministerial change. The line of internal conflict is roughly drawn between the two General Directorates – of Forestry (DGF) and Environment (DGE). A marked illustration of this conflict has been the Malagasy representation at the Copenhagen Climate Summit concerning REDD\(^{193}\) funding – both Directorates sent delegations, and both – separately – submitted competing proposals to the UN Secretariat, in order to benefit from REDD funding.

Third, intensive capacity development for protected area conservation has crowded out capacity in the core forest administration. While the extent of such crowding-out effects is debated, there are strong indications that they have been significant. MNP and international NGOs pay a multiple of the public salaries in the core administration and anecdotal evidence suggests that a significant number of former public servants in the forest administration have been absorbed by MNP and NGOs. In addition, vast pay discrepancies have naturally given raise to envy between core administration and MNP staff. These tensions may be important reasons for challenges in the collaboration between MNP and the core administration in arresting /confronting illegal loggers.

The creation of a task force capable of arresting loggers demonstrates that state capacity is unlikely to be the binding constraint for the effective prevention of rosewood logging and enforcement of policies. While capacity and enforcements constraints surely play a role, the fact that the repressive activity of the Task Force focused only on the agents – poor loggers – rather than their well-known principals indicates that the latter are protected by both regional and national political networks. The Task Force leadership itself showed doubt about the sense of punishing the loggers they arrested. With vanilla prices low and few income generating alternatives villagers are obliged to cut precious woods. Arresting lots of people who are only trying to survive brings out local ardor. By contrast, there have been no arrests of exporters. Task Force members and officers both point to a limited mandate and capacity for upwards accountability.\(^{194}\) The accusations that Task Force members and officers alike profit from working with exporters have contributed to the decision on its abolishment. More recently, with the change of leadership in the Ministry of Environment, enforcement of the export ban has actually improved a lot. The challenge is that cutting goes on in the forest (although at a reduced rate and very difficult to enforce) because the operators still assume that they may be able to benefit from an exception one day.

\(^{193}\) The UN-REDD Programme is the United Nations Collaborative initiative on Reducing Emissions from Deforestation and forest Degradation (REDD) in developing countries. Madagascar’s participation in the REDD program could generate significant international financial support for reducing emissions.

Delegated Forest Management and Oversight by Local Communities

(3) Institutional Arrangements

As part of the New Forest Policy, the GoM has established the legal basis for delegated forest and protected area management by local communities. The legal basis consists of the Law n° 96-025 of 30 September 1996, concerning the Local Management of Renewable Natural Resources (GELOSE), its application decree Nr. 2000-27 of 13 January 2000 and of decree Nr. 2001-122 of 14 February 2001, defining the implementation conditions of communal forest management (GCF).

While there has been significant demand by communes for participating in the delegated management scheme, its coverage remains limited. Only less than 1/50 of Madagascar’s total forest surface is by delegated management contracts (“contrats de transfer de gestion”). In 2002, 104 delegated management contracts had been signed for a total surface of 141,644.8 hectares\(^{195}\). The effectiveness of delegated managed is mixed: Where supported by capacity building and complementary support measures, it has been effective.

In the periphery of some National Parks, delegated management contrasts were encouraged in view of engaging local village communities in forest conservation and oversight – with mixed results. Overall without significant additional sensibilisation measures and economic incentives, the local population has been hard to mobilize for exercising a watchdog function or for refraining from actively participating in the logging activity. For example, around Marojejy National park, 31 structures have been created by MNP to interface with local communities.

(4) Political Economy Analysis: Local Community Engagement an Civil Society Oversight

(a) Local Communities

The economic interest of local village communities has played a key and contradictory role in the rosewood trafficking discourse. On the one hand, community members generate income by logging Rosewood or dragging it out of the forest work for Timber barons. The dire economic straits of the local population have been used by the government as a justifying in favor of Inter-Ministerial Decree 38244 (Rosewood inventories). On the other hand, hopes have been placed on local communities that they might act as an watchdog that can provide early warning of illegal logging activity in protected areas, in particular if they directly or indirectly benefit from forest conservation (e.g. through revenues from ecotourism). This section seeks to briefly highlight the major economic incentives of local communities and the major (exogenous) forces that influence their role in Rosewood trafficking.

The major driver of local communities’ role in Rosewood trafficking has been the vanilla production in the Sava region:

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\(^{195}\) Source: Direction Générale des Eaux et Forêts, 2002.
Box 13: Channels connecting Vanilla Production in the Sava Region to Rosewood Trafficking.

First, a dramatic world market price drop for the Sava region’s major cash crop in 2003-2005 has created economic pressures for local producers to seek alternative sources of income. The Sava region is a world leader in vanilla production. This has long been the backbone of the local economy. However, whereas the international market price of vanilla continued to rise from US$50/kg in 1999 to a peak of $400/kg in 2003, by 2008 it had dropped steadily to $18/kg. Today the international commercial market rate is approximately $US28/kg.196 Local farmers now receive approximately 1000 AR (US$0.47) per kilo of green beans. It takes 5 kg of green beans to make 1 kg of commercial grade vanilla with a producer value of about 12,000 Ar (US$5.57). At the same time, production has fallen from a high of 1126.9 tons in 2005 to 680 tons in 2009. As 5kg green is approximately one whole vanilla plant’s production, the potential earnings for producer are scant. Both the producer and the vanilla company suffer.

Second, destruction of cash crop harvests by cyclones present an important income risk factor for local villagers. Cyclones have in the past destroyed harvests in the Sava region, and at the same time have provided an excuse for intensified Rosewood logging under the cover of “collection permits.” Cyclones thus “naturally” generate an employment opportunity for villagers, allowing a partial compensation for their losses due to (vanilla) crop destruction. According to Ormsby and Kaplin, it is nearly impossible for locals to resist short-term gains from forest exploitation and other illegal activities (e.g. lemur hunting) in the wake of cyclones (Ormsby and Kaplin, 2005).

Together, dire economic pressures due to the vanilla price decline, and pre-existing economic dependency on the Timber traders create powerful pressures on local village communities to work in or facilitate the Rosewood trafficking.

By contrast, community revenues from ecotourism remain rather limited. Communities adjacent to the National Parks receive 50% of the entrance fees and benefit from employment creation through tourism (as park guides, restaurants, accommodation etc.). Yet, the number of tourists visiting the Marojejy and Masoala National Parks has been too low for generating significant revenues to local communities. As shown in Figure 20, the yearly number of visitors to each of the two parks has been around the 3000-mark over the past years, or about 10-15 per day. This is less than a 10th of the number of visitors to each of Madagascar’s most visited parks, such as Isalo, Andasibe and Ranomafana, partly because the Sava region is off standard tourist routes. As can be seen in Figure 20, tourism is highly sensitive to political crises. Following the 2009 crisis, it has dropped by over a third and Marojejy was temporarily closed. Overall, it appears unlikely that in the short-term ecotourism revenues provide a strong incentive for more than a few community members to prevent Rosewood logging.

Communities in the Sava region are exposed to exogenous shocks that threaten their livelihoods and may drive community members to seek employment in Rosewood logging. Given the confluence of multiple shocks prior to 2009, it seems plausible that villagers’ desperate need for employment has facilitated the recent surge of illegal logging. Economic strain caused by the breakdown of vanilla earnings, vanilla producers’ exposure to the power of Timber traders, the breakdown of ecotourism following the 2009 crisis and the presence of armed gangs combine to a powerful set of incentives to engage in or facilitate Rosewood trafficking.

(b) Civil Society Oversight

Civil Society is starting to play a significant watchdog role for protected areas in the Sava region. In many countries where state capacity is trumped by personal leadership civil society organizations serve as both information conduits and watchdogs (Kenya and Zambia serve as examples). In the case of the forestry sector in Madagascar, the picture is mixed. International

196 Figures from the Ministry of Agriculture.
conservation NGOs have a strong and longstanding presence in the country. Domestic environmental CSOs are emerging in the capital and have played an important watchdog function in the current logging crisis. By contrast, local NGOs in Northeastern Madagascar do not play a significant watchdog role. Civic groups are divided between associational groups (for farming and other community activities) which lack capacity and mandate to civicly engage and non-government organizations. Most commonly these local NGOs are funded as service providers for large international NGOs. Some are highly effective at their principal task (such as animating community based associations) but none are charged with watchdog tasks and few hold information dissemination capacity. Thus while leadership of local NGOs are good sources for what is happening “on the ground” they cannot, under current design, be expected to provide social, political, or economic safeguards. The freeze of most new donor funds in 2009 strongly reduced funding significant projects on the ground, further limiting local NGO capacity.

4. Revenue Collection from Precious Wood Exports

Major formal public revenue collection from precious wood exports since September 2009 has been a premiere for Madagascar. It points to both opportunities and risks:

It demonstrates the Malagasy state’s ability to enforce precious wood taxation relatively effectively, enabling it to capture at least a significant share of the loss in natural assets due to illegal logging for public, rather than private revenues. However, it also highlights the risk of an unsustainable “sellout” of Madagascar’s natural assets, driven by short-term interests of political elites.

a) Institutional Arrangements

The significant formal tax collection from rosewood exports by government in 2009 is a premiere in Madagascar. While hard to prove, there can be little doubt that political elites have reaped private benefits from facilitating rosewood exports in the past. But until September 2009, the state only collected a minor share of the rosewood export value as formal revenues. A recent simulation (PGM-E, 2009) suggests that if the former tax regime was enforced effectively, the Malagasy government would only collect about five percent of the total rosewood export value (see Annex Figure 13, Chart 1). As described in Section 2 of this chapter, Inter-Ministerial Order No. 38244/2009 of 21 September 2009 fundamentally changed this. It levied a rosewood-specific export tax (“redevance d’exportation”) of 72 million Ar or about $34,000 (US) per container of exported rosewood. Under this new regime, the overall effective government tax rate amounts to about 30 percent of the total export value (see Annex Figure 13, Chart 2). Revenue collection from the new tax between October 2009 and March 2010 may possibly have amounted to $30-40 million (US) or 5-10 percent of total government revenues in 2009 (estimate).

Most rosewood exports since September 2009 have been taxed rather than seized by government. Decree Nr. 38244/2009 also previews the seizure and auctioning of precious timber. Annex Figure 13, Chart 3 shows the approximate rent allocation that would occur if the state seized and auctioned rosewood. Rather than only 30 percent, government would capture

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197 Domestic civil society organizations need to be carefully distinguished from international conversation NGOs (WWF, Conservation International and others), which have exerted major influence in Madagascar and exercise an effective watchdog function. This is for example prominently demonstrated in a recent Global Witness report (2009), which evidenced the extent of illegal logging in the Sava region.

198 Prior to Inter-Ministerial Decree 38244 of 21 September 2009, the only taxes levied on formalized rosewood exports were the export fee (5 percent of FOB export value) and the collection fee for timber (500 Ar/kg) The export fee is applicable to most exports. Data on actual revenues collected from formal rosewood exports prior to September 2009 is not available.

199 Assuming an estimated average market value of 140,200 US$ per container (PGM-E, 2009). According to Inter-Ministerial Order No. 38244/2009, five sixth (60 million Ar) of the tax are directed to the general budget and one sixth (12 million Ar) benefit the so-called “Action against the Degradation of the Environment and of Forests” (“Action contre la Dégradation de l’Environnement et des Forêts”, ADEF).

200 In this case the total size of the “pie” exceeds 100% of the rosewood export value, assuming that at the time of seizure, the agents
about the full rosewood market value.\textsuperscript{201} Yet, despite this significant revenue potential, strikingly, this provision has apparently only rarely been applied in practice.

\textbf{b) Political Economy Analysis}

\textbf{Effective collection of major tax revenues from rosewood exports reduces the plausibility of a pure “state failure”-explanation for the surge of rosewood logging in 2009.} Following the 2009 crisis, Madagascar has clearly suffered from a breakdown of state capacity and a weakening of rule enforcement. This breakdown has also facilitated the surge in illegal rosewood logging, in particular by undermining the authority of enforcement agents. Yet, effective rosewood taxation rather indicates an increase than a loss of state capacity in the sector’s management. Lack of authorization from the Sava office of the MEF and from the Customs stopped the illicit shipment of logs in existing empty containers in Sava’s ports. Effective rosewood taxation is a telling premiere in demonstrated state capacity for enforcing tax collection on a natural resource. First, the fact that state control was exercised to generate tax revenues stands in contrast to dominance of private rent seeking in other countries.\textsuperscript{202} Second, it is noteworthy that such effective public revenue collection does neither have an equivalent in collection of revenues from timber concessions in non-protected areas nor in natural resource taxation in the mining sector. Revenue collection from gold and gemstone mining is negligible and royalty payments by industrial mining are not indicative of state capacity as they are largely “self-enforcing”\textsuperscript{203}, as argued in Chapter 2.

Legalizing but taxing rosewood exports in a new order of magnitude can be seen as a win-win “deal” between the transition government political elites and the Sava region’s timber trading families. This could be the case for the wood that has already been cut and is mostly hidden in the area, since timber exploitation from National Parks remains prohibited. Decree Nr 38244/2009 can be seen as a win-win deal that accommodates timber traders’ political sway (by legalizing exports), while at the same time generating tax revenues for the transition government from the exported natural assets. Taxation is a zero-sum game. 30 percent of government tax revenue capture of the rosewood export value means 30 percent revenue-loss for timber traders. Yet, if government has some ability to open or close the gate for formal exports, it can compensate timber traders for tax losses by granting them additional export quotas.\textsuperscript{204} In “bargaining” with the influential Sava families, political principals in Madagascar thus could “trade” export quantity for a share in the rosewood rent – either for their private benefit or for generating public revenues. By contrast, seizing and auctioning rosewood would probably have brought timber traders in opposition to the transition government and possibly endangered its hold on power. Such a “deal” is consistent with North’s view of the logic of a Limited Access Order, in which a dominant coalition of influential elites “trade” rents in balance with their

\begin{footnotesize}
\textsuperscript{201} According to Decree Nr. 38244/2009, revenues from confiscated and auctioned precious timber are shared between the general budget (30%), a National Forest Fund (FFN) (40%) which is administered by the Ministry of Environment and Forestry, and the enforcing agents (“agents verbalisateurs”, 20%). 10% are distributed in equal shares between communities “communautés de base” and security committees having participated in the control operations (according to Order 7604/2001 of 17 July 2001\textsuperscript{205}) (Source: PGM-E, 2009).

\textsuperscript{202} For example, in Zaire in the 1990s, private rents were directed to personal bank accounts of political elites in Switzerland. In Rwanda in the late 1980s they served vested individuals outside of the governing body. There are unproven accusations that the weight estimates of containers have been intentionally inaccurate to ensure personal benefit to individuals in power. These accusations are based on the inconsistencies of documented receipts by (Chinese) companies importing the rosewood. Even if this is the case, it is a further indicator of a lack of institutional capacity to contain the executive branch but it doesn’t change the central tendency of the neopatrimonial relationships.

\textsuperscript{203} Chapter 2 argues that, given their governance structures, international mining companies face no incentives to openly evade taxation.

\textsuperscript{204} Article 2 of Decree No 38244/2009 previews an additional 25 containers per exporter.
\end{footnotesize}
respective sources of power, while subverting institutions in order to generate or preserve rent-seeking opportunities (see Chapter 1). It is also characteristic of neo-patrimonial governance, as opposed to other forms of clientelistic behavior.

This “deal” in turn responded to a political economy equilibrium shift following the 2009 political crisis. Three shifts of political economy factors may potentially explain why it became attractive for the transition government to exceptionally “legalize” and tax the timber exports resulting from the surge in rosewood logging, as summarized in Box 14.

Box 14: Shifts in Political Economy Factors possibly Motivating “Legalization” and Taxation of Rosewood Exports by the Transition Government.

First, fiscal strain associated with the political crisis and political pressures for civil service salary payments augmented pressures for revenue collection. Given a dismal economy and a freeze of aid following the 2009 coup, total government revenues in 2009 were expected to make it difficult for the transition government to pay the wage bill. Yet, as shown in Chapter 1, the ability to pay civil servants and preserve the loyalty of the military is key for the transition government’s political survival, in order to prevent public unrest. The ousting of President Ratsirka from office in 1990 following mass protests sets the historical example. While it is not possible to corroborate the motivation of tax collection or the revenues’ use with evidence, it seems plausible that rosewood taxes served the transition government to pay public salaries.

Second, the accountability of transition government political elites to international partners advocating conservation interests had drastically weakened compared to its predecessors. The Ratsiraka (1998-2002) and Ravalomanana (2002-2009) Presidency both sought close alignment with international donors, mobilizing aid flows that amounted to a major share of government revenues. Given these close ties to international influences, the political costs of facilitating a surge of rosewood logging of the dimensions seen in 2009 – or participating in the rents generated – would seem prohibitively high. But aid flow have practically broken down for the transition government leadership, following the international condemnation of President Rajoelina’s accession to the Presidency as illegitimate, drastically weakening the incentives of transition government political elites for seeking legitimacy in the eyes of the international community. Consequently, the influence of international partners (and NGOs) as the major countervailing force that contained rosewood logging in the past (see Section 2) has lost much of its weight, reducing the political cost for the transition government elites of giving in to timber trader’s pressures.

Third, government responsiveness to shifting pressures may be enhanced by decision-making on a short-term time-horizon. By definition a transition government, the chances of the transition government leadership for staying in power are highly uncertain (see Chapter 1). Optimizing on a short-term time horizon, political leaders are thus likely to strongly discount future costs of policy-making in favor of current benefits. Short-term benefits – preventing public discontent by paying salaries and likely large-scale private rents to political leaders from the rosewood trade are thus likely to trump long-term interests in forest conservation and viable relations with the international community.

The exceptional “legalization” and taxation of rosewood exports can be interpreted as a rational response by the transition government political elites to shifting political economy forces. Starting in early 2009 and facilitated by inter-ministerial decree No 003/2009 passed at the end of the Ravalomanana administration, the surge in illegal logging represented a highly visible opportunity for rent-collection to the incoming leadership. On a short-term horizon, capturing part of this rent to (possibly) sustain the loyalty of the civil service and the military appears a rational response to enhanced fiscal strain and weakened accountability to the international. The fact that the transition government issued a decree in March 2010 that banned

205 The logging surge has for example provoked a formal condemnation by the US congress and high-level diplomatic interventions at the Presidency to stop the logging.
logging and export of rosewood and ebony (Decree Nr 2010-141) does not necessarily contradict this logic. As a short-term response to massive international pressure, the decree would only threaten timber traders’ commercial interests if it was upheld in the long run. It will be telling to observe how political elites will respond to mounting export pressures by the Sava timber traders over the coming months and years.

D. The Political Economy of Rosewood Logging in Protected Areas

1. Stakeholders, Institutions and External Influences

Drawing on the findings of the detailed value-chain analysis, this section provides an analysis of the incentives, constraints and positioning of major stakeholders who influence rosewood logging in Madagascar. Table 3 highlights the major incentives for and against facilitating rosewood logging that these actors need to balance in choosing their action. It also points to important contingency factors, in particular external influences and exogenous market factors that stakeholders’ decisions depend upon. The section also highlights the role of political institutions, external influences and exogenous factors on illegal logging. It concludes with a dynamic view of how political economy drivers have changed over time. Regarding sustainable forest management, it provides a concluding overview of the absence, rather than presence of political economy stakeholders.

Timber Traders in the Sava region are the major driver of illegal rosewood logging and are highly influential in Madagascar’s political networks. The timber-trading Sava families are not part of the central business elite that dominates Madagascar’s overall political economy. In the main they are, as described in Chapter 1, part of an established network of powerful local families. Yet, their long-established local power-base and wealth ensures them significant political sway at the center, which reaches the degree of state capture (see Section 2). Once, local parliamentarians from the Sava region relied on vanilla for their electoral campaign financing (i.e. handouts to the population) and then serve as their mouthpiece within central government. Today, parliamentarians and local leaders rely on financing by Timber Traders. The Sava families control over the precious wood trade from the region and have significant market power for generating rents. They do not only dispose of major financial means, but the presence of armed gangs in the rosewood forests also indicates that they have access to violence and are ready to use it to secure their interests. Strikingly, their identities are published and common knowledge, yet they conduct their business in quasi-total impunity, indicating that other members of the dominant coalition cannot afford to threaten them. As a consequence of their influence, the history of rosewood logging is checkered with export interdictions and renewed exceptions, reflecting the inability of political elites to effectively oppose their influence in the longer term. Given that export bans have had a short life expectancy in the past, they only delay, rather than diminish, the rents of Timber Traders.

Evidence suggests that political elites balance the need to accommodate Timber Traders’ commercial interests and the need to preserve legitimacy in the eyes of international partners. On the one hand, they must not put too tight limits on the profit interests of the Timber Barons. This would not only run counter to their personal rent-seeking interests, but possibly threaten their hold on political power the stability of the dominant coalition. Rosewood rents may also have become an important source of budget revenue. On the other hand, the massive inflow

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206 The degree of rent extortion through market power is evident in the minor fraction of the rosewood rent that local workers involved in the rosewood trade earn for their work, with about 90% of the rent occurring to the Timber Traders. As local populations depend on the powerful traders in many ways and as they hold exclusive trading relationships with international buyers, there is no competitive market for rosewood.
of international funding for biodiversity conservation from NGOs and donors provides politicians with a powerful incentive to comply with international pressures.

**Political will provided, the government has significant enforcement capacity for controlling illegal logging in protected areas.** Significant parts of the administration have for long actively engaged in facilitating the rosewood trade (forest agents, transport police, customs). High private rents from the illegal rosewood trade have generated powerful incentives and means for local state capture. Yet, a strong inflow of external funding to Madagascar National Parks, the park oversight agency, has created significant capacity and incentives for rule compliance. The enforcement capacity of National Park agents has however been hampered by the fact that only foresters that are part of the core administration are allowed to arrest illegal loggers. The fact that the park oversight agency has no authority to effectively exercise this oversight is likely to be the Achilles heel of the enforcement system.

**There are confluences of shocks that drive villagers to participate in the cutting of precious woods.** First, the price of vanilla has fallen sharply in a region where most villagers are producers. World vanilla prices have dropped from peak levels of $400/kg in 2005 to less than $30/kg. Second, significant cyclonic activity has had deleterious effects on vanilla production and other livelihood aspects in Sava. Third, the political crisis and the global economic downturn have reduced already low tourism. Fourth, villagers complain of a carrot and a stick from exporters: work for them in the rosewood trade (for, generally, 10,000 Ariary per day) or no one will buy your vanilla.

**Domestic public pressure on political principals to prevent rosewood logging or strengthen forest management exists, but is generally weak.** As argued in Chapter 1, politicians’ electoral incentives focus on urban rather than rural communities. Yet, politicians for example may have electoral incentives to improve education and health services in rural areas in view of gaining rural votes, because village schools and health centers represent the visible “embassies” of the central state in the field. By contrast, domestic constituencies for the public good of sustainable forest management or conservation do not have significant electoral weight. While the conservation movement in Madagascar has been carried forward by Malagasy academics from the University of Antananarivo, to date they remain part of a relatively ineffective part of civil society and do not shape an influential political pressure group. Local economic interests of villagers (e.g. Tavy agriculture) or precious wood merchants often are directly opposed to sustainable forest management and protection policies aimed at preserving the commons, at least in the short term. In addition, electoral politics are generally focused on the capital and urban centers. Civil society at the centre concerned with forestry remains very weak and is little representative, mostly being driven by individuals.

**The accumulation of contradictory regulation on rosewood exports is a powerful indicator of the general weakness of institutional checks and balances to executive power in Madagascar.** As argued in Chapter 1, political institutions are generally subservient to political elites in Madagascar and have, in the main, further weakened since the transition government came into power. The weakness of institutions is powerfully reflected in the governance of rosewood logging. The legislature has enacted forest legislation but the legal framework governing the sector is regularly subverted by executive decree. Whereas a strong administrative jurisdiction would avoid or react to contradictory regulation passed on rosewood exports, the

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207 Source: Interviews with MNP staff, Sava Region, February 10-12, 2010.
208 Marojejy National Park was closed for part of 2009 for security reasons. Tourism dropped from over 1000 to less than 600. Individual tourists also spent less within communities. Interviews with MNP staff, February 10-12, 2010.
Supreme Court has not taken action to this end. Ambiguous regulations in turn provide criminal courts with a powerful argument for justifying the exculpation of the accused, in accordance to the presumption of innocent until proven guilty, thus, enhancing impunity. Contradictory and ambiguous regulation can be a desirable outcome in the logic of the natural state. It creates the latitude of rules needed to allow the executive to produce the opportunities for rents needed for whoever is within a particular political network in power in spite of formal institutional bounds.

### Table 3. Stakeholder Incentive Matrix

<table>
<thead>
<tr>
<th>Actor</th>
<th>Incentives (pro logging)</th>
<th>Constraints (contra Logging)</th>
<th>Positioning (action options)</th>
<th>Positioning contingent on:</th>
</tr>
</thead>
</table>
| Timber Barons (Private Sector) | • Rosewood rents  
• Vanilla rents | • Impunity – little risk of sanctions  
• Low expected returns (e.g. because of effective control) | • Constraint or unconstraint Logging activity | • Export Regulation  
• Strength of Park Oversight  
• Vanilla price |
| Political principal (Public Sector) | • Rents from Tiber Barons | • Checks & Balances / Political institutions  
• Legitimacy vis-à-vis external influences  
• Political pressure from domestic constituency  
• Discipline, sanctions  
• Job motivation / Professional Integrity | • Facilitative versus Impeding Regulation  
• Strengthen versus weaken enforcement capacity | • Fiscal pressures on government  
• Overall political economy  
• Strength of accountability to external influences  
• Strength of authorizing environment from political principals |
| Local Administration / Enforcement Agents (Public Sector) | • Bribes and threats from loggers  
• Income, career incentives | | • Collude versus obstruct | |
| Rural Community members adjacent to Parks | • Illegal logging as a source of livelihood  
• Alternative sources of livelihood  
• Alternative income opportunities | | • Provide Labor versus Exercise Oversight | • Income from ecotourism  
• Income from agriculture  
• Income from conservation |

*Source: Authors.*

The strong interest of the international community in conserving Madagascar’s unique biodiversity endowment has been the major counterbalancing factor to the Sava families’ commercial interests. International NGOs, such as CI, WCS, WWF\(^2\) and others have a long-standing presence in Madagascar and, together with Malagasy scientist, have been at the forefront of protecting Madagascar’s biodiversity endowment. Since the late 1990s, multi-and bilateral donors have dedicated large-scale technical and financial support to biodiversity conservation efforts (Environmental programs 1 to 3). A major inflow of financial and technical support has generated powerful incentives for politicians to comply with international demands.

regarding conservation efforts, with funding via the Environmental Programs amounting to a total of about US$400 million in total since 1990\(^\text{211}\). This represents a major source of budget inflows for a sector that has been poorly funded before.

2. **A Dynamic Perspective**

The evolution of rosewood logging in the Sava region over the past decade has been primarily driven by a balance between the Sava families’ rent-seeking interests and international support for conservation efforts. How have these two principal drivers changed over time? Annex Figure 15 provides a time-line of key exogenous factors that influence these drivers, the major resulting governance changes — a highly volatile regulation — and an approximate indicator of rosewood logging as the principal outcome (number of stumps found in Masoala national park). Since 2005, the rent-seeking interests of the Sava regions’ big families have fundamentally altered. With the breakdown of vanilla prices in 2005, their major source of traditional rents has become much less lucrative. As the Timber Barons are also the historically embedded vanilla barons, new networks — and supply chains— for rosewood trafficking could rapidly be grown through existing networks. Rosewood has, at least to some extent, been a ready source of replacement. With the livelihood under threat, local vanilla producers faced incentives to work as loggers. At the same time, over the past two decades, the government received major financial and technical support for conservation in the Masoala and Marojejy National Parks. As shown in Annex Figure 15, the volatile regulation which has emerged primarily after the slump of vanilla prices reflects the attempts of political elites to accommodate both forces.

The transition government’s decision to partially authorize the surge of rosewood logging in 2009 can be interpreted as a rationale response to fiscal pressures and to a rebalancing of these forces. On the one hand, economic recession and a freeze of aid inflows have put the transition government under heavy fiscal strain. On the other hand, taxing, rather than seizing exported rosewood has provided the transition government with a crucial source of revenues, while at the same time (pre)serving the interests of the Sava trader families. Permanently stopping rosewood exports in response to international pressure will thus come at a high political cost for the transition government.

The key consequence for donors’ engagement in Madagascar’s forest management is that, without external intervention, Madagascar cannot sustain an equilibrium, in which rosewood logging is effectively constrained in the foreseeable future. To the contrary, international partners are the only powerful countervailing force to timber traders’ vested interests. It is their engagement in the sector that has shifted the equilibrium towards some protection of Madagascar’s natural habitats. Donors’ role thus is not one of a catalyst, seeking to bring forth a self-sustaining equilibrium in the sector between domestic forces. Their role can instead be one of an actor, whose permanent engagement is required to shift the balance towards a sustainable use of Madagascar’s precious timber assets in the public interest.\(^\text{212}\)

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\(^{211}\) Source: Carret et al. (2010). World Bank

\(^{212}\) This is not a new phenomenon as donors have been perceived as actors in previous conflicts in Madagascar. See: Rasendratsirofo, Elyette “La Pression des Bailleurs de Fonds” in Madagascar Émergence: les cultures malgaches après l’affrontement politique. Paris : L’Harmattan (2003). The role of the French as interlocutor has been well documented but it is notable that the United States also has a long history of actor intervention in Madagascar dating to the pre-colonial era. See: Razi, G. Michael. *Malgaches et Américains: Relations Commerciales et Diplomatiques au XIXème siècle.* (1981)
<table>
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<tr>
<th>Key findings</th>
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Alternation of interdictions and exceptional permits for rosewood exports are likely to be a strategic response by Malagasy political elites to competing influences by Timber Traders and international conservation pressures. While political elites seek to preserve legitimacy in the eyes of donors and NGOs who fund biodiversity conservation, they cannot more than temporarily threaten the rent sources of the powerful Sava families, without destabilizing the rent equilibrium in the Malagasy elite. Putting a more than temporary halt on the rosewood trade would be destabilizing and possibly fuel political instability.

Within the logic of the Malagasy patrimonial state, the recent surge in illegal logging in protected areas can be interpreted as a rational response by the transition government to fiscal pressures, and a weakening of international influences. It was crucial for the transition government to pay civil servants and the military in order to stay in power. Pressed for alternatives, facilitating rosewood logging while taxing its export (formally and informally) offered a rapid and rich source of rents and revenues which may have been used to this end. At the same time, skyrocketing rosewood export volumes served the interests of the Sava elite. They are not primarily a consequence of lacking state capacity.

Lack of access to enforcement authority against illegal logging is the Achilles heel of Madagascar National Parks in protected areas. A hiring freeze, politicization, brain drain and insufficient incentives make the MEF incapable of overseeing forests and protected areas. By contrast, MNP has significant capacity, but lacks authority or an effective governance framework for collaboration with other government agencies for making arrests.

Local Communities in the Sava face strong incentives for facilitating, rather than obstructing rosewood logging in protected areas. A dramatic fall of vanilla prices, the region’s major cash crop, has created pressures for alternative income opportunities. Local producers depend on Timber traders for selling their vanilla crops. Frequent cyclones risk destroying crops while creating employment opportunities in rosewood trafficking. Income from ecotourism is insufficient to balance these incentives. They perform no significant watchdog function.
IV. Chapter 4: Conclusions and Outlook: Implications for Development Effectiveness

A. Key Findings in Perspective

**Overview**

Madagascar’s political and governance institutions constrain development effectiveness and have been both a cause and a consequence of political crises. (Chapter 1)

- Formal authority is traditionally centralized under a President, who has a near-imperial role, with minimal checks on accountability from the institutional mechanisms intended to ensure horizontal accountability, such as Parliament and the Judiciary.
- The President of the day, and political parties, are tied into a neo-patrimonial rent–seeking mechanism based on patron-client relations that deliberately blur the boundaries between public and private spheres.
- Elite bargaining is fragile in such rent-seeking arrangements, with both political and economic consequences:
  - New political allegiances are regularly formed to topple successive governments in a context of increased presidential use of power.
  - Elite bargaining over economic rents, especially increased opportunities in natural resource rents, may also have contributed to the instability underpinning the political crisis. The political crisis has in turn contributed to the current economic crisis.
- Non-competitive political and economic institutions which are subservient to the elites are among the key challenges to effective governance. Interference in the application of the legal framework has resulted in widespread impunity for both political and economic elites and other stakeholders, adversely affecting development effectiveness.
- Effective demand for reform by non-state stakeholders is weak, especially in civil society (see Annex II on Civil Society).

**The Political Economy of Mining (Chapter 2)**

- As political power is concentrated and policy commitments are difficult to make due to the fragility of elite bargains, Madagascar is vulnerable to a resource curse dynamic given potential future income from mining.
- Transparent mining rights and revenue management is undermined by the rent-seeking logic of the neo-patrimonial state.
- Inequitable redistribution of mining revenues among affected communes reflects centralized neo-patrimonial state of policy-making, with minimal bottom-up accountability.

**The Political Economy of Forestry (Chapter 3)**

- Persistent logging of precious timber in the Sava region’s protected areas is the result of state capture by local timber trading elites.
- It leads to a severe loss of Madagascar’s natural capital and potential government revenues.
- There is no strong domestic constituency with sufficient political or economic weight for containing rosewood logging. The international civil society and donor community has employed significant efforts to fight such logging.
This conclusion and outlook present selected initial implications for development effectiveness in Madagascar. Chapter 4 seeks to inform Bank reengagement, future CAS design and implementation, with a view to enhance development effectiveness. Based on the analysis in Chapter 1, it sets out some preliminary general lessons as to how Madagascar’s political economy limits the reform space for development effectiveness. In the light of this overall political economy context, it then provides specific recommendations for the two sectors that this study has focused on, mining and forestry.

B. A Limited Reform Space for Development Effectiveness

This review has argued that neo-patrimonial rule in Madagascar delimits the reform space for development effectiveness. Rather than acting kleptocratically or in absence of state structures, neo-patrimonial leaders use rents to maintain a balance of privileges between elites who are often part of the legitimate state apparatus within an established but weak system of political institutions. In line with North et al.’s (2009) logic of the Limited Access Order, this balance of privileges is crucial to stabilize the Malagasy social order by preventing influential elites from defection from a dominant coalition and fuelling crisis. Malagasy elites have evolved over the past century from the noble class Merina families to the “big families” to a new business class which has risen over the past two decades, mainly deriving its rent from light industries. The Malagasy system of neo-patrimonial rule delimits the reform space for development effectiveness in four major ways:

There is no shared vision of long-term development effectiveness among the ruling elites. Political and financial elites are driven by short-term considerations, often more personal than shared visions and goals. These incentives can differ from elite group to elite group, including from one big influential family to another. Some parts of the elites in Madagascar tend to believe that they have the answer to the country’s development conundrum, and appear less concerned with the collective well-being of the nation. There appear more concerned with incentives of achieving, maintain and expanding power, ensuring loyalty among its followers and accumulating wealth. Elite-bargaining thus plays an important role in this process. Given the strong role of the elites, and the weak role of domestic constituencies, whether from the public sector, the private sector or civil society, there is little pressure to counter these incentives and to carry out fundamental reforms to enhance development effectiveness, which might pose a threat to the existing order. In periods of growth and in times of strong donor support, there are even less incentives to undertake reforms. Even in times of political and economic crisis, there has been little move towards necessary reforms, as opposed to other countries with sharply reduced fiscal space, where reform-minded governments have undertaken unpopular, but necessary reforms. Concepts such as development effectiveness, which in Madagascar are perceived as external, western concepts, are often endorsed only half-heartedly. While lip-service is paid and some reforms are undertaken, the underlying incentives and vested interests ensure that the reforms undertaken do not go beyond the comfort zone of the elites and that any reform consequences that might have negative personal implications are not applicable to the elite.

Efforts to promote policy reforms and to strengthen institutions will find their limits where they threaten the balance of privileges that sustains the stability of the Malagasy social order. As shown in Chapter 1, political and economic institutions are highly malleable and subservient to the interests of political elites. They will remain largely immune to externally-motivated policy-reforms that are not fully endorsed by the Presidency and the elites. The Presidency has a near-imperial role and faces minimal checks and balances through a horizontal or vertical division of powers. Some reform efforts, such as decentralization, constitutional and electoral code reforms have been used as political tools to strengthen the bulwark of the sitting
political elite, rather than constraining it. Other reforms, supported by donors, such as in public financial management, have shown some progress, but their lasting effects have been limited, as many have been at least partially reversed by the latest crisis. This is further reinforced by the absence of effective political checks and balance. This enables elites to use office for distributing rents across client networks (e.g. in public procurement) and thereby ensure and intra-elite-balance of privileges and stability of the Malagasy social order. By contrast, competitive, open-access institutions tend to diversify stakeholders and limit rent-seeking opportunities. Reform efforts aimed at strengthening competitive institutions that thus threaten the intra-elite-balance of privileges as thus likely to meet resistance or be subverted. This can be illustrated by the following examples, e.g. BIANCO’s failure in prosecuting grand corruption, discretionary political interference in transparent mining right management and the permissive regulation of rosewood exports under the influence of Sava elites.

**Capacity-strengthening efforts risk to be undermined by politicization from the top.** Madagascar’s public sector has sometimes shown significant capacity, but is exposed to politicization and interference from the top and from outside. For example, since the 1980s, the technical capacity of both the Ministry of Mines and the Forest Administration has been rapidly eroded, leaving them with a relatively over-aged and understaffed workforce. The Ministry of Mines has only limited capacity in coping with the complex challenges of overseeing industrial mining projects. Both ministries have been highly politicized by neo-patrimonial networks, resulting not only in staff disengagement, but also in insufficient policy implementation, ultimately contributing to reduced development effectiveness. Strengthening capacity at technical levels is thus an important, but insufficient condition for improving governance and development effectiveness in Madagascar, as such efforts risk being undermined by politicization and interference from the top in neo-patrimonial rule. This leads to a perception of a selective application of the legal framework and widespread impunity for the country’s elites.

**Effective demand for reforms conducive to greater development effectiveness is low.** Large parts of the Malagasy population are excluded from policy-making. Given the capture of formal oversight institutions and the weaknesses of informal oversight mechanisms, there is no effective pressure to demand reforms. In Madagascar’s neo-patrimonial rule, the state apparatus is at the service of a ruling elite, rather than of the population. Madagascar’s history of Merina-cotier identity-divides, a rural-urban economic divide and strong centralization of the state reinforce this disconnect between the central state and the majority of the population. The private sector, particularly business elites rather benefit from deals with the political elites and seek their support, rather than opposing them and demanding pro-business reforms. Given the perception of collusion between political and economic elites, the private sector, particularly its business elites, appears largely unable and unwilling to play a role as a driver of reforms, as in other countries. Civil society in Madagascar is markedly weak (unlike in other LAO contexts) and unable to be effective agents of voice to pressure for good governance. In spite of democratization, the deeply rooted centrality of the state has ensured that most associations, where they exist, lack the capacity to interact with the political sphere. Civil society organizations are largely dependent on their elite leaders yet such leaders tend to be politically embedded and disconnected from their constituent bases. Several media are controlled by key political actors and the violent use of media for power struggles is not uncommon, as happened in 2009. This is compounded by the absence of transparent information. Access to information is limited and there is no freedom of information system. Overall, citizens are not empowered to have a full voice in development, and have limited capacity to stand up for their rights and to demand greater accountability and transparency. Given the political instability and the perception of selective application of the legal framework and a widespread impunity, there is also a sense of fear, limiting opportunities for citizens to speak up effectively. Consequently, the ability of citizens to act individually or
collectively to hold government accountable is significantly constrained. While recommendations are beyond the scope of this analysis, it should be noted that there are still areas that are worthwhile supporting. Even though limited, the reform space could be used to explore options to the highlight the importance of checks and balances and independent institutions and to strengthen reforms aiming at greater transparency, including in budgeting and financial management, decentralization and accountability, including social accountability mechanisms. An analysis of these areas as well as possible entry-points has been laid out in the Madagascar Policy Notes Collection (World Bank, 2010) as a key recent contribution to a constructive policy-dialogue and future re-engagement.

The reform space is particularly constrained by the current governance crisis whose nature appears to be deep and structural. The current crisis is unlikely to be resolved by the presence or absence of individual personalities on the political stage. In application of the LAO framework, the political turmoil and the threat of violence which unseated successive presidents were inevitable outcomes of the logic of the struggle for power among Malagasy elites and the constant reshaping of alliances. It appears that Madagascar is going to require a new elite bargain to resolve the current political deadlock (which prospect does not seem immediate) or, failing that, a political upheaval that reveals new political actors who might influence a resolution.

C. Sector Implications from the Political Economy Analysis

1. Implications for Mining

Madagascar’s political economy dynamics delimit the reform space for mining governance reform in Madagascar. In view of the limitations analyzed in particular in Chapter 2, the following suggests strategic entry points that bear promise for enhancing development effectiveness. It sets out four major strategic axes for mining governance reform and related specific entry points.

1. Mobilize mining companies, civil society and the public for strengthening independent oversight of mining governance. The risk that emerging mining rents will be captured by political elites in Madagascar is high. Leveraging stakeholder interests for exercising independent oversight can contain this risk, for example by:

   • Strengthening independent and private sector oversight of transparency in mining right governance. Financial and managerial independence of the BCMM are crucial safeguards against political interferences, but have shown to be of limited effectiveness. Strengthening the oversight rights for BCMM transactions by independent stakeholders – e.g. by representatives of mining companies as was attempted in the National Mining Committee (CMN) – can help to generate pressure for transparency. It can help reduce the risk of BCMM becoming a “black box” that covers occasional high-rent discretionary transactions amidst the bulk of transparently allocated mining rights.

   • Building a strong stakeholder coalition advocating the respect of mining institutions. International investors – in mining and petroleum alike – have strong stakes in ensuring the long-term stability of the fiscal framework for their projects. Yet, these incentives may be stronger in some companies than in others, depending on their governance structure. Building a coalition of willing companies, their home governments and civil society and professional staff within the administration that speak to political elites with a single voice could provide a powerful instrument for preventing short-term attempts to undermine mining institutions / extort rents from individual companies. The EITI initiative could provide a promising forum for building and strengthening such a
coalition. It could lead to the formation of a Mining Chamber that gives voice to company concerns.

- **Encouraging an expansion of the EITI scope beyond QMM and Ambatovy.** So far, the scope of mining companies actively engaged in EITI has been limited to QMM, Ambatovy and, to some extent Kroma. Seeking to win the buy-in of small-scale or exploration mining companies with weaker incentives for transparency will be key to preventing EITI from becoming an “island of transparency” limited to a few willing companies. However, the risk of de-listing of Madagascar from the EITI initiative, because of delays in complying with its requirements, would send a negative message to future investors in the sector.

- **Encouraging the use of the EITI++ approach and seeking to leverage the sensitivity of the Malagasy culture to the use of land.** The EITI++ approach may help to extend transparency for the use of mining revenues from revenues collection to the major risk area of public expenditure control. Making information available to and mobilizing a broad public around the use of mining revenues may help to mitigate the risk of weakened government accountability in a resource-curse –type dynamic. As demonstrated in the Daewoo scandal (see Chapter 1), Malagasy public opinion is very sensitive to the use of land. This sensitivity risks to be demagogically utilized by political leaders against mining companies, portraying them as illegitimately “exploiting national resources”.

- **Undertaking efforts to strengthen local communities’ capacity for holding mining companies and local government (communes and regions) to account.** The population in the Anosy region lacks capacity and confidence for exercising effective demand-side accountability. The capable local NGOs lack independent funding and thus cannot effectively exercise a watchdog function. While participatory budgeting pilots have shown encouraging results, major challenges remain in making communal leadership effective and accountable. Major civic capacity-building efforts, opening independent sources of funding (e.g. by international NGOs or bilateral donors) and strengthening accountability mechanisms such as participatory budgeting, citizen and community scorecards, participatory public expenditures tracking surveys, and social audits could thus be a key focus to enhance development effectiveness and mitigate the risk of social unrest.

- **Leveraging the interest of domestic intermediaries and international gem exporters to formalize and legalize gem exports.** International gem exporters currently need to buy “formality” in the black market and domestic intermediaries, often part of the bourgeoisie, were criminalized by the export interdiction for gemstones in 2008. These interests can be leveraged to increase formality in gemstone exports. The Government of Madagascar could facilitate such formalization by abolishing the dysfunctional laissez-passer system, avoiding gemstone export bans, and enabling traders to formalize gemstones at export, possibly associated with a royalty payment. A similar reform in the gold sector is likely to meet with much more powerful opposition, given influential vested interests of Indo-Pakistani traders to preserve the informality of their business.

2. **Build mining governance institutions that are less vulnerable to political rent-seeking.** Mining institutions can be “political-economy-sensitive” by making it harder for political  

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213 See Pelon, Remi (2010), p. 110 for further detail on this.
elites to legitimize short-term rent-seeking with populist claims about the “unfairness” of these institutions. Entry-points for making mining governance institutions more “political-economy-sensitive” in Madagascar could include:

- **Preventing passive speculation with mining titles because it can lend legitimacy to discretionary interference in managing mining rights.** Claims about the abusive use of mining titles frequently serve to legitimize political interference. In this vain, the transition government has recently justified the suspension of issuing mining titles with the need to “clean up” the sector of passive speculators.214 Reviewing the effectiveness of the progressive schedule of administrative mining fees for discouraging passive speculation could be one avenue for making it harder for political elites to justify interference in mining right management.

- **Preventing attempts at renegotiating the fiscal framework for past investments and learning lessons in view of a “political economy-sensitive” fiscal framework in the future.** According to the current fiscal regime, government’s hands are tied for years before fiscal adjustments are legally possible. The risk of reneging will be particularly high in times of windfall profits or losses, when political elites can easily populist strategies to fuel public sentiment that Madagascar is losing its resource wealth without getting a fair share. Given the high risk involved in revising a fiscal regime, such adjustments should only be undertaken with broad stakeholder support and in a context of political stability. In the longer term, when enough sectoral experience and consensus has been gained within government, companies as well as civil society, a fiscal regime could be envisaged for future investments that better mitigates these political economy risks. Such a fiscal framework could include a reduced time-frame for legal fiscal revisions, some flexibility for upswing and downswing periods (e.g. via higher royalties and stronger participation of government in windfall profits)215.

- **Seeking to reach agreement on a fair distribution rule for royalty revenues among affected communes.** As argued in value-chain Section 5, technically maladapted distribution rules for mining royalties risk exacerbating inequity in the very poor Aonsy region, as QMM is starting to make payments. A poverty and social impact assessment (PSIA) could provide the basis for reaching agreement on a distribution rule or mechanism that is perceived as fair and agreed upon by affected communities. It would avoid opening up the broader question of the allocation of mining revenues across levels of government (national, regional and communal level). Similar challenge are about to arise for the Ambaotvy project, once it starts production, enhancing the urgency of establishing a sustainable distribution rule.

- **Empasizing consultation and participation in future mining governance reforms.** Unchecked top-down policy making by the central executive is a major characteristic of the Malagasy neo-patrimonial state. It will be important to counter-balance this tendency, by emphasizing a consultative regulatory process. The regulatory process could serve as an opportunity for strengthening domestic regulatory capacity and reform ownership and should avoid the risk of overly drawing on inputs from international experts.

214 Razafindramiadana, Lantoniaina (2010); “L’octroi de permis en attente. Afin de pallier les spéculations de certains opérateurs détenteurs de carrés miniers, le ministère maintient la suspension de l’octroi de titres miniers, L’Express, 22 April 2010. In this article, the Minister of Mines, Mamy Ratovomalala, is cited saying that « Des opérateurs utilisent seulement les titres pour spéculer sur les marchés boursiers. Les tractations et les transactions se font en dehors du territoire malgache sans aucun bénéfice pour l’État. » Rumors say that those kinds of statements could serve the Transition to pass an Ordonnance that would threat the essence of the Mining Code.

215 While in principle desirable, the design of a windfall profit tax will need to be tailored to local administrative capacity. So far, very few mining countries have introduced windfall taxes, as they are highly demanding to administer. Given the limited capacity of the Ministry of Finance of Madagascar, this will be a key constraint.
Strengthening consultative processes is likely to be particularly challenging in the consensus-oriented Malagasy cultural context.

3. **Focus on strengthening oversight and enforcement capacity of the Ministry of Mining and Finance.** Despite high risks of politicization, building central government capacity for overseeing and monitoring industrial mining companies is a sine qua non condition for enabling the government to interact on a somewhat equal footing with mining companies. As argued in Chapter 2, the political economy of Madagascar’s early development of mining institutions has brought forth a striking discrepancy between sound regulatory frameworks and the government’s capacity to enforce these frameworks. Given severe underfunding of the Ministry of Mines, future World Bank engagement could thus emphasize closing this gap by systematically building sustainable capacity of central professional staff capable of interacting with industrial mining companies on an even footing. This will enable the government to enforce fiscal rules as well as labor and environmental standards. The creation of a Mining Inspectorate as an oversight agency under the authority of the Ministry of Mines could be an effective way of building this urgently needed capacity. In the long-term, strengthening professionalism and administrative capacity can also be an important counterweight against short-term rent-seeking by political elites.

4. **Rely on local governance and market mechanisms for governing artisanal mining.** Given the lack of capacity of the Malagasy central mining administration and adverse incentives, the focus should be on formalizing artisanal mining at the local level. This could include:

- **Strengthening local services through local formalization and taxation of artisanal gold and Sapphires.** Given the limitations of the central mining administration, the prospects for governing Madagascar’s dispersed gold and Sapphire resources from the center are dismal. Even if it was possible to build sufficient capacity, the risks of revenue capture are very high. As the central state is perceived as foreign by miners, incentives will remain strong to evade taxation. By contrast, strengthening local formalization of artisanal mining can successfully align these incentives, if tax payments successfully translate into palpable public services at the communal level. There are promising examples of successful community engagement in local governance, such as the Antanimbary municipal gold mining project. The project might serve as a role model for similar efforts in other gold and gem mining areas. A long-term, integrated approach and sustainable capacity building for civil skills are likely to be key for the success of local formalization.

- **Focusing on market-mechanisms for improving revenues of local miners, rather than redistribution.** According to field studies, thanks to functioning local gold markets (see Annex Table 2) and the homogeneity of gold, local artisanal gold miners get the lion’s share of its value, making gold mining a source of local income and development. Due to information asymmetries on the value of gemstones, the distribution of gemstone rents is much less in favor of artisanal gem miners, with intermediaries reaping the lion’s share of rents. Redistribution schemes are likely to fail due to central rent-seeking and poor capacity. An alternative approach could be to shorten the value-chain by bringing markets and information closer to the mine. By focusing on improving infrastructure and accessibility of often remote mining areas for traders, the Government of Madagascar could increase the poverty reduction effect of artisanal mining for the many artisanal gemstone miners.
2. Implications for the Rosewood Sub-Sector

The challenge in effectively reducing rosewood logging in Madagascar lies in finding a strategy that accounts for the interests of powerful Sava elites. A first-best approach for preventing loss of natural capital and environmental damage due to illegal logging in Madagascar’s National Parks comprises passing effective regulations that prohibits logging and export of precious timber and building the administrative capacity needed for enforcing them. Yet, the political economy analysis in this report (see Chapter 3) suggests that an approach solely focused on prohibiting logging and export of precious timber is unlikely to be sustainable and effective in the longer term. Madagascar’s Sava families are and will remain too influential in protecting their exploitation interests for making such an approach politically viable. A political economy-informed strategy for containing illegal logging might therefore consider some of the following complementary approaches:

- **Show determination in enforcing the current decree banning all new exports of rosewood.** The State should seize all rosewood already cut and hidden in various places of the Sava region. Undertake a study proposing options on what to do with the timber already fell. Revisit the existing legislation permitting to any individual being fined, to enter into a plea bargain (“la transaction”) for a minimum fee and get away with no further judicial action. Strengthen the enforcement capacity of the forest administration as the huge Masoala forest is only covered by some 5 or 6 enforcement agents.

- **Maintain consistent and continued support and pressure from the international community on the Malagasy government for forest conservation in protested areas.** This follows from recognizing that international investments in the protected area system and biodiversity conservation has been the only major counterbalancing force to the Timber Baron’s exploitation interests. Moreover, the global public good nature of Madagascar natural capital provides the international community with a greater voice in denouncing its disappearance.

- **Seek to strengthen alternative livelihoods for vanilla-dependent communities and rosewood loggers.** Chapter 3 highlighted the association between the dramatic downturn of the price of vanilla, the Sava region’s major cash crop, and the increase in illegal logging in the region. This association points towards the importance of developing alternative sources of livelihood for the Sava region’s communities, reducing the region’s economic dependence on rosewood exports. However, given enormous profit margins from rosewood exports, this measure alone is unlikely to significantly affect rosewood logging and will only show effects in the long term.

- **In the long term, seek to reduce economic incentives for rosewood logging (“cut the carrot”).** A final complementary strategy can be to reduce Timber Trader’s economic motives via international agreements that reduce the demand for illegally exported timber. Such agreements among recipient countries can be powerful tools for containing illegal logging, as they directly restrict the market and thus the economic incentives for illegal logging. Also, such measures are likely to be more durable than domestic policies, which remain exposed to the influence of the Sava families. One concrete avenue that might merit exploration for the Government of Madagascar is to seek to include *Dalbergia* in the list of protected species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

216 Article II, paragraph 3 of CITES, entitles an adhering country to include species in “Appendix III” of the Convention, if the Party “already regulates trade in the species and that needs the cooperation of other countries to prevent unsustainable or illegal exploitation”. Source: [http://www.cites.org/eng/app/index.shtml](http://www.cites.org/eng/app/index.shtml)
D. Cross-sectoral Proposals for the Use of Political Economy Analysis in the Country Team

Finally, the Country Team might want to consider the using political economy analysis across the Bank portfolio on a demand-driven basis to enhance development effectiveness. This study has highlighted the relevance of political economy analysis as a means to inform Bank strategies. The political economy challenges become particularly important at a time where the Bank explores to reengage with the government. There are considerable risks though, ranging from analytical risks on the best strategy forward, operational risks in terms of development objectives and implementation progress, fiduciary risks in terms of a potential diversion of funds to the elites or other stakeholders, and reputational risks for the Bank as a credible and neutral institution. While political economy analysis is not a panacea, it can make a contribution to address these risks from a relatively new angle in Bank operations.

E. Future Work

This study has provided a first assessment of key political economic concerns driving governance in Madagascar. While the study could analyze the role of key stakeholders, elite-bargaining, and the consequences of the current panorama for development effectiveness, the current crisis is far from over. Political events can rapidly unfold in ways that cannot yet be foreseen.

The study has focused on two of the most relevant natural resource management sectors. The acute threat of the rosewood logging crisis to Madagascar’s unique biodiversity endowment and the fruit of two and a half decades of conservation efforts has moved the forestry sector into the limelight of attention. The illegal timber trade also provides a tremendous case in point for weighting how much of the challenge is due to a lack of state capacity for protecting the resource, to state predatory activity or to rent-seeking opportunism on the part of individual actors. Extractive industries are Madagascar’s immediate future. The immanent steep growth of mining revenues holds both the potential of making the sector an engine for Madagascar’s development and the risk of triggering a resource-curse-type dynamic. These factors have provided a powerful rationale for the focus of this review. However, it is important to note that the potential natural resource cloud currently hanging over the country and a potential for a possible curse is not limited to these natural resource sectors only. Recent prospects for the exploration of petroleum can also be a turning point for Madagascar, with all the benefits and constraints that such a resource can present.

Yet, this review can only be a first stepping stone towards more comprehensive political economy analysis in Madagascar. While natural resource sectors are of great importance for Madagascar’s development, they pursue rather distinct political economy dynamics as, in contrast to other sectors, they are rich sources of rents. These sectors thus are not representative of political economic dynamics and drivers in other sectors, which will vary widely based on the nature of the value chain. Complementing this review, in particular two future axes of in-depth political economy research in Madagascar appear beneficial for the World Bank’s operational work. A first focus could be a detailed political economy analysis of private sector governance. As this review highlighted, business elites are the key driver of Madagascar’s political economy. A detailed understanding of vested private sector rent-seeking interests will thus not only be of great value for shaping private sector development policies, but also for Madagascar’s overall political economy. Such an analysis could include a detailed stakeholder mapping, which was beyond the scope of this report. Second, political economy work on social sectors merits emphasis. The political economy of social sectors is likely to be distinct from natural resource sectors, as they do not generate rents but receive significant investments. Health and education...
merit particular attention as both sectors have been a particular focus of investment for the Bank and have been very vulnerable to system shocks from the 2009 political upheaval. Such a study could also benefit from an analysis of demand-side governance and how such demand-side governance instruments could be scaled up to influence national-level decision-making.

Last but not least, for future political economy analysis, it would be worthwhile considering further analysis of understanding processes of political change, and what policy tools the Bank and other development partners could use to facilitate change. In this sense, it will be important to consider how future work on the political economy can be “packaged” most appropriately to highlight real constraints in given countries and entry-points for change, with a view to fully taking advantage of the added benefit of political economy analysis to traditional technical analysis.
V. Annexes

A. Annex I: Methodological Annex and Conceptual Framework

This annex presents the conceptual framework and methodology for this report. The report mainly follows two conceptual frameworks. The overall report follows the problem-driven political economy analysis by Fritz, Kaiser and Levy (2009). While Chapter 1 applies this approach at the country-level, chapters 2 and 3 follow this methodology for the mining and forestry sectors. Madagascar’s overall political economy dynamics are analyzed through the lens of a conceptual framework developed by North, Wallis and Weingast (2009). North et al.’s framework is deemed particularly suitable for political economy analysis in Madagascar, as it provides powerful explanations both for the lack of progress in governance reform and for repeated crisis. Complementing North et al.’s broad-brush approach, the concept of neopatrimonialism is used to characterize the specific types of clientelistic relations in Madagascar.

North et al. (2009) provide a broad-brush theory of social orders. They argue that the whole history of human social orders can be divided into three broad types: the so-called Primitive Access Orders, Limited Access Orders (LAOs), and Open Access Orders (OAOs) (see Figure 8). The three types distinct in the way they have solved the problem of violence. North et al. claims that all societies face the problem of violence, because individuals “always have the option of competing with one another for resources or status through violence.” Importantly, violence is understood broadly as comprising both physical actions and coercive threats. The framework is this applicable both in contexts of open physical violence and in contexts where coercive threats of violence are implicit or conjure past outbreaks of open violence. All social orders are competitive in this sense, but differ in the way they limit competition in order to solve the problem of violence. At the core of North et al.’s approach to understanding the logic of different social order thus lies the question: “How do powerful individuals credibly commit to stop fighting?”

The three types of social orders solve this problem differently:

- **Open access Orders (OAOs) limit the use of violence through institutions.** Institutions are rules of the game. They include formal rules, written laws, informal norms, and the like. For North et al. the critical question is what types of institutions can survive given the interactions of institutional constraints, people’s beliefs, and their behavior. Institutions are critical because they deter violence “most obviously by stipulating punishment for [its] use.” Yet, formal institutions can control violence “only in the presence of an organisation capable of enforcing the rules impersonally.” Open access orders thus require a state that retains a monopoly over the (legitimate) use of violence. OAOs are characterized by sustained competition, without restraint on entry into economic, political, religious, and educational activities. There are widely held beliefs about the inclusion of and equality for all citizens. There is support for organizational constructs that are open to all members of society, the rule of law is enforced impartially for all citizens, and, most importantly, political and economic exchanges are impersonal.

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217 The primitive access order refers predominantly to hunter-gatherer societies and is not relevant to today’s analysis.
219 The fact that actual physical violence is small- and not large-scale in a country (as in Madagascar, which has only seen punctual outbreaks of violence in the capital at moments of crisis, e.g. in 2009) thus is not an indicator of the non-importance of violence as a key to understanding the respective social order.
220 North et al. (2009), p. 18.
221 Ibidem, p. 16
222 Ibidem, p. 16
• By contrast, Limited Access Orders (LAO) “limit violence by political manipulation of the economy to create privileged interests.”\textsuperscript{223} In LAOs, the political and economic systems are thus closely interdependent. Social order and stability in LAOs is sustained by a dominant elite coalition of interlocking public and private networks, who limit access to valuable political and economic functions as a way to generate and control rents. In these personalized contexts, the creation and distribution of rents among elites incentivizes them to cooperate and make credible commitments within coalitions in power, rather than fighting in competition for privileges and status. Whereas members of this dominant coalition have access to violence as a coercive threat, the risk of reducing their rents if instability occurs discourages the open use of violence.\textsuperscript{224} An important characteristic of LAOs is that they tend to limit individuals ability to shape organizations as a basis for collective action that could threaten elite rents. LAOs tend to be new democracies, post-conflict societies, and other low and middle income countries.

Figure 8: The Three Types of Social Orders in the Conceptual Framework of North, Wallis, and Weingast (2009)

The power of North et. al.’s work lies in its ambitious effort to contribute not just to the understanding of political economy but more broadly what is actually entailed in the transition to modernity. This is a Durkheimian struggle to consider how community identifies form and then grows from individualized to group behaviors requiring institutional fortitude to guide them. Theoretically this is monumental as they enter into an un referenced 19th intellectual struggle between Durkheim’s presentation of “social facts” and Weber’s focus on the power of the individual. So strong are they in their positioning on how to scientifically approach social struggle that they eschew the decades long trend of defining the state in Weberian terms (a “monopoly on the legitimate use of physical force within a given territory”) in favor of considering the ways in which the state acts as an organizer of organizations.

This approach builds on the groundbreaking work of Samuel P. Huntington who also saw the state as an inside game for a small number of elites. As he argued (1968), “The institutions

\textsuperscript{223} Ibidem, p. 1
\textsuperscript{224} Ibidem, p. 2-10.
of the traditional polity need only structure the participation of a small segment of society. The institutions of a modern polity must organize the participation of the mass of the population.” 225 For Huntington, the primary institution for structuring the modern polity is the political party. Thus, as discussed above, if Madagascar’s political parties, and party system, are inchoate, it is difficult to avoid the perilous vicissitudes of personalized networks. Where North et al. grow the intellectual direction is by considering an historical view. States are not static. They change over time in myriad ways reflecting both individual and collective (institutional) preferences. In the case of Madagascar, the space for local resistance to state capture is long closed. However, capacity of the state to assert itself in key sectors (including forestry and mining) has shrunk leaving more room for shifting personalized networks and more effort required to grow the institutions of the polity necessary to structure participation.

For North et al. (2009) these changes lead to opportunities for LAOs to transition to OAOs. The moments of opportunity are defined in “doorstep conditions.” These doorstep conditions are 1) rule of law for elites, 2) the existence of perpetually lived organizations, public and private (organizations that can outlive their founders), 3) consolidated political control over the military. This could, again, be criticized intellectually for its determinism (there is a certain ring of Rostow’s Stages of Growth226). It does, however, allow for a careful consideration of how the historical ties impact transition through a series of incremental and reinforcing changes of institutions, organizations, and individual behaviors. Elections, long considered the key to not only democratic consolidation but the participation necessary for state stability, become relative. If elections serve to enhance competition in an open access society, then they are both democratic deepening and a source of stability. However, in limited access orders that competition opens opportunities for rents even as the competition itself destabilizes the system by challenging the existing political networks. In short, institutional strength (depersonalization) is a precursor to elections which strengthen the state.

North et. al.’s (2009) conceptual framework leads them to conclude that development theory as currently applied, fails to consider the underlying logic of the natural state. Policies from open access orders such as universal impersonal rights and open market rights might enhance the freedoms associated with democracy but they reduce the capacity of the state to control violence. Weber assumes that the state has a monopoly on violence without further consideration of exogenous impacts on the relationship between the state and personalized networks. It assumes the problem of violence away. As modern development theory takes a Weberian perspective, it leads to policy positions supporting reforms advocating easier market entry, less regulatory control, reduction of monopoly, more secure property rights, public goods provisions and more complete markets. If, as North et al. argue, elites can deal with these changes it is a threat to the very networks which lend to state stability. This appears to be a similar conclusion to Huntington’s: focus on state capacity first and liberalism second.

Neo-patrimonialism can be conceptualized as a state in which the chief executive maintains power through personal patronage. Neo-patrimonial states are hybrid political regimes (Ottoway 2003)227 in the sense that relationships of “loyalty and dependence pervade a formal political and administrative system and leaders occupy bureaucratic offices less to perform public service than to acquire personal wealth and status. The distinction between private and public interests is purposely blurred.” (Bratton and Van de Walle 1994: 458) Public officials reap public rewards (jobs, money, etc.) or private rewards (contracts, licenses, etc.) for their loyalty. In other words, “the sophistication of the state as an organization relates directly to the sophistication of

225 Huntington, Samuel P. Political Order in Changing Societies. 1968, p 89.
elite organizations that the state and society can support.” (North et al 2009, 11). That is, instead of ‘perpetually’ lived organizations that continue beyond the lives of those who create rents, the Malagasy state is interlocking public and private networks of organizations. In this way neo-patrimonialism may reflect on the quality of stateness more than regime type (Erdmann and Engel 2007; VonDoepp 2005; Engelbert 2002). The formal rules of the game are in place but may not be all that relevant. Whereas once the contestation inherent in democracy was seen to be not just the antithesis but the remedy for neo-patrimonial behavior, today it is evident that neo-patrimonial tendencies and practices of the ancien régime can coexist and operate quite comfortably in a democratic context.

North et al.’s tremendously rich conceptual framework can be further expanded upon in order to better operationalize it in Madagascar’s context. (See Figure 8 above) Chapter 1 has explored how (a) key political institutions and reforms (electoral code, constitutional change, political parties etc.) have been shaped by changing political elites and (b) how historical change factors influenced elite and network behavior, jointly shaping (c) the overall governance of the Malagasy state. Chapters 2 and 3 have analyzed how this political economy impacts the value chain in the two sectors under study and how these in turn impact rents. With some modest adjustments it is possible to consider Madagascar within this Conceptual Framework.
Figure 9. Applying North et al.’s conceptual framework to Madagascar

Source: Authors.

2 Merlo 2005
3 Persson and Tabellini 2005
4 Manor 1999
The power of the North et al. framework lies in its effort to explain how people have learned to use institutions to control violence and, by extension, order society. The patterns of social organization (social orders) are characterized by the way in which societies craft institutions. The framework is not intended to be prescriptive. What can be done if the social order isn’t crafting institutions capable of organizing society to stave off violence and move the economy forward? Inherent in this question is a challenge to conventional theories of democracy: political institutions of democracies do not produce “modern” societies even strengthen the state by themselves. They are often undermined by the predatory nature of elites in social orders with limited institutional dynamism. This has important economic implications as well. North et al.’s analysis of 184 countries between 1950 and 2004 point out that in contrast to a long dominant trend in development economics thinking “Poor countries are not poor because they grow more slowly; they are poor because they experience more years of negative income growth and more rapid declines during those years.” While the language of North et al. is somewhat deterministic they perceive social orders as a dynamic of change not a dynamic of progress. We are left with a keener understanding but not a way forward.

In many ways North et al. builds on Acemoglu and Robinson (2006) who model attitudes of individuals and groups towards policies and institutions to consider the role of institutions in shaping society. They seek, for instance, a convergence point for political parties (a Nash equilibrium) from voter preferences. The value is in establishing patterns of change through the modeling of attitudinal responses. In so doing they shed light on core problems, such as collective action problems, but they too stop short of elucidating next steps. Other frameworks help us suss out key institutional considerations (Figure 9). Merlo (2005), for instance, focuses on the micro-economic side of the discipline to consider voters, politicians, parties and governments. By looking at time series of voter turnout he concludes that it is correlated with age, education, gender and race. He similarly unpacks the notion of the political party concluding that the classical theory on political parties holds empirical strength – platforms are critical to establishing a party equilibrium. Thus as party founders in Madagascar have commonly sought to undermine the formation of a party platform independent of their own agenda for the reasons of gains in personal networks (characterized by North et al.) it holds that the equilibrium of the institution of the party, and the party system itself, is threatened. The opportunities for violence increase.

For the purpose of the application to this study on Madagascar, the North et al. framework has some limitations. On the one hand, it sketches LAO in poor countries like Madagascar in contrast to OAOs. On the other hand the study in the book itself is mainly about the specific transition experiences of Britain, France, and the U.S. from the natural state to an open access order. In normatively underscores the value of OAOs in terms of achieving democratic ideals and supporting a productivity enhancing capitalist economy. However, it does not emphasize a timeline – how long the road was in each case to an open access order or even the doorstep conditions into it. The takeaway message thus becomes that in the short and medium term it is important to acknowledge the conditions of the LAO, accept the challenges they create, and look towards ways of making it a more efficient (transparent, accountable) LAO. The framework helps us to understand the motivations of actors (both individuals and institutions) in LAOs on their own terms, but does not always so by providing operationally relevant guidance. Thus as this report considers the role of the legislature, the presidency, political parties, and the like, it focuses not on the mechanisms to transition these institutions into parts of an OAO but the networks that drive the existing institutions and the measures that can be taken to strengthen

228 While the data for such an analysis for Madagascar is scant and beyond the scope of this research, there is reason to believe that a similar pattern exists for Madagascar where such demographic variables play a critical role. However, infrastructure and distance from the capital are also important as is ballot distribution.
institutions within this context, increasing efficiency and reducing the propensity for violent social action outside of the institutional context.

These examples demonstrate that if the goal is to operationalize next steps it is necessary to move beyond the North et al. frame to consider a problem-driven approach towards governance and political economy analysis. Fritz, Kaiser and Levy (2009) provide such a tool that can be applied in the value-chain analysis in both the mining and the forestry chapter. A problem-driven approach is particularly useful because it allows focusing on the root causes of key governance challenges in Madagascar’s forestry and mining sector – the surge of illegal rosewood logging and the key risks associated with an imminent boom of mining revenues. As shown above, the analysis in each of the sector chapters follows the three layers of problem-driven political economy analysis as suggested by Fritz, Kaiser and Levy (2009). First, it identifies key vulnerabilities and challenges along the value-chain. Second, it maps out the associated institutional set-ups and governance arrangements and weaknesses. Finally, it drills down to the underlying political economy drivers. The problem-driven approach is adopted as a powerful tool for analyzing the political economy space for reform in forestry and mining in a way that helps to identify innovative and operational entry-points to reform.

Figure 10. Layers of Problem-Driven Governance and Political Economy Analysis (2009)

<table>
<thead>
<tr>
<th>What vulnerabilities/challenges?</th>
<th>Evidence of poor outcomes to which GPE weaknesses appear to contribute</th>
<th>E.g.: repeated failure to adopt sector reforms. Poor sector outcomes. Infrastructure identified as constraint to growth but not effectively addressed. Continuous food insecurity. Corruption continues to undermine the business climate even after anti-corruption law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional &amp; governance arrangements &amp; capacities</td>
<td>What are the associated institutional set-up and governance arrangements?</td>
<td>Mapping of relevant branches of government, ministries, agencies, and SOEs and their interaction. Existing laws and regulations. Policy processes (formal rules and de facto). What mechanisms intended to ensure integrity and accountability and to limit corruption exist?</td>
</tr>
<tr>
<td>GPE drivers</td>
<td>Why are things this way? Why are policies or institutions arrangements not being improved?</td>
<td>Analysis of stakeholders, incentives, rents/rent distribution, historical legacies, and prior experiences with reforms, social trends and forces (e.g., ethnic tensions), and how they shape current stakeholder positions and actions</td>
</tr>
</tbody>
</table>


Overall, Fritz, Kaiser and Levy’s problem-driven approach, North et al.’s broad-brush theory of social orders and the concept of neopatrimonial rule provide powerful complementary tools for analyzing Madagascar’s political economy. The problem-driven approach is particularly important for the operational relevance of this review. It ensures a focused analysis of key governance challenges in Madagascar’s forestry and mining sector. North et al.’s broad theory of social orders offers powerful explanations for the limits of governance reform and repeated political crises in Madagascar. Its integrated view of both the political and the economic is particularly suited to Madagascar where private sector and political interests are closely intertwined and sometimes inseparable. Not least, its historical perspective allows doing
justice to the fact that political change in Madagascar has been cyclical and complex. Finally, neopatrimonialism serves as a more specific concept which helps to distinguish governance in Madagascar’s from other forms of clientelistic rule in LAOs (“big man” rule, kleptocracy).

229 A “coup” in Madagascar requires an asterisk as it doesn’t look a lot like coups in other countries. In coups in Mauritania in 2005 and 2008, Guinea Bissau in 2003 and 2009, or in the Central African Republic in 2003, the military has served as a driving force. In Madagascar’s recent – and past – crises, it has not. There has not been a sudden structural change driving instability as in São Tomé and Príncipe in 2003.
B. Annex II: Civil Society in Madagascar

In most countries, where elections broaden democracy, civic associations deepen it by providing profound roots stemming from the highest levels of the political sphere to base associations in rural hamlets and community groups with myriad interests. Indeed, there is general agreement among scholars that civil society is comprised of autonomous societal groups that intersect with the state, but delimit and constrain its actions (Putnam 1994). It is in part civil society’s role to:

- limit state power;
- supplement the role of political parties in stimulating political participation while increasing the political skills of democratic citizens, including recruiting and train new political leaders;
- promote a democratic political culture (tolerance, moderation, willingness to compromise);
- generate a wide range of interests not only aggregating beliefs but reducing conflict and ensuring the quality of governance; and to
- serve critical functions such as helping to eliminate fraud, monitor elections, ensure transparency, disseminate information, encourage necessary economic reforms, and help protect freedoms of association.

There is more recent recognition of the central role of civil society organizations in creating pressure for good governance. They do so by being effective agents of voice and in creating more accountable governments – particularly important aspects in countries where extractive industries can create added pressure on governance. As part of a World Bank supported technical assistance program to strengthen social accountability, and as a contribution to the Second Governance and Institutional Development Project which included an independently managed civil society fund, the Bank undertook an assessment of civil society capacity, internal governance, and perception of the enabling environment. This includes an assessment of the degree to which these organizations have the capacity, power base, or distance to serve as effective counter-weights to limit state power, particularly on higher level governance issues such as oversight in mining and extractive industry.230

1. Main Characteristics of Civil Society in Madagascar

What is remarkable about Madagascar’s political history is that despite a very liberal political culture (Afro barometer 2005, Marcus et al, 2001) there is relatively little space for robust and dynamic civil society231 or organized civic life. Even through democratization, the deeply rooted centrality of the state has ensured that most associations, where they exist, have limited capacity to interact with the political sphere. Worker unions remain weak and students take to the streets but do not effectively form part of a bulwark from the state. Business lobbies, human rights organizations, watchdog groups, budgetary oversight organizations, taxpayer associations, and the like are few and far between and have limited strength where they do exist. In stark comparison to other African countries such as Ghana, Kenya, Zambia, or Senegal, Madagascar’s civil society does not provide a training ground for the recruitment of political

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230 The upcoming assessment (Implemented by Dr. Richard Marcus and a team of researchers, task managed by Sarah Keener AFTCS) draws upon a survey covering 402 CSOs across the five most populous regions (out of 22). The survey in Haute Matsiratra and the qualitative work in Atsinanana could not be done due to the conflict.

231 Civil society is defined here as the arena – as distinct from the market and the state- in which citizens come together to pursue common interests through collective action, neither for profit nor for the exercise of political power. These can include religious and professional organizations, labor unions, the not-for-profit media, grassroots organizations, and NGOs (World Bank 2003b).
leaders but rather the reverse – political leaders at times constitute civil society groups to further political agendas.

Unlike some other African countries, Madagascar is over 70% rural, with many difficult to access parts of the country. There is no national radio station, and radio only reaches 60% of the population. This poses specific challenges to the CSO sector and specifically to issues of transmission of voice from the periphery to the center. Nonetheless, in recent years there has been a growing recognition of the need to strengthen the role of civil society in public life and in development. This was captured in the Madagascar Action Plan. Yet, this was starting from a very low base.

There are seven main types of legal categories of CSOs in Madagascar: associations, NGOs, trade unions, foundations, cooperatives, credit and savings groups, and cultural-religious associations. The large majority of legally registered CSOs are associations. However, this legal category hides a wide range of different organizations, varying by goal, area of action, capacity, size and geographical scope. They include development associations, community-based organizations, associations linked to churches, CSO networks, CSO umbrella organizations, women’s organizations, think tanks and research institutes, and white collar organizations such as professional associations, guilds, and business associations.

There is no accurate and agreed upon estimate of the total number of CSOs in Madagascar, but even partial estimates point to a lower number per capita than in other African countries such as Kenya, Uganda, or Ghana. Responsibility for registration of NGOs and collation of a database of applicants is spread across ministries (Ministry of the Interior, Ministry of Population, Ministry of Public Sector, Labor, and social Law) and levels of government (regions, communes), thus complicating the compilation of accurate statistics. Many CSOs also do not register.

Given both the lack of sustained financing, and the historical governance context in Madagascar, a majority of CSOs have focused on service delivery sectors and development, versus broader monitoring of government programs or governance issues. This is true with the exception of Atsinanana. More than half of CSOs were active in were education (54%) and economic development (52%), followed by health (43%), environment (38%), and human rights (33%). In contrast, only 12% seek government oversight and monitoring, only 16% focus on mining revenues/mining sector and only 26% take an interest in budget transparency. Overall, 42% of CSOs claimed to seek to influence public policy in any way; in a similar survey in Ecuador, 84% of CSOs considered their work linked to public policies, and 61% considered public policy a high priority for their work. NGOs, which by definition have a regular source of funding are more likely to work on good governance (25% versus 11%), and given the nature of the political process in Madagascar (uncertain, based on changing coalitions, weak institutions and adherence to stable legal structure) this is not surprising. Also, a focus on governance is more likely to be interpreted as a political action, versus intervention in the provision of services.

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232 In fact, according to 2007 Ministry of Interior estimates over 1000 religious organizations operated illegally in Madagascar. No information could be found on why they did not register as religious organizations even though ordinance 62-117 requires it.

233 However, NGOs tend to work more frequently on good governance issues than associations (25% versus 11%) and more frequently in education (70% versus 52%), health (69% versus 40%), and economic development (60% versus 51%).
2. **Enabling Environment**

**For civil society to be effective, it needs an enabling environment.** An enabling environment for third party oversight, and social accountability initiatives can include the right to information on public services and budgets (whether embedded in formal laws or in administrative practices), a culture which does not punish efforts to monitor or obtain information, a free and capable press, policies or practices by government agencies or elected bodies that allow entry points for public monitoring and regulation that does not prohibit the freedom to associate and form CSOs.

There has been little overt support for pushing through a pending draft access to information law in Madagascar. Survey results point towards a culture of secrecy that tends to permeate the public sector, making it very difficult to access even basic information on public programs and services, not to mention budgets and public expenditures. CSOs note that the Ministries of Health, Education, and Agriculture are perceived as more approachable and more apt to disseminate information than the Ministries of Finance, Mines, and Interior and Decentralization or the presidency, judiciary, or legislature. This may partially reflect the areas where the CSOs are more active and thus have more opportunities to interact with these Ministries (health, education). In less politicized areas of intervention there is greater government receptivity, but even in the most successful cases CSOs reported effective interaction with government representatives less than a third of the time. Surveys have shown that Parliament is not perceived as very responsive to citizens, and in recent years has been dominated by one party. CSOs report more transparency and openness to their activities at the commune and fokotany level, though these scores are also not high. Yet, recent specific pilots focused on social accountability (scorecards in health, commune level participatory budgeting, public expenditure tracking surveys) can and have helped public officials to publish and share more information – at least at the local level.

While it is fairly easy to obtain a broadcast license in Madagascar, there are a limited number of media outlets relative to some other African countries. There have been examples of the public revocation of media licenses. At least in the past, this has led to some self-censorship among the media.

The fragility of the CSO sector, and the lack of sustained financing contributes to a tendency to focus on opportunistic sectors, or sectors where there is perceived to be less risk. As is outlined below, the experience of one of the strongest civil society groups – religious organizations – provides an example of the risks. Religious organizations can and have been banned by the state; while they have been enmeshed in the political sphere, supporting particular political actors since the colonial period, and intervening forcefully in politics at the inception of the Third republic and at every important juncture since, they have also served as a check on state power. The FFKM is the umbrella organization for the country’s four principal Christian denominations (Roman Catholic, Protestant, Lutheran and Anglican), and has long been a battleground on which political actors cultivate bases of power for their own needs.

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234 81% of CSOs interviewed said that obtaining information was important to achieving their goals.

235 A 2007 Corruption survey (WB) showed that 77% of the population considers that parliamentarians occasionally or never listen to the population.

236 For example, in 1989 the National Committee for the Observation of the Elections (KMF/CNOE) was created by citizens and organization following an appeal by the FFKM to organize the observation of the presidential election of 1989. During Ravalomanana’s presidency, EKAR challenged Ravalomanana’s stance on electoral codes during the 2006 election. Examples of Government intervening include Ravalomanana banning the New Protestant Church in Madagascar and the Universal Church of the Kingdom of God in 2005, and conversely Rajoelina prohibiting FJKM from functioning as a civic organization, arresting its president.
The weaknesses outlined above make it difficult for CSOs and CSO coalitions to serve critical functions that help keep government accountable to the public. While NGOs have stronger capacities than other types of CSOs, they only represent a small number and a small proportion of CSOs (9% of the survey sample)—due to the requirements for registering as one (including demonstrating a sustained source of income). In fact, two of the biggest obstacles are the failure of the government to create 14 of the requisite 22 regional committees required by law to certify a new NGO, and lack of information about the process—make it virtually impossible for CSOs in those regions to form NGOs. These limitations on organizational choices further limits CSO funding options.

Trade unions fare no better. A government decree in 2000 required labor organizations to furnish a list of all members and a list of leaders to Government, making them vulnerable to persecution. Thus the unionization rate rests only between 9% and 10% and the efficacy of those is constrained.

3. CSO Internal Governance, Capacity

Given the relatively recent push to strengthen the CSO sector, the degree of informality, and weak human, financial, and organizational resources of most CSOs is not surprising. This affects their ability to engage in public policy, monitor the state or to filter community views upwards. Fewer than half of CSOs have dedicated offices, few have institutionalized forms of communication (only 13% use radio) and most rely on informal and verbal interactions—a particular concern for organizations with over 100 members. Malagasy CSOs generally have small staffs; 53% rely mostly on part-time volunteer labor, and 65% do not consider their staff qualified to perform the necessary work.

As a general trend, CSOs tend to depend on their leaders for their survival—suggesting a personalized rather than a professional orientation. While most CSOs have administrative boards, it is common for the members of the Boards to be related to each other and/or to the CSO leader (in Anosy, Diana and Antinananana over half of the Administrative Council Members are related). Meetings tend to be with the same 10 to 15 individuals, often council members themselves rather than with a broader set of constituents or members. While 84 percent of CSOs reported keeping meeting minutes, only one third of organizations could provide examples of such minutes. There are some intriguing regional variations: only in 20% of the surveyed CSOs in Analamanga (the region with the most CSOs) could provide actual meeting minutes when requested (though 78% stated they kept meeting minutes, only 20% could provide a copy) in comparison to Boeny where 97% of CSOs state they keep minutes and 65% could actually produce copies of them.

With little access to external funding, CSO leaders report that they are responsible for generating 71% of CSO funds. Lack of financial resources is cited by 68% of CSOs as the most critical reason for organizational weakness. The vast majority of CSOs have annual budgets of under $500 (67%); only 63% have computers, less than a third has internet access, and only 28% have vehicles.

237 The NGO law (1997) requires that NGOs have a permanent organization structure (including board of directors) general assembly, management committee, financial comptroller as well as ongoing activities and regular flow of income. The regions with the requisite bipartite committee include Analamanga, Vekinankaratra, Alaotra-Mangoro, Analanjiforo, Itasy, Betsiboka, Bongolava, and Boeny.

238 In Atsinana, Anoey and Diana this is higher.
Civil society is highly politicized in Madagascar. Many CSOs – while not led directly by political leaders – have close connections to government, and tend to identify with one political camp or another.

NGOs tend to have stronger capacity than other types of CSOs—with better-educated, more professional staff, formal structures, and more access to external resources. Some church groups have also registered as NGOs, reflecting their higher levels of funding, staffing, and professionalism. SAF-FJKM, the development arm of the Protestant FJKM, recently registered as an NGO and has over 34 years of experience implementing rural infrastructure, development, and health projects throughout the country.

4. CSO Representativity and Voice

Development partners and initiatives such as EITI often look towards CSOs or CSO networks to serve as proxies or mediators for community or public interests. The issue of how well CSOs communicate both upwards and downwards and the incentives they face is therefore important in assessing their capacity to effectively transmit the “voice” or interests of broader sets of communities or members.

Some estimates point to up to 78% of CSOs based in the capital region, Analamanga. Given cultural differences between highlands and coastal areas, challenges with communications infrastructure noted above and the tendency of CSOs to rely on word-of-mouth, there is reason to be concerned about the degree to which the “voice” of organizations and community based groups outside of Analamanga are represented in national programs and in national dialogue. This can be a particular concern when policies that affect regions (i.e. mining, forestry) are debated at the national level with CSO representation that may have few effective links or accountability to local level stakeholders.

While the concentration of CSOs in Analamanga might lead one to assume that they have greater influence over national policies, CSOs based in this region showed a low propensity to state that they intended to influence public policies. Further, when CSOs were asked how they intended to actuate their goals of influencing policy or creating change (for example, by meeting with community leaders, writing to the commune, media campaigns, meeting the regions) Analamanga scored poorly, and reported low levels of results from these activities (14% of the time having some response) compared with higher rates in Atsinanana (67% of the time). Across regions, CSOs tend to interact with the community level rather than the national level.

A common strategy for improving CSO effectiveness of many small scale CSOs is to seek collaborative networking with other CSOs, or operate as a coalition under an umbrella organization. At present, a little less than half of CSOs interviewed confirmed that they participated in one or more CSO networks. This is likely a reflection of the success of religious-based groups with their large network capacity. However, the consistent tendency in Madagascar – perhaps driven by the scarcity of resources and the personalized nature of many CSOs – has been competition among networks in spite of the fact that this is a potentially important source of sharing information, especially among organizations working on similar issues.

There are several versions of these collaborative efforts in place:

- The Platform of Civil Society Organizations, allegedly with over 2000 members representing the whole spectrum of CSOs.
- FAMAK, a network of organizations working on or interested in issues of corruption.
• **DRV**, a network of women’s organizations.
• **COMODE**, a network of environment and development CSOs.
• **Coalition for Electoral Reform**, a CSO coalition advocating for electoral reform.
• **The Consortium for Citizen Participation** (CNPC), formed in 2005 as a hybrid government-private sector-civil society body to promote citizen participation.

However, many of these coalition efforts are stymied by the same issues:

• **Funding and staffing issues.** The groups are only active when they receive donor funding. Funding can actually deepen divisions within civil society as the member organizations feel the umbrella is capturing resources that should go to its members.
• **Largely dependent upon their leaders.** Without adequate staffing, funding, and membership, these groups are vulnerable to disintegration. For example, the President of FAMAK and COMODE is actually the same person, and FAMAK seemed to have dissolved due an internal corruption scandal involving only two members.
• **Competing networks or leaders, making coalition-building and information-sharing difficult.** For example, Plateforme leadership broke off from CNPC following the President of Plateforme running unsuccessfully for the Presidency of CNPC. These parallel structures are often formed by unhappy defectors from the original network.
• **Questions of representativeness or legitimacy.** Plateforme produced a directory of CSOs that includes more than 5,500 CSOs in 17 regions but could not provide a list of its members. Many of the CSOs listed do not identify themselves as Plateforme members. In fact, only 8% of CSOs surveyed identified themselves as a member of Plateforme despite inclusion in the directory. CNPC did not fare better in perception of legitimacy or representation. CSOs interviewed during the mission either did not know about CNPC or did not consider it a valid CSO with government, political party, and private sector representatives in its membership.
• **Questions of efficacy.** CNPC carried out a mapping of citizen participation in 3 regions, but the report produced could not realistically be used for operational activities due to its limited scope. In some regions over 30% of the CSO leadership stated their boards were ineffective in their functions of the daily administration of the organization, developing CSO activities, and mobilizing the members.

Church-based networks are demonstrably more effective than other non-NGO coalitions and arguably the strongest civil society advocates enmeshed in the political sphere. The Malagasy Council of Christian Churches (FFKM) is the umbrella organization for the country’s four principal Christian denominations. Due to their extensive country-wide networks, long track record of development work with Donor funding, and credibility in the public arena, the Christian churches have played an important role in the development and political arenas in Madagascar, acting as service providers as well as civic educators (on issues such as corruption) and democracy watchdogs (human rights and election monitoring). Although it has occasionally taken an overt position on political issues, in the political arena the FFKM has often served as a mediator, bringing together antagonistic factions. Both the FFKM and Justice et Paix (a CSO created by the Catholic church) have served the roles of civil society to stimulate political participation, increase civic education of democratic citizens, promote a democratic political culture, reduce conflict, and monitor elections. Donors and the government view them as crucial players in the country’s development agenda. It should be noted, however, that only about 40% of Madagascar identify themselves as Christian.
Political involvement of church organizations may interfere with the functioning of their efforts as noted above under the section on enabling environment. At time of writing it is unclear what the more recent reversal of favor for the group Ravolamanana was most involved in - the FJKM’s – will mean for its long term survival or the SAF-FJKM as hitherto one of the country’s foremost development associations. In conclusion, for the vast majority of CSOs in Madagascar, the civil society assessment showed a closer link between CSOs and the state than between CSOs and the base communities which they represent.

5. Prospects for Civil Society in Madagascar

Despite weaknesses, the process of democratization in Madagascar seems to have led to greater civil society engagement in recent years, with a significantly greater number of registered civil society organizations. For example, only in Antananarivo, the number of registered CSOs doubled from 1,026 in 2000 to 2,051 in 2005. Although there are some obstacles for certain types of CSOs (i.e., foundations and NGOs), legal and regulatory requirements are not prohibitive of forming CSOs (particularly for associations). Despite poor perceptions of transparency of the state, CSOs consider that the situation has somewhat improved in recent years.

The recent political crisis provides both positive and potentially worrisome implications for the civil society sector. On the one hand, the role of the CSO sector has appeared to receive a more formalized role and voice through the proposed creation of an economic and social commission to interact with the transition government on the political transition. On the other hand, as of December 2009 there was pressure to include political party-sponsored CSOs in this commission, which could crowd out the number of seats allocated to non-party affiliated CSOs. Further, with upcoming elections there may be an increase in the number CSOs supported by specific political parties in order to generate resources, and to reach out to local communities for campaigning, further blurring the distinctions between the state, political parties and the CSO sector.

Investing in governance in Madagascar could include investments in the long-term institutional strength of the CSO sector. This can be done though capacity enhancement, improved internal governance and downwards accountability, more sustained financing, providing greater opportunities for engagement, and improvements in the enabling environment for CSO engagement. Engagement in civil society organizational capacity enhancement (through trusts, grant programs, or the like) could be effective, serving the dual purpose of strengthening the sector and growing potential partners for strategic intervention. Specifically, organizational capacity enhancement might include:

- Internal organizational support, particularly communication and reforms to make CSOs more accountable to their own base, particularly for the involvement of non-Tana based CSOs
- Linking requirements on internal governance with support, to participation in high-profile national initiatives, such as EITI.
- Reaching out on social accountability initiatives to CSOs with substantial regional presence, including the church

According to a civil society mapping financed by the European Union in 2005.
• Supporting civic education and awareness campaigns informing citizens of their right to civic engagement on social accountability initiatives through membership in CSOs.

• Increasing efforts to develop strong relationships between CSOs and media outlets and individual journalists.

• Diversification of funding base away from leadership reliance, including more vigorous membership dues collection.

• Strengthen the capacity of CSOs to constructively engage in multi-sectoral policy dialogue.

• Strengthen lobbying and evidence-based advocacy skills of CSOs to enhance their effectiveness in influencing the formulation and monitoring of policies.

• More sustained medium-term financing for independent/technical think-tanks and watch dog organizations.

Activities to enhance the enabling environment could take place at three levels: (i) straightforward improvements in the regulatory requirements on CSOs including the finalization of the remaining regional bodies to allow for the formation of NGOs; (ii) at the very concrete level, pilots with specific and interested government Ministries to open their processes to third party monitoring (such as scorecards, local level participatory budgeting), to undertake information audits on the type of information that would allow communities and CSOs to play a greater role and to provide demonstrations that reassure CSOs of the scope for monitoring government services; and (iii) overall long-term improvements in governance such as judicial reform, and protection from government persecution.

Donor funding to CSOs has to be done with extreme caution to avoid supporting those organizations that have close ties to the political sphere. In the case of Madagascar, supporting civil society through the state can be risky as it can lead to cooptation of civil society. Outsourcing the fund management and capacity development for national CSOs to an international NGO (with transparent information and encouraging civil society oversight) could be one way to ensure the independence and neutrality of the process.

Continued support for social accountability initiatives – including those which involve those outside of Analamanga – should broaden the spaces for civil society to engage with the state. A social accountability program will have to focus simultaneously on strengthening supply side reforms (through both the PRSC and investment loans) for social accountability as well as building the capacity of civil society – not just for social accountability, but overall capacity (through investment loans and possibly trust funds).

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240 The World Bank supported Second Governance and Institutional Development Project has worked across Ministries to support a number of social accountability pilots.
C. Annex III: The Political Economy of Artisanal Sapphire Mining

I. Institutional Arrangements: The Failed Formalization of Artisanal Sapphire Mining

Despite the move towards transparency in mining permit management, the production and supply-chain of artisanal Sapphires has remained nearly entirely informal. This seems particularly striking, as there has been high demand for Sapphire permits and the major sapphire and ruby mining areas are densely covered with gem mining permits, suggesting formalization. Annex Figure 11 illustrates the discrepancy between the de jure (formal) and de facto (informal) Sapphire supply chain and Box 16 describes this difference, which was particularly prevalent during the ban on Sapphire permits until 2004.

Box 16: The De Jure Versus De Facto Gemstone Supply Chain.

- **De jure, permit holders should formalize gemstone production at the point of extraction.** Permit holders should issue so-called “laissez-passers” for a twin formalization purpose: for tracking the origin of gemstones and as a basis for paying the mining royalty, which amounts to 2 percent of the first selling price. This system was preserved in the 1999 Mining Code and inherited from its predecessor. As shown in the first chart of Figure 11, the gemstones should then “travel” with a laissez-passer from the point of the first sale via intermediaries to export. The Mining Ministry issues export authorizations for gemstones provided that they are presented with the required laissez-passer.

- **However, de facto, a lucrative black market for “formality” has emerged, in disconnect with the largely informal gemstone supply-chain.** However, in the majority of cases, permit holders do not control production on their mining square, nor do artisanal miners typically know the identity of the person holding the rights to the area where they are digging. Frequently, permit holders make profit not by selling gemstones, but buy selling laissez-passers to exporters – i.e. by selling “formality.” Western gemstone buyers have a significant presence in Madagascar and create demand for “formality” as they need a proof of origin to legitimately market their gemstones abroad. The market for laissez-passers thus undermines the tracking function of the laissez-passer system, as untracked gemstones only get matched with laissez-passers at the point of export. Consequently, tax redistribution to the true communes of origin becomes impossible. In addition, the taxation function of the laissez-passer system is ineffective due to poor tax enforcement on Malagasy permit holders.

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241 Permit holders obtain stamped laissez-passer forms from the Inter-regional Mining Directorate upon presentation of their permit. De jure, laissez-passers should accompany gemstones from the mining square on which they were first found to the point of export. The first seller—either the permit holder himself or a digger under the control of the permit holder—should hand a laissez-passer stating the quantity sold and the price of the first sale to the first buyer.

242 De facto, there rarely is a connection between the formal PRE permit holder and diggers on the ground. Only in rare cases is a permit holder in direct touch with diggers to exercise his right of “first refusal,” enabling him to purchase stones found in his permit area at a below market-rate price.
Figure 11. The Formalization of the Sapphire Supply-Chain: De Jure versus De Facto

Sources: Authors.

The de jure-de facto discrepancy as shown in this Figure was particularly prevalent during the ban on Sapphire permits until 2004, which drove up black market prices for laissez-passers. Today, formalization still occurs only at the point of export, undermining the “tracking”-function of the laissez-passer system, but exporters have easier access to laissez-passers (e.g. by holding Sapphire permits themselves).
Two major government interventions in this market had strikingly adverse consequences:

- **First**, a ban on issuing permits for Sapphires and Rubies from 1999-2004 fueled the black market for laissez-passes as well as gemstone smuggling. While Madagascar had witnessed previous gemstone rushes, the Ilakaka Sapphire rush in 1999 was unprecedented in size, with tens of thousands of people moving to the Ilakaka region within a short period of time. Seeking to gain control, the Government of Madagascar stopped issuing Sapphire and Ruby permits in 1999. But the ban proved ineffective. Rather, by shortening the supply of Sapphire “laissez-passes” it drove black-market prices into the hundreds or thousands of dollars per laissez-passer and created significant scarcity rents for prior permit holders. Second, it encouraged gem smuggling including by those involved in export oversight.

- **Second**, the export of raw gemstone was blocked in February 2008 by Presidential decree. The interdiction following a public debate about the presumably illegal export of a large block of Emerald from Madagascar. Bringing all formal gemstone exports to a hold, the decision had severe economic and social impacts for the miners and gemstone traders dependent on the sector and gave rise to evasive smuggling strategies.

2. **Political Economy Analysis: Interdictions with Unintended Consequences?**

In seeking to understand the political economy drivers of these interventions in artisanal mining, the challenge lies in drawing the line between intended and unintended consequences. It seems striking that the Government of Madagascar’s two major interventions in the Sapphire production had major adverse effects, while not effectively serving their declared intent. What motivated these decisions? One line of argument could support that seemingly adverse effects were in fact intended consequences – with scarcity rents serving politically connected elites. Yet, while certainty cannot be obtained, this section argues that these outcomes were indeed primarily unintended, for different reasons:

The ban of sapphire and ruby permits in 1999 can primarily be interpreted as an ill-designed decision by a partially blind central state (Scott, 1999). The Ilakaka gem rush in 1999 confronted the Government of Madagascar with an unprecedented event at the periphery of the country beyond its reach. To a large extent, the government was blind vis-à-vis the rush: it had little means of gathering reliable information about or controlling the streams of migration to Ilakaka, the gemstone mining and trade, and the associated social consequences. Whereas rents from most sectors of the country’s economy were largely controlled by a small elite, the informal gemstone trade suddenly opened access to significant rents for self-made men, diggers and traders who had little prior access to economic wealth. Specifically, the permit interdiction – and its persistence - may have been motivated by four distinct factors, as set out in Box 17.
A lack of alternatives. Due to a lack of enforcement capacity in Sapphire mining areas, permit management and export regulation were the only levers at the state’s disposal for seeking to gain control. Assuming enforceability, an outright ban of mining permits would have been suited to limit the sapphire and ruby production.

A culture of ruling by interdiction. The decision follows a culture of ruling by interdiction, which had been nourished by the country's socialist history limiting the familiarity with incentive-based, market-oriented policy designs.

Symbolic policy-making. Third, given the ban’s illusionary nature, it may partially have been motivated by symbolic policy-making, meant to provide a political response to the Ilakaka rush while at the same time shifting away responsibility from the central administration. While it is hard to assess to which extent the ban was driven back lack of knowledge or symbolic intent, it is important not to underestimate the extent to which the central administration’s blindness vis-à-vis the gem rush may have nourished illusions.

Risk-averse policy-making. Strikingly, the permit ban’s persisted for half a decade despite its adverse effects. Risk-averse attitudes towards change within the Mining administration could explain this persistence. From the perspective of the Mining ministry, on paper, the permit ban solved the problem of uncontrolled sapphire production and relocated it to the control of informal exports, which was under the responsibility of other parts of the administration (customs, police). Reverting the ban would have meant conceding that the policy failed and possibly threaten newly created rent-seeking opportunities in other parts of the administration. By contrast, leaving it unchanged and preserving the status quo was a safe and low-profile option. When the ban was finally lifted in 2005, this was a direct result of a government change, undertaken by a new mining Minister with a private sector background.

Source: Author, interviews with anonymous sources.

In sum, both motivation and outcome of the ban assimilate it to what James Scott (1999) terms social engineering by a partially blind central state. In seeking to explain why states undertake large-scale social engineering attempts and why they frequently fail, Scott highlights the importance of rendering society legible for states to exercise control. Without such legibility, the interventions of the pre-modern, partially blind state risk being “crude and self-defeating.” Madagascar’s ban on gem permits can be interpreted as such a self-defeating intervention based on a nascent veil of legibility. The new mining cadastre imposed an orderly roster of mining squares on the reality in Ilakaka, and yet remained but a thin veil of formal control in disconnect with the real movement of people and gemstones. The Government of Madagascar acted on the basis of this veil of formality, ignoring actors’ incentives on the ground, and provoking the above-mentioned severe unintended consequences. In Scott’s words, the “planned social order” was “necessarily schematic,” while, “ignoring essential aspects of any real, functioning social order” (Scott, 1999: p6).

By contrast, the interdiction of raw gemstone exports in February 2008 appears a questionable decision. The export ban was triggered by the unauthorized export of a large rock (weighting ca. 1/2 ton) covered with Emeralds. The block was unique in size, but of limited value (about $100,000 US). Frustrated over the inability to get the rock back to Madagascar, it was decided to ban the export of raw gemstones, disregarding the severe negative economic and social consequences as well as the political cost of this decision. The interdiction not only called into question the livelihood of thousands of poor gem miners, but also provoked discontent in the urban middle class, whose members benefitted as intermediaries from the gemstone trade. Yet despite its obvious negative impact, a number of alternative rationalizations for the gem export
In sum, the Government of Madagascar’s attempts to control artisanal gemstone mining appears symptomatic of centrism within the Malagasy patrimonial order as described in Chapter 1 in two major ways. The ban on Sapphire permits demonstrates the partial neglect of the centralized state towards its periphery. The export ban on raw sapphires in turn demonstrates the weakness of leadership’s accountability towards the citizenry as the decision caused harm to the livelihood of a large population of gemstone miners.
D.  **Annex IV: Mining Sector Tables and Figures**

This Annex provides supplementary Tables and Figures that are referenced in Chapter 2 of the review.

1. **Mining Sector Tables**

**Annex Table 1. The Sapphire Value-Chain**

<table>
<thead>
<tr>
<th>Agent</th>
<th>Activity Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Artisanal Miner</td>
<td>Artisanal miners may or may not be working on a registered mining claim. They work under three distinct types of arrangements:</td>
</tr>
<tr>
<td></td>
<td>1. <strong>Independence.</strong> Most frequently artisanal miners work without the permission of the permit holder. They dig where they will and sell their findings to whom they will.</td>
</tr>
<tr>
<td></td>
<td>2. <strong>Sponsorship.</strong> Sometimes, the permit-holder provides artisanal miners working on his permit area with their daily needs or a small salary in return for the gemstones they find. The permit-holder regularly sells the accumulated stock to buyers or exporters and typically retains 2/3rds of the proceeds, redistributing 1/3 to his diggers.</td>
</tr>
<tr>
<td></td>
<td>3. <strong>First-right to purchase.</strong> Sometimes, instead of a sponsorship arrangement, the permit-holder can exercise his first right of purchase for stones found by diggers on his square, slightly below market price.</td>
</tr>
<tr>
<td>The “Ladies in Hats”</td>
<td>Often, artisanal miners sell their day’s production directly at the mine or the washing site near the mine to the “Ladies in Hats”. These ladies are small independent buyers who stay near the digging and buy daily for cash. As the daily production is usually small and the size of the merchandise also these women may be funded with only 4,000 to 20,000 Ar. The ladies return at the end of every workday to the nearby town or camp.</td>
</tr>
<tr>
<td>“Men with Cars”</td>
<td>“Men with Cars” have access to transport and either buy the stock of “Ladies with Hats” at towns/camps or transport several ladies to the regional commercial center.</td>
</tr>
<tr>
<td>“Businessmen”</td>
<td>In each commercial center is a daily market of Malagasy only. The “Businessmen” who participate in this market buy from the transporter and ladies who have their own means of coming to this market. The daily market is usually held at 6:00 am and foreigners are never welcome. The Businessmen make up lots from their purchases and then circulate among the foreign “Exporter/Buyers” offering each buyer the type of merchandise they desire. Most buyers and most different nationalities (Thai, Sri Lankan, African, and Western buyers) specialize in one type of product.</td>
</tr>
<tr>
<td>Exporter</td>
<td>The gemstones are usually exported to Asia in their rough state.</td>
</tr>
</tbody>
</table>

*Source:* Based on Cushman, Tom Paper on Gemstone sector in Madagascar.
Annex Table 2. The Gold Value-Chain

<table>
<thead>
<tr>
<th>Agent</th>
<th>Activity Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Panners</td>
<td>Local individuals or small family groups pan for alluvial gold dust in current or former river beds. Often part-time in complement to agricultural activity. Gold panners often sell their findings daily to local grocery store owners, in return for goods or money. If they do not depend on daily sells, they can save their gold and skip one intermediary by selling directly on the weekly market.</td>
</tr>
<tr>
<td>“Epiciere” (small grocery store owners)</td>
<td>A local “Epiciere” weighs the gold, stores it and sells it every week to collectors on the market.</td>
</tr>
<tr>
<td>Collector</td>
<td>(Often local) collectors buy gold on market day from “Epicures” or directly from panners. They typically do not use their own money, but are financed by super-collectors who come before the market day to provide collectors with cash.</td>
</tr>
<tr>
<td>Super-collector (limited visibility)</td>
<td>Most super-collectors are not local, but come from the capital or a larger town. They typically run (finance) several collectors in different villages.</td>
</tr>
<tr>
<td>Gold trader / Gold user (limited visibility)</td>
<td>Gold traders buy gold from super-collectors, either to use it for wealth storage in some quantity or export it. Gold users are domestic jewellers who buy gold (in part) for their own production.</td>
</tr>
</tbody>
</table>
Annex Table 3. Types of Mining Titles administered by the BCMM

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Mining title</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AERP</td>
<td>Exclusive Authorization for Research and Exploration (“Autorisation Exclusive de Recherche et Prospection”)</td>
<td>An AERP is the first mining document applied for by most mining operators. While it is not a full-fledged mining title, it allows for superficial exploration of a potential site for a period of three months, and is renewable once. AERPs allow an operator to reserve an area identified through desk studies and for which he needs to perform an immediate rough evaluation of such parameters as accessibility, administrative and social makeup, and actual physical terrain conditions. While there is no legal timeframe for the issuance of AERPs, the granting of these documents usually occurs within a week following the proper submission of required documents.</td>
</tr>
<tr>
<td>PRE</td>
<td>Research and Extraction Permit (“Permis de Recherche et Exploitation”)</td>
<td>PREs are full-fledged mining titles designed for non-mechanized, small scale (artisanal) exploration and extraction of minerals. These mining titles are aimed towards individuals and small companies, and are relatively limited in the number of mining squares that can be applied for.</td>
</tr>
<tr>
<td>PR</td>
<td>Exploration/Research Permits (“Permis de Recherche »)</td>
<td>PRs allow for large-scale exploration of a given mining perimeter. A full Environmental Impact Assessment (EIA) must be performed, and the corresponding Environmental Authorization obtained before any type of work can be engaged.</td>
</tr>
<tr>
<td>PE</td>
<td>Extraction Permits (“Permis d'Exploitation”)</td>
<td>PEIs are designed for large-scale mine development. Again, a full EIA and its corresponding Environmental Authorization must be obtained before any work can be started.</td>
</tr>
</tbody>
</table>
### Annex Table 4. Estimate of the total amount of annual public revenues, QMM project

(2009-2026, current millions of dollars)

<table>
<thead>
<tr>
<th></th>
<th>2009</th>
<th>2010-13</th>
<th>2014-17</th>
<th>2018</th>
<th>2019-20</th>
<th>2021-26</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dividends</td>
<td>0</td>
<td>0</td>
<td>4.0</td>
<td>4.0</td>
<td>4.0</td>
<td>2.8</td>
<td>63.6</td>
</tr>
<tr>
<td>User fees</td>
<td>1.4</td>
<td>2.0</td>
<td>2.0</td>
<td>2.0</td>
<td>2.0</td>
<td>1.4</td>
<td>31.8</td>
</tr>
<tr>
<td>Tax/profits</td>
<td>0.0</td>
<td>0.0</td>
<td>2.0</td>
<td>2.0</td>
<td>3.0</td>
<td>2.1</td>
<td>28.6</td>
</tr>
<tr>
<td>Local taxes</td>
<td>0.0</td>
<td>0.0</td>
<td>0.0</td>
<td>0.2</td>
<td>0.2</td>
<td>0.2</td>
<td>1.8</td>
</tr>
<tr>
<td><strong>Total pub. revenues</strong></td>
<td><strong>1.4</strong></td>
<td><strong>2.0</strong></td>
<td><strong>8.0</strong></td>
<td><strong>8.2</strong></td>
<td><strong>9.2</strong></td>
<td><strong>6.5</strong></td>
<td><strong>125.8</strong></td>
</tr>
</tbody>
</table>

*Source*: Country Economic Memorandum (2009). Main accepted assumptions: 20% of OMNIS participation in QMM, standard result before tax = 20% of the turnover; IMF macro-economic framework, application of the QMM framework agreement tax regime. For information, the price of limonite and zircon is assumed to be constant for the duration of the agreement.

### Annex Table 5. Estimates of the total amount of annual public revenues, Sherritt project

(2010-2026, current millions of dollars)

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011-2020</th>
<th>2021-26</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax/profits</td>
<td>92.2</td>
<td>113.8</td>
<td>112.1</td>
<td>1903.0</td>
</tr>
<tr>
<td>User fees</td>
<td>14.8</td>
<td>18.5</td>
<td>18.5</td>
<td>310.5</td>
</tr>
<tr>
<td>Local taxes</td>
<td>0.2</td>
<td>0.2</td>
<td>0.2</td>
<td>3.4</td>
</tr>
<tr>
<td><strong>Total pub. revenues</strong></td>
<td><strong>107.2</strong></td>
<td><strong>132.5</strong></td>
<td><strong>130.8</strong></td>
<td><strong>2216.9</strong></td>
</tr>
</tbody>
</table>

Main accepted assumptions: price of nickel 12.72$/pound or 28,000$/ton; profit distribution between production and processing: 20/80; IMF macro-economic framework, application of the LGIM tax system. Sources: IMF, World Bank (COPCO), Compilation Report and preliminary diagnosis for the study of the mining sector tax environment revision, Sherritt International, «Project benefits to Madagascar’s economy», author’s calculations.
## Annex Table 6. PEFA-Assessment Results for Madagascar

<table>
<thead>
<tr>
<th>PEFA Indicator</th>
<th>Indicator Definition</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. PFM-OUT-TURNS: Credibility of the budget</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI-1</td>
<td>Aggregate expenditure out-turn compared to original approved budget</td>
<td>B</td>
</tr>
<tr>
<td>PI-2</td>
<td>Composition of expenditure out-turn compared to original approved budget</td>
<td>A</td>
</tr>
<tr>
<td>PI-3</td>
<td>Aggregate revenue out-turn compared to original approved budget</td>
<td>D</td>
</tr>
<tr>
<td>PI-4</td>
<td>Stock and monitoring of expenditure payment arrears</td>
<td>B</td>
</tr>
<tr>
<td><strong>B. KEY CROSS-CUTTING ISSUES: Comprehensiveness and Transparency</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI-5</td>
<td>Classification of the budget</td>
<td>A</td>
</tr>
<tr>
<td>PI-6</td>
<td>Comprehensiveness of information included in budget documentation</td>
<td>C</td>
</tr>
<tr>
<td>PI-7</td>
<td>Extent of unreported government operations</td>
<td>B+</td>
</tr>
<tr>
<td>PI-8</td>
<td>Transparency of inter-governmental fiscal relations</td>
<td>B</td>
</tr>
<tr>
<td>PI-9</td>
<td>Oversight of aggregate fiscal risk from other public sector entities.</td>
<td>C+</td>
</tr>
<tr>
<td>PI-10</td>
<td>Public access to key fiscal information</td>
<td>D</td>
</tr>
<tr>
<td><strong>C. BUDGET CYCLE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>C(i) Policy-Based Budgeting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI-11</td>
<td>Orderliness and participation in the annual budget process</td>
<td>B+</td>
</tr>
<tr>
<td>PI-12</td>
<td>Multi-year perspective in fiscal planning, expenditure policy and budgeting</td>
<td>C+</td>
</tr>
<tr>
<td><strong>C(ii) Predictability and Control in Budget Execution</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI-13</td>
<td>Transparency of taxpayer obligations and liabilities</td>
<td>C</td>
</tr>
<tr>
<td>PI-14</td>
<td>Effectiveness of measures for taxpayer registration and tax assessment</td>
<td>C+</td>
</tr>
<tr>
<td>PI-15</td>
<td>Effectiveness in collection of tax payments</td>
<td>D+</td>
</tr>
<tr>
<td>PI-16</td>
<td>Predictability in the availability of funds for commitment of expenditures</td>
<td>B</td>
</tr>
<tr>
<td>PI-17</td>
<td>Recording and management of cash balances, debt and guarantees</td>
<td>B</td>
</tr>
<tr>
<td>PI-18</td>
<td>Effectiveness of payroll controls</td>
<td>D+</td>
</tr>
<tr>
<td>PI-19</td>
<td>Competition, value for money and controls in procurement</td>
<td>C</td>
</tr>
<tr>
<td>PI-20</td>
<td>Effectiveness of internal controls for non-salary expenditure</td>
<td>C+</td>
</tr>
<tr>
<td>PI-21</td>
<td>Effectiveness of internal audit</td>
<td>C+</td>
</tr>
<tr>
<td><strong>C(iii) Accounting, Recording and Reporting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI-22</td>
<td>Timeliness and regularity of accounts reconciliation</td>
<td>D+</td>
</tr>
<tr>
<td>PI-23</td>
<td>Availability of information on resources received by service delivery units</td>
<td>D</td>
</tr>
<tr>
<td>PI-24</td>
<td>Quality and timeliness of in-year budget reports</td>
<td>C+</td>
</tr>
<tr>
<td>PI-25</td>
<td>Quality and timeliness of annual financial statements</td>
<td>D</td>
</tr>
<tr>
<td><strong>C(iv) External Scrutiny and Audit</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI-26</td>
<td>Scope, nature and follow-up of external audit</td>
<td>D</td>
</tr>
<tr>
<td>PI-27</td>
<td>Legislative scrutiny of the annual budget law</td>
<td>C+</td>
</tr>
<tr>
<td>PI-28</td>
<td>Legislative scrutiny of external audit reports</td>
<td>D</td>
</tr>
</tbody>
</table>

Source: PEFA Assessment 2006.
2. Mining Sector Figures

Annex Figure 1. Revenue projection for Territorial Authorities from the QMM and Ambatovy Projects (2008-2034)

<table>
<thead>
<tr>
<th>Year</th>
<th>QMM</th>
<th>Ambatovy</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2020</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2025</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2030</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2034</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Based on Colby (2009).

Annex Figure 2. De Jure Repartition of Yearly Revenues from the Administrative Mining Fee

- Mining Oversight Bodies (Mining Inspection and Police) and Environmental Unit, 8%
- National Mining Committee (CNM), 5%
- Gold Agency (AO), 2%
- Concerned Provinces, 5%
- Concerned Regions, 7%
- Concerned Communes, 12%
- Office of the Mining Cadastre (BCMM), 60%
- General Budget (Mining Directorate), 1%
- Gold Agency (AO), 2%
- National Mining Committee (CNM), 5%
- Concerned Provinces, 5%
- Concerned Regions, 7%
- Concerned Communes, 12%
- Office of the Mining Cadastre (BCMM), 60%
- General Budget (Mining Directorate), 1%

Source: Article 50 CM and Article 90 DACM.
Annex Figure 3. De Jure Repartition of Mining Royalties (Ristourne and Redevance Minere)

Source: Article 117 and Article 199 CM, Article 189 and Article 294 DACM.
Annex Figure 4. Communes benefitting from Royalty Transfers from the QMM and Ambatovy Projects.

<table>
<thead>
<tr>
<th>Ambatovy</th>
<th>QMM</th>
</tr>
</thead>
</table>

*Source: Premier Rapport de Réconciliation des Revenues, Madagascar (2010).*
Annex Figure 5. Percent of the Population in "Riches" or "Poverty" by Commune (Ilo Census 2001)

Annex Figure 6. Popular view of the evolution of conditions during the past five years by commune

Source: CRS (2009).
Annex Figure 7. Political Economy Implications of Resource Characteristics

<table>
<thead>
<tr>
<th>Actor / Resource characteristics</th>
<th>Resource classification</th>
<th>Political Economy Implications (rent-capturing capacity of different actors)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Artisanal producer (digger/panner/logger)</td>
</tr>
<tr>
<td>Means of rent generation</td>
<td></td>
<td>Competitive markets (fair share), electoral power</td>
</tr>
<tr>
<td>Dispersion</td>
<td></td>
<td>High dispersion is associated with open access to the resources (for alluvial findings) and a large (and potentially politically influential) number of individuals involved in production.</td>
</tr>
<tr>
<td>Value/volume ratio</td>
<td></td>
<td>High value per volume attracts artisanal producers.</td>
</tr>
<tr>
<td>Capital-intensity (of exploitation)</td>
<td></td>
<td>Low capital intensity makes the resource open-access for artisanal producers.</td>
</tr>
<tr>
<td>Homogeneity</td>
<td></td>
<td>High homogeneity reduces price-information asymmetries and favors high rent-capture by artisanal producers (in competitive markets).</td>
</tr>
<tr>
<td>Duration of extraction</td>
<td></td>
<td>Long-standing extraction leads to stable community and livelihood structures, contrary to rush dynamics.</td>
</tr>
</tbody>
</table>

Legend: yellow=gold / blue=Sapphire / grey=industrial Limonite, nickel cobalt / green = rosewood
E. **Annex V: Forestry Sector Tables and Figures**

This Annex provides supplementary Tables and Figures that are referenced in Chapter 3 of the review.

### 1. Forestry Sector Tables

#### Annex Table 7. De jure Forest Uses as of 2005

<table>
<thead>
<tr>
<th>Forest type</th>
<th>Protects Areas [ha]</th>
<th>Priority zones for SAPM [ha]</th>
<th>Priority Zones for SGFD [ha]</th>
<th>Other Forests [ha]</th>
<th>Total [ha]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Humid tropical forests</td>
<td>2 328 820</td>
<td>566 163</td>
<td>858 031</td>
<td>841 709</td>
<td>4 594 723</td>
</tr>
<tr>
<td>Dry forests</td>
<td>627 252</td>
<td>382 383</td>
<td>307 561</td>
<td>1233 016</td>
<td>2 550 211</td>
</tr>
<tr>
<td>Spiny forests</td>
<td>875 903</td>
<td>291 457</td>
<td>169 270</td>
<td>681 824</td>
<td>2 018 453</td>
</tr>
<tr>
<td>Mangroves</td>
<td>79 530</td>
<td>117 271</td>
<td>5 796</td>
<td>55 769</td>
<td>258 366</td>
</tr>
<tr>
<td>Pine plantations</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>140 980</td>
<td>140 980</td>
</tr>
<tr>
<td>Eucalyptus Plantations</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>150 397</td>
<td>150 397</td>
</tr>
<tr>
<td>Total</td>
<td>3 911 505</td>
<td>1 357 274</td>
<td>1 340 658</td>
<td>3 103 622</td>
<td>9 713 059</td>
</tr>
</tbody>
</table>

*Source: USAID, 2009.*

### Box 18: Major Regulatory Milestones concerning Precious Timber Logging and Export

- **Regulation aimed at containing logging was part of the preparatory process for Phase III of Madagascar’s Environmental Program.** Two Ministerial orders were passed under the government of President Ratsiraka, both aimed at protecting critical biodiversity: Order 11832/2000 of 30 April 2000 temporarily prohibited the export of rosewood in non-finished form, and Order 12704/2000 of 20 November 2000 suspended and prohibited all extraction of wood resources in “sensitive zones, including protected areas.” Exports limitations for “processed” wood aimed at advancing a domestic wood processing industry.

- **The export ban of 2000 was first relaxed in the wake of Cyclone Gafilo, which hit the Sava region in March 2004, and was followed by a rapid succession of renewed restrictions and exceptions in 2005.** Under the government of President Ravalomanana, Order 17939/2004 facilitated the legal export of precious woods felled by cyclone Gafilo. It permitted the export of timber not only in finished, but also in semi-finished form. Service Note n°175/05 of 22 February 2005 prohibited the export of rosewood and ebony and thus reinstated the Government’s commitments under EPIII. Yet, half a year later, Service Note N°923-05 of October 6, 2005 reauthorized export of existing stocks of rosewood and ebony, thereby overruling the previous note. As explicitly stated in the note, it was issued “following the grievances of the operators and exporters of Antalaha, Mahajanga and Tolagnaro.”

- **In September 2006, the exploitation of all precious woods was definitively prohibited both within and outside National Parks.** Inter-Ministerial Order 16030-2006 is regarded as an important milestone in timber regulation, as it eliminated ambiguity regarding the legality of rosewood stocks found. Previously, it could be argued that these stocks originated from non-protected areas.

- **Following the severe damage caused in the Sava by cyclone Indala in March 2007, the forestry administration issued general “collection permits,” allowing even non-registered applicants to collect uprooted Rosewood.** Yet subsequently, Inter-Ministerial Order 10885/2007 of 3 July prohibited export of all types of wood in raw or semi-finished form. And Ministerial Note 03/08 of 10 January 2008 revoked all export agreements and prohibited exports under these new agreements.

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244 For palissandre, rosewood and ebony, “semi-finished” was defined as “planed on the four sides”
<table>
<thead>
<tr>
<th>Stage</th>
<th>Agent</th>
<th>Activity description</th>
<th>Absolute Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felled</td>
<td>Local villagers / Armed gangs</td>
<td>Logging of the rosewood trees is carried out by teams of two to three people. Once a tree is found, it takes 1 - 2 hours to manually fell the tree by axe, after which it is cut into 1 - 2 meter lengths called “bola-bolas” that can weigh from 100 kg to 200 kg. Logging, de-barking and cutting one tree into 2m logs takes an average of one day.</td>
<td>Loggers are paid MGA 10,000 (ca. US$ 5) per day. (Global Witness, 2009) The logs average 2m in length, with a diameter of 25 to 35cm, a volume of 0.10 – 0.19 m³, and a weight of roughly 0.11 – 0.21 tonnes.</td>
</tr>
<tr>
<td>Dragged to a waterway</td>
<td>Local villagers</td>
<td>The logs are dragged by teams of four to six people through difficult terrain to a stream for being rafted.</td>
<td>Draggers are paid only 1,000 AR per trunk (about 50 to 100 times less than retail value), receiving MGA 10,000 per day for their work.</td>
</tr>
<tr>
<td>Rafted down waterways</td>
<td>Local villagers</td>
<td>Once all the pieces arrive at a river, they are tied together in bundles and floated down these waterways to ground transport. The journey, through shallow waters and difficult rapids, lasts an average of one day.</td>
<td>Rafters earn MGA 10,000 per log.</td>
</tr>
<tr>
<td>Driven or shipped to ports</td>
<td></td>
<td>The logs are driven or shipped to one of the major shipping ports in the region such as Vohémar and Antalaha.</td>
<td>Rosewood is sold for 7000 FMG/kg at Tamatave, or for 5000 FMG/kg at Antalaha. Boatmen: The boatmen are paid MGA 20,000-25,000 for transporting four to five logs for about five hours.</td>
</tr>
<tr>
<td>Sold and Transported to Exporters depots</td>
<td>Local villagers</td>
<td>The last stages of the journey to the depots (both open and hidden) of the Antalaha exporters are carried out by local men on the riverbanks at Antjahamarina and Ambalabe. Groups of four to seven men load an average of 20 logs onto tractor-trailers or minivans, and Groups are paid an average of MGA 40,000 per group per day, a daily salary of around MGA 6,000-10,000 per person.</td>
<td></td>
</tr>
<tr>
<td>1. Passed through customs and shipped</td>
<td></td>
<td></td>
<td>The reported export price for rosewood at customs is uniformly about €2,000 per cubic meter whereas reported imports into China show much greater variation in price, ranging from $1,000 to $3,000 per cubic meter</td>
</tr>
<tr>
<td>2. Sold to import companies</td>
<td>Chinese rosewood importers</td>
<td>are based in the south of China, with provinces like Guangdong, Hunan, and Guangzhou taking the lion’s share of the trade along with Shanghai and Hong Kong</td>
<td>the current price of rosewood in China of about US$3,000 – 4,000 per m³ (Global Witness, 2009)</td>
</tr>
<tr>
<td>Crafted, primarily for instruments and furniture</td>
<td></td>
<td></td>
<td>A large wardrobe might retail for €15,000 – 20,000, while the raw timber used in its construction would be sold to Chinese importers for €600 – 800. (Global Witness (2009))</td>
</tr>
</tbody>
</table>

246 Pers. obs.; Wul Frank, Conservation Agent, Marojejy National Park, pers. comm.)
247 (Sylvain Velomora, former Director of Marojejy National Park, pers. comm.; Wul Frank, Conservation Agent, Marojejy National Park, pers. comm.).

Rent capture increases along the value chain
2. Forestry Sector Figures

Annex Figure 8. Evolution of the Forest Coverage 1950 to 2005


Annex Figure 9. Tourist Entries to Masoala and Marojejy National Parks (1995-2009)

Source: Ministry of Agriculture
Annex Figure 10. Power Predictors for Concession Holders’ Vested Interests

Source: Author’s Illustration.

Annex Figure 11. Surface covers by Forests Permits / Concessions (1990-2008)

Source: Ministry of Forestry.
The disequilibrium between forest surfaces and staff presented in this chart requires careful interpretation. The chart schematically opposes staff and forest surface data. Yet, importantly, the data on forest surface areas includes both non-protected and protected areas, which may distort the picture, as the forest staff is primarily in charge on non-protected forests. Also, the tasks of MEF agents are not limited to forest management and vary by region, which justifies some of the imbalance in their distribution.

### Annex Figure 13. Estimated Rosewood Rent Allocation under Different Tax Scenarios (simulation-based)

<table>
<thead>
<tr>
<th>Status ante: De jure rent allocation prior to September 2009</th>
<th>Rent allocation if rosewood was confiscated and auctioned by government</th>
</tr>
</thead>
</table>

#### 1. Status ante:
- De jure rent allocation prior to September 2009

#### 2. Status quo:
- De jure rent allocation after the introduction of the rosewood export tax in September 2009

#### 3. Rent allocation if rosewood was confiscated and auctioned by government

#### 4. Status quo for ordinary wood:

*Source: PGM-E, 2009.*
Annex Figure 14. Madagascar’s Forest Endowment, bioclimatic forest Zones and Protected Areas.

<table>
<thead>
<tr>
<th>Forest Endowment</th>
<th>Bioclimatic Forest Zones</th>
<th>Protected Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Annex Figure 15. The Political Economy Dynamics of Forest Governance in Madagascar: Dynamic View

Sources: Ministry of Agriculture, Ministry of Forests, relevant regulation. Chart 1 shows the vanilla price in $ (US), Chart 2 shows export and collection bans in red and, inversely permits in green, Chart three shows the evolution of the number of yearly eco-tourists in MNP (Source: MNP) and the number of rosewood stumps found in the Masoala National Park. Stump count for 2010 only covers data till March 2010.
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