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## **National report submitted in accordance with paragraph 15 (a) of the Annex to Human Rights Council resolution 5/1\***

### **Madagascar**

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\* The present document was not edited before being sent to the United Nations translation services.

## Introduction

1. Despite the social and political crisis which has rocked the country since December 2008, Madagascar is committed to complying with its obligation to submit its report to the Human Rights Council pursuant to the General Assembly resolution of 15 March 2006 and the Human Rights Council resolution adopted in the framework of the universal periodic review.

2. Following a protest movement directed against the ruling Government and the decision by the President of the Republic to transfer full powers to a military directorate,<sup>1</sup> the latter in turn transferred power to the leader of the movement, Andry Nirina Rajoelina.<sup>2</sup> In its Decision No. 79-HCC/G of 18 March 2009, the High Constitutional Court took note of this transfer and recognized Andry Nirina Rajoelina as the Transitional President exercising the functions of President of the Republic.

3. In conformity with the general guidelines of Human Rights Council resolution 5/1 adopted on 18 June 2007, this national report was elaborated on the basis of the following process:

- The inter-ministerial Committee, which was set up in 2003 and is responsible for drafting reports on the implementation of human rights treaties with the participation of representatives of civil society, was enlarged to include other ministerial representatives and representatives of civil society who are not members of the Committee.
- The preliminary report drafted by the Committee in December 2008 was the subject of successive consultations with civil society at regional level in Antsirabe and, at the level of the capital, in Antananarivo.<sup>3</sup>

## I. Country background

4. Madagascar is an island situated 400 km from the coast of Mozambique in the south-west Indian Ocean. Its total surface area is 587,051 km<sup>2</sup>, with a coastline of 5,000 km. The capital is Antananarivo. The country is divided into 22 regions, 119 districts, 1,558 communes and 17,433 village communities. Madagascar's national language is Malagasy, and its official languages are Malagasy, French and English.

5. The population of Madagascar was estimated at 19,385,000 in 2009.<sup>4</sup> Just under 8 persons out of 10 live in rural areas. In 2003–2004, fertility was estimated at 5.2 and is still high and early. Infant mortality is estimated at 58 per cent. Life expectancy at birth is 59.9 years.<sup>5</sup> The average size of households is 4.9 persons.

6. Since acceding to independence on 26 June 1960, Madagascar has witnessed three republics marked by two transitional regimes.

7. To overcome the crisis and establish the fourth republic, the Maputo Transitional Charter, signed<sup>6</sup> on 9 August 2009 under the auspices of the International Contact Group, makes provision for a transitional regime. The heads of the transitional institutions were nominated on 6 October 2009.<sup>7</sup>

8. In the economic sphere, the primary sector accounts for only 22.3 per cent of GDP, although it employs more than 82 per cent of the working population. The country has a Poverty Reduction Strategy Paper and a Madagascar Action Plan for attaining the Millennium Development Goals (MDGs). Since the introduction of free enterprise two decades ago, the country has witnessed an increase in economic growth, with a rate of 9.8

per cent in 2003 and 7.2 per cent in 2008. However, this has not always resulted in a higher standard of living for the population, especially in rural areas.

9. According to the Human Development Report 2009, Madagascar is ranked 145th out of 182 countries, with a Human Development Index of 0.543.

## **II. Normative and institutional human rights framework**

### **A. Institutional framework**

10. Madagascar has ratified or acceded to most human rights instruments.<sup>8</sup> In its preamble, the Constitution recognizes the International Bill of Human Rights, the African Charter on Human and Peoples' Rights and the conventions on the rights of women and the rights of the child, which are considered to be an integral part of Madagascar's law.

11. The Constitution<sup>9</sup> also recognizes that international treaties and agreements which have been lawfully ratified or approved shall, as from their publication, have higher authority than laws.

12. The Constitution of 1992 enshrines the protection of human rights. In its article 40, paragraph 2, it provides for the establishment of specialized bodies for the promotion and protection of human rights. The Office of the Ombudsman of the Republic and the National Human Rights Council have been set up to that end.

13. Madagascar has made progress on eliminating the backlog in the submission of its overdue initial and periodic reports to the treaty monitoring bodies following the establishment of a committee for the drafting of initial and periodic reports relating to international human rights instruments. Twelve reports have been drafted, of which three<sup>10</sup> have been submitted and considered. The report on economic and social rights will be considered in November 2009, and the report on the rights of the child is awaiting a date for consideration.

14. Madagascar is a member of the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), the Indian Ocean Commission (COI) and the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC).

### **B. Institutional framework**

#### **1. State institutions**

15. The principle of the separation of powers is embodied in the Constitution and in the Maputo Charter of 9 August 2009, which serves as the Transitional Constitution.

##### *(a) The executive power*

16. In accordance with the Constitution of the Third Republic, executive power is exercised by the President of the Republic and the Government. The President of the Republic ensures respect for the Constitution, which guarantees the basic rights and fundamental freedoms of all citizens.

17. The Transitional Charter entrusts the Transitional President and the Government with the exercise of executive power.

(b) *The legislative power*

18. The legislative power is exercised by a bicameral Parliament, which takes action with regard to the ratification of international instruments, including those relating to human rights, and legislative reforms implementing those instruments in domestic law.

19. The Transitional Charter has replaced the National Assembly by the Congress of the Transition and the Senate by the High Council of the Transition.

(c) *The judiciary*

20. In Madagascar, justice is rendered in the name of the people in conformity with the Constitution and the law and is exercised by the Supreme Court, the courts and tribunals.

21. The President of the Republic is the guarantor of the independence of the judiciary. He is the President of the Judicial Service Commission. Judges are independent and hold office for life.

(d) *The High Constitutional Court*

22. The High Counsel of Institutions was replaced in 1975 by the High Constitutional Court, which is empowered to monitor the constitutionality of laws and to rule on electoral disputes relating to presidential and legislative elections.

23. During the transition, the High Constitutional Court has been replaced by the High Court of the Transition.

**2. Other independent institutions for the protection of human rights**

(a) *The National Human Rights Commission*

24. As part of the implementation of the concluding observations of treaty bodies, including the Committee on the Elimination of Racial Discrimination, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, the National Human Rights Council has been established by law<sup>11</sup> pursuant to the Constitution and the Paris Principles. Representatives of Parliament will be appointed to the Council once the new Parliament is in place. The Council replaces the National Human Rights Commission, which was set up by decree in 1996, the term of office of its members having expired in October 2002.

(b) *The Office of the Ombudsman of the Republic, People's Defender*<sup>12</sup>

25. The Office of the Ombudsman, an independent authority, was created to protect the rights of citizens in the event of disputes with the administration.

**3. Independent bodies combating corruption**

26. The following bodies were set up in order to give effect to the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime, ratified in 2003 and 2005, respectively:

- The High Council for Combating Corruption (CSLCC),<sup>13</sup> which later became the Committee for the Safeguard of Integrity (CSI).<sup>14</sup>
- The Independent Anti-Corruption Office (BIANCO),<sup>15</sup> which combats corruption through prevention, education and the effective enforcement of the law. Corruption is a violation of equal treatment of citizens in the public services. The Office is operational in five localities. It is planned to open offices at the level of the 22 regions.

- The Anti-Corruption Crime Channel and Financial Information Service<sup>16</sup> to combat money-laundering (SAMIFIN).

#### **4. The National Electoral Council**

27. The National Electoral Council was set up to guarantee the exercise and enjoyment of electoral rights. It organizes and supervises elections and referendums.

28. During the transition, the Council will be replaced by the Independent National Electoral Committee.

### **III. Promotion and protection of human rights**

#### **A. Civil and political rights**

##### **1. Civil liberties**

29. Article 10 of the Constitution declares that “freedom of opinion and expression, communication, the press, association, assembly, movement, conscience and religion shall be guaranteed to all and may be restricted only for the sake of respect for the freedoms and rights of others and the imperative need to safeguard public order”.

30. Article 11 guarantees the right to information. The Act on the Communication and Audio-visual Media stipulates<sup>17</sup> that “everyone has the right to express their opinion and their ideas in the press, regardless of the medium employed”.

31. Article 59 of the Act provides that “the public has the right to full information that is in conformity with facts and events”. Madagascar has 259 private and public radio stations, 30 television stations, 13 daily newspapers and 7 weeklies.

32. Article 14 enunciates the freedom to create associations and political parties, except for those which undermine the unity of the nation or advocate totalitarianism or ethnic, tribal or religious segregation.

33. Madagascar has more than 200 political parties and about 1,500 associations and non-governmental organizations (NGOs).<sup>18</sup>

34. All Malagasy citizens aged 18 and older have the right to vote. Conditions of eligibility to be a candidate in an election are set out in articles 15 and 46 of the Constitution and are specified in the relevant laws and regulations.

##### **2. The principle of non-discrimination and equality before the law**

35. Pursuant to article 8 of the Constitution, “citizens are equal before the law and enjoy the same fundamental freedoms under the protection of the law without discrimination on the basis of sex, level of education, financial situation, origin, race, religious belief or opinion”.

36. Article 13, paragraph 6, of the Constitution stipulates that “the law shall ensure that everyone has access to justice; lack of resources will be no obstacle thereto”.

37. Justice is rendered by the courts and tribunals in conformity with the Constitution and the law and in the name of the Malagasy people. Madagascar has a Supreme Court, 6 courts of appeal, 36 lower courts and 6 administrative and financial tribunals.

38. Since the establishment of the National Academy of the Judiciary in 1997, every year 25 to 30 judges and 100 court registrars are recruited in competitive examinations.

There are currently 778 judges, of whom 608 are in the judicial branch, 86 in the administrative branch and 84 in the financial branch. There are 1,089 registrars.

39. The principle of non-discrimination and equality before the law is applicable in the area of justice, employment and access to the civil service.

40. Legislative reforms have been introduced in family law:

- Age of marriage raised to 18 years for men and women<sup>19</sup>
- Equality of rights of the spouses in the management of joint property<sup>20</sup>
- A fair sharing of property in the event of divorce<sup>21</sup>
- Identical penalties for spouses guilty of adultery<sup>22</sup>

41. The ruling of the Supreme Court in favour of the applicant in the case *Dugain v. Air Madagascar* made reference to the application of the principle of non-discrimination.

42. In the framework of the implementation of the concluding observations of the Human Rights Committee recommending that Madagascar should take appropriate measures to combat discriminatory practices of which women are victims, the Ministry of Justice, with the support of UNDP, has organized a public debate in Mampikony with a view to elaborating a road map for the gradual abandonment of harmful traditional practices such as “*Moletry*”.<sup>23</sup> At the close of the debate, traditional chiefs, religious leaders and local authorities committed themselves to combating the practice of forced and/or early marriage sometimes noted in “*Moletry*”.

43. Madagascar intends to extend these debates to the regional and national level in order to formulate a national policy to combat traditional practices incompatible with the international human rights instruments which Madagascar has ratified.

44. To assist persons who are unable to bring cases before the courts, five legal defence offices, known as “legal clinics”, have been set up with UNDP support. These clinics are empowered to resolve certain disputes at community level through conciliation and counselling.

### 3. Protection of personal integrity and security

45. Offences violating physical integrity, including arbitrary arrest and arbitrary detention, are punishable under the Criminal Code.

#### (a) Protection of physical integrity

46. The death penalty, instituted in 1958, has not been abolished, but it is not carried out, and sentences to death are systematically commuted to life imprisonment.

47. Four police stations become operational every year to ensure the protection of persons and property. The general policy is to put community policing into place. Since 1994, 100 police officers have been recruited every year.

48. With regard to combating torture and ill-treatment, Madagascar ratified the relevant Convention on 13 December 2005. Act No. 2008/008 on the prohibition, prevention and punishment of acts of torture and other cruel, inhuman and degrading punishment or treatment was promulgated on 25 June 2008.

49. The Code of Ethics of the National Police<sup>24</sup> stipulates that anyone apprehended by a service of the national police, for whatever reason, shall be placed under its responsibility and protection and must not be subjected to any violence or inhuman or degrading treatment on the part of national police officers.

50. Prison staff and persons with access to penitentiary institutions are prohibited from engaging in acts of torture or violence directed against inmates.<sup>25</sup>

51. Corporal punishment in schools is prohibited.<sup>26</sup>

52. Any teacher who causes grievous bodily harm to a pupil is required to reply to a written request for an explanation or is reprimanded by the school director,<sup>27</sup> without prejudice to any criminal prosecution which may be instituted.

(b) *Arbitrary arrest and detention have been defined as criminal offences and made punishable by article 114 of the Criminal Code*

#### **4. Making prison conditions more humane**

53. Madagascar has 82 prisons and 1,907 prison officials, including 1,221 prison guards, or a ratio of 1 guard to 15 detainees.

54. In 2008, 17,409 persons, of whom 50.5 per cent were in pretrial detention, were imprisoned in existing institutions, whose capacity is limited to 13,000.

55. Male and female detainees are held separately. There are special wards for minors. At the present time, sentenced offenders are not separated from persons in pretrial detention.

56. The prison reform<sup>28</sup> envisages the social, familial and occupational reintegration of detainees.

57. The reform recommends the implementation of the rights of detainees set out in international instruments, including the right to health, healthy and adequate food, education, vocational training and visits.

58. Other measures taken:

- The establishment of the National Academy of the Prison Administration and the recruitment of 250 students yearly
- The revival of the use of penal colonies so as to relieve prison overcrowding
- The introduction of a parole procedure to help relieve prison overcrowding

59. The steps taken to address problems of prison overcrowding and generalized malnutrition are still insufficient due to lack of financial resources. Ageing facilities, limited prison capacity and insufficient prison staffing are obstacles to ensuring the rights of detainees.

60. To remedy these problems, a legislative reform is under way on adopting alternatives to imprisonment and introducing non-custodial sentences, such as community service. The aid and support of international partners and organizations are requested.

## **B. Economic, social and cultural rights**

### **1. The right to work and to organize**

61. Madagascar is a member of the International Labour Organization and has ratified several international conventions, which have been incorporated into its Labour Code. The Constitution recognizes the right to work and to organize.

62. Job discrimination and restrictions on the creation of trade unions have been prohibited in accordance with the ILO Declaration of June 1998.

63. The rights of workers in the public<sup>29</sup> and private<sup>30</sup> sectors are governed by law.

64. In 2005, 20 organizations of workers with national standing merged in tripartite<sup>31</sup> bodies for the private sector and bipartite<sup>32</sup> bodies for the public sector.

65. Through their representatives, all workers have a say in determining working rules and working conditions.

66. However, union membership is low because of fears of reprisals. The inadequate resources of the Ministry of Labour and the small number of labour inspectors make it difficult to ensure a better protection of the rights of workers.

67. Madagascar ratified ILO Conventions Nos. 81 and 129 on labour inspection.

68. The 58 inspectors and the 30 trainees recruited annually are insufficient for ensuring an effective supervision of working conditions in enterprises, hence the few cases of offences noted.

69. To address this situation, Madagascar requests technical and financial assistance from international partners and organizations.

## **2. Social protection**

70. The social protection bodies for workers are:

- For the public sector: the Civil and Military Retirement Fund (CRCM) and the Contingency and Retirement Fund (CPR)
- For the private sector: the National Social Contingency Fund (CNAPS)

71. Care for workers in the public sector is provided by public hospitals and health centres, and for workers in the private sector by inter-enterprise medical services.

## **3. Access to land ownership**

72. The legal status of land in the public domain, in the private domain and in private ownership, as well as that of untitled land, is set by law.<sup>33</sup>

73. Access of foreigners to land ownership is governed by law.<sup>34</sup>

74. Property ownership offices opened at regional and local level validate land ownership by issuing deeds at an affordable price.

75. In 2008, with the support of partners, including the Millennium Challenge Account, 235 property ownership offices issued 35,009 land occupancy deeds that are valid vis-à-vis third parties; 23,541 peasants received deeds involving 25,614 hectares of land.

76. Madagascar requests the continued support of technical and financial partners in order to increase the number of deeds issued.

## **4. Right to a healthy environment**

77. Madagascar has:

- An Environment Charter<sup>35</sup> to protect the economic, social and cultural rights of the population
- A Ministry of the Environment, a National Office of the Environment and regional offices to prevent pollution, address industrial pollution and sewage treatment and disinfect premises so as to curb transmittable diseases

78. To minimize the negative impact, maximize the beneficial effects for regional development and protect the rights of the riparian population, negotiations were held with the Quit Madagascar Minerals mining company prior to the conclusion of an economic



partnership in order to assess the social and environmental impact of the project. Quit Madagascar Minerals has also undertaken to restore the integrity of the area affected by its activities and to ensure added value at social, economic and environmental level in the mining area.

79. These precautionary measures are applicable to all large-scale projects which might cause harm to the environment.

## **5. The right to health**

80. Madagascar has put into place 111 health districts since 1974; in addition, 22 regional health-care offices were opened in 2006.

81. In 2008, Madagascar had 18 university hospital centres, 18 regional hospitals, 53 second level district hospitals, 68 first level district hospitals and 3,223 primary health centres. Steps have been taken to:

- Rehabilitate and build 151 primary health centres
- Equip 209 primary health centres
- Equip 27 primary health centres with solar panels
- Set up 6 dental offices
- Establish 119 primary health centres and 4 Friends of Diorano/Wash district hospitals

82. Access to free care for indigent persons has been made possible thanks to the introduction of an "Equity Fund" financed through the financial participation of users; 42,762 persons (44.52 per cent) were given treatment under this fund in primary health centres, and 1,473 in regional hospital centres.

83. A total of 862 technical personnel were recruited to improve health-care services. The World Bank has supported a system of incentives to keep health-care professionals at 33 primary health centres in remote locations.

84. A national ethnics committee on biomedical research involving human beings has been operational since 2003.

85. Fifty per cent of primary care centres are in remote locations, and 65 per cent of the population live more than 5 kilometres from such facilities; this constitutes an obstacle to their use.

86. Insufficient funding of hospitals by the Equity Fund means that it is not possible to defray the high costs of hospital care for indigent persons.

87. Madagascar is committed to correcting the imbalanced distribution of health-care professionals, which is prejudicial to rural areas.

88. Madagascar intends to maintain and strengthen the operation of the Equity Fund with the assistance of national and international organizations in order to place care for indigent persons on a permanent footing.

89. It is planned to extend the incentive system to rural and remote areas in order to correct the unequal distribution of health-care professionals.

## **6. Protection against HIV/AIDS**

90. The national council to combat sexually transmitted diseases and AIDS<sup>36</sup> put into place in 1992 established an executive secretariat within the presidential office in 2004.

91. Protection against discrimination and the stigmatization of persons living with HIV/AIDS is regulated by law.<sup>37</sup>

92. The objective is to maintain the prevalence rate below 1 per cent. In 2007, the prevalence rate in the overall population was 0.17 per cent. The prevalence rate of pregnant women declined from 1.3 per cent in 2003 to 0.95 per cent in 2005.

93. Madagascar has adopted a national plan to combat sexually transmitted diseases and HIV/AIDS which includes: testing for HIV under the minimum package of activities of health units and centres for the prevention of mother-to-child transmission and voluntary HIV counselling and testing; the opening of centres to provide free care for persons with HIV; and the promotion of activities focusing on information, education and communication in order to change behaviour (IEC/CCC).

## 7. The right to education

94. The Constitution<sup>38</sup> guarantees the right to education and vocational training for all children and ensures that public education is free and accessible to all. Primary school education is compulsory.

95. Madagascar has subscribed to the objectives of Education for All defined at the conference held in Jomtein (Thailand) in 1990 and the Dakar (Senegal) Declaration of 2000. Madagascar's Education for All plan has obtained the support of the international community, which has granted non-reimbursable credits as part of the Fast Track Initiative.

96. The percentage of the budget allocated for education has grown regularly, from 15.9 per cent in 2003 to 17.6 per cent in 2007. According to administrative data, the crude enrolment rate is 123 per cent for primary school, 33.9 per cent for middle school and 10.2 per cent for secondary school.

97. Madagascar has 6 public universities in Madagascar offering 47 subjects, 14 *grandes écoles*, 5 institutes and 9 private institutions of higher learning. Between 1997 and 2005, the number of students nearly tripled, rising from 16,270 to 49,680. The men-to-women ratio in higher education is 53.37/46.63.

98. Basic education in middle schools saw an increase in the number of pupils of 92 per cent between 2002 and 2006. The number of public and private secondary schools grew from 331 in 2001 to 488 in 2007.

99. The boy/girl ratio is 50.44/49.56.

100. The number of pupils in primary school rose from 2,856,480 in 2002 to 3,837,395 in 2006, an annual growth rate of 8.2 per cent.<sup>39</sup>

101. The boy/girl ratio is 50.15/49.85.

102. The recruitment in 2006 of 28,840 temporary teachers addressed the shortage of teachers in public schools, where the pupil/teacher ratio improved from 59.7/1 in 2003 to 52/1 in 2006.

103. In 1995, Madagascar adopted a national plan of action to address problems of non-enrolment and early dropout of girls in rural areas. Since its implementation, the proportion of girls in the educational system has increased. The girl/boy parity ratio went from 0.883 in 1975 to 0.961 in 2005 in primary schools, from 0.765 to 0.972 in middle schools and from 0.758 to 0.979 in secondary schools.

104. To combat discriminatory practices in schooling, awareness campaigns on the importance of education and school enrolment of girls have been carried out at the level of the 111 school districts. From 1975 to 2005, the girl/boy parity ratio improved from 0.883

to 0.961 in primary schools, from 0.765 to 0.972 in middle schools and from 0.758 to 0.979 in secondary schools.

105. Non-formal education, which is an integral part of the overall educational system, includes nursery school, functional literacy programmes and education for citizenship and civic virtues. The literacy rate of persons aged 15 years and older increased from 48.4 per cent in 1993 to 66.8 per cent in 2005 for men and from 43.3 per cent to 59.3 per cent for women.

106. Madagascar subscribes to the priority objectives of Education for All. It aims to gradually make basic education universal and to achieve a completion rate of 100 per cent for primary school. In keeping with the Convention on the Rights of the Child and the Constitution, the general policy act<sup>40</sup> strengthens the right of all Malagasy children to free primary school education.

107. Since 2003, a number of incentives have been taken to promote access, equity and quality in the educational system:

- Payment of enrolment fees for primary school
- Distribution of school kits and smocks for all pupils in public and private primary schools
- Payment of a subsidy for teachers recruited by the Association of Parents
- Setting up of a school treasury, with a contribution of MGA 2,000 per child as from 2003
- Financing of performance contracts and subsidies for private schools
- Establishment of school canteens in disadvantaged areas
- Provision of school textbooks and teaching material

108. Awareness campaigns on adolescent reproductive health have been conducted at schools in risk areas to respond to the concerns expressed by the Committee about early marriage and pregnancy, which lead girls to drop out of school.

109. Scholarships have been offered to girls under the SIVE project (funded by the Government of the United States of America) to encourage them to enrol in school. The UNICEF Girl-to-Girl Strategy has been put into effect in five regions.

110. Prisons provide schooling for children in conflict with the law.<sup>41</sup>

111. With regard to the right to education, reference is made to the following constraints:

- Insufficient financial, material and human resources
- The remoteness of certain areas
- The dispersion of the population in sparsely inhabited areas
- The persistence of certain traditions

112. Madagascar requests the continuation of the international community's support and assistance for literacy programmes and campaigns.

## **8. The right to drinking water and sanitation**

113. The rate of access to drinking water has been increasing continuously, from 23.6 per cent in 1997 to 40 per cent in 2005. This rate is still low, and nearly half of the population obtains water from rivers, lakes and other unprotected sources. The objective is to attain a rate of access of 65 per cent by 2012.

114. In this connection, it is planned to drill 1,500 wells, of which 800 are to be equipped with wind-driven pumps, and to build close to 6,400 latrines in the 22 regions on the basis of community requests. Some 3,700 dispensaries are to be installed in schools and primary health centres. Awareness-raising campaigns have been conducted to encourage the use of toilets because of resistance, based on customs, in some regions.

## **9. Cultural rights**

115. Madagascar ratified the Convention Concerning the Protection of the World Cultural and Natural Heritage and the Convention for the Safeguarding of the Intangible Cultural Heritage in 1983. It has also been a State party to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions since September 2006.

116. The Constitution<sup>42</sup> provides that “everyone shall have the right to participate in the cultural life of the community, in scientific progress, and the resulting benefits”.

117. The periodic organization of inter-ethnic and interregional cultural events is conducive to the promotion of a culture of diversity and the enhancement of the national cultural identity. Reference is made to “*sambatra*” (collective circumcision every seven years) in the Vatovavy region, “*famadihana*” (turning of the dead) in the regions of the centre, “*fitampoha*” (bath of royal relics) in the Menabe region, the “*kabary*” contest (traditional debate) and “*hiragasy*” and “*vakodrazana*” (popular operas).

118. The development of the practice of traditional sports aims to promote the cultural identity of each region. Reference is made to “*savika*” (bullfighting of the Betsileo) and to “*morengy*”, “*ringa*” and “*doranga*” (traditional martial arts). The practice and extension of sociocultural activities are widespread: “*tsenabe*” (regional fairs at which handicrafts and culinary recipes are displayed).

119. Festivals are currently organized in the framework of “*Donia*”, with artists from the islands of the Indian Ocean, including Madagascar, Mauritius, La Réunion and the Seychelles.

120. Measures have been taken to combat harmful practices so as to give effect to the concluding observations formulated after the consideration in 2007 of Madagascar’s country report on the implementation of the International Covenant on Civil and Political Rights and recommending that Madagascar take appropriate measures to eradicate discriminatory practices in Mananjary targeting twins, who are ostracized in the community and are considered a bad omen.

121. With UNDP support, a public debate was organized in Mananjary to convince community leaders and traditional authorities to abandon the practice, and a road map has been drawn up to that end. As a result of the debate, traditional authorities and community leaders have accepted that twins be kept in their biological families. However, the traditional authorities have not yet given their blessing for this new tolerance.

122. With UNDP assistance, a programme to use the performing arts to promote good governance and the rule of law was conducted in 2008 with the participation of local groups from the 22 regions. Groups with no resources, which otherwise would not have been able to display their talent, took part in this theatrical contest.

## **C. Rights of vulnerable groups**

### **1. Rights of the child**

123. Madagascar is a State party to the Convention on the Rights of the Child. It has also ratified other instruments on the protection of children.

124. Pursuant to the Constitution, international instruments relating to the rights of the child are an integral part of law.

125. Article 132, paragraph 4, states that “treaties and agreements which have been lawfully ratified or approved shall, as from their publication, have higher authority than laws”.

126. The provisions of the Convention may be invoked in the courts and are applicable for the protection of the rights of children when prior legislative reform is not required.

127. The joint commission for the reform of children’s rights was established in 2005 to bring national legislation into line with international instruments. It is composed of representatives of ministries and civil society and has played an active part in preparing legislative reforms relating to the protection of children’s rights.<sup>43</sup>

(a) *Right of children to health*

128. The week of the mother and the child has been institutionalized and has been held twice a year throughout the country since 2006 in order to combat neonatal, infant and child mortality and improve access of mothers and children to care of equitable quality.

129. In 2008, 3,839,858 children under 5 years of age, 142,912 women who had given birth in the previous eight weeks and 965,060 pregnant women received care under this initiative.

130. The provision of individual childbirth and caesarean kits to all public health facilities, with the support of the United Nations Population Fund (UNFPA), the World Bank and Management Systems International, has made it possible for women to give birth free of charge. Some 3,119 mothers and their newborns have benefited from this measure; the number of assisted childbirths has grown by 80 per cent, and the number of caesarean deliveries by 63.6 per cent.

131. With the support of the World Bank and UNFPA, the direct payment system, through funding for the universal coverage of emergency obstetric and neonatal care and emergency care for infants under 6 months of age, has made it possible to pay for 1,855 paediatric emergencies, 970 dystocic deliveries and 903 caesarean deliveries. The introduction of this system in three regions<sup>44</sup> has resulted in a recovery rate of 92.6 per cent and has limited the personal contribution of patients to the costs of care to 13 per cent.

132. A total of 169 midwives and nurses have been recruited and assigned to primary health centres and district hospital centres to bolster the programme of basic emergency obstetric and neonatal care.

(b) *Right to an identity*

133. The Government has introduced a national programme for the rehabilitation of civil status in order to implement article 7 of the Convention on the Rights of the Child (right to a civil status).<sup>45</sup> With the support of UNICEF, between 2004 and 2008, 342,862 birth certificates were issued to children up to the age of 18 years.

(c) *Child labour, violence and abuse*

134. In 2001, ILO estimated that 33 per cent of Malagasy children between 7 and 17 years of age worked and that 1 million children aged between 6 and 14 years (935,000) were engaged in a revenue-earning activity. Thanks to the introduction of action programmes, a decline was noted starting in 2004, the rate falling to 28 per cent.

135. Since 2001, a project to improve the conditions of working children, financed by the State through a public investment programme of the Ministry of the Civil Service, Labour

and Social Legislation, has resulted in 360 children being removed from work, of whom 170 have been enrolled in school and 190 have received vocational training.

(d) *Protection of children from sexual exploitation and violence*

136. In line with article 34 of the Convention on the Rights of the Child, a police unit responsible for morals and the protection of minors was set up in 1999 to handle offences involving children. Its role is to prevent and combat offences.

137. With the assistance of UNICEF, it succeeded in removing 150 young persons from prostitution out of 300, thanks to awareness-raising and monitoring initiatives. Some of those persons have been cared for by the association Life Giving Water.

(e) *Protection of children from slavery*

138. In order to implement article 35 of the Convention on the Rights of the Child, Act No. 2007-038 was promulgated to punish the abduction, sale or trafficking of children. With USAID support, a criminal analysis centre has been created within the national police to collect information on trafficking and exploitation of children for referral to the competent authorities. The innovation in this Act is that failure to report such a case constitutes a criminal offence.

139. A hotline has been set up in cooperation with UNICEF and a telephone company<sup>46</sup> so that the public can report any offence perpetrated against children to the police.

(f) *Protection of children in conflict with the law*

140. In keeping with article 3 of the Convention on the Rights of the Child, legislative reforms concerning the rights and protection of children as well as those relating to adoption have taken the best interests of children into account in all decisions concerning them.

141. At the level of the national police, awareness-raising campaigns on the rights of the child have been carried out for parents, teachers and pupils at schools and at neighbourhood locations. In 2008 and 2009, 2,125 pupils and 70 parents were targeted.

142. An interview with a child who is the subject of a police investigation must take place in the presence of the parents or guardians and, if possible, in a room specially designed for such a meeting. The law prescribes a social inquiry and requires that the information remain confidential. Meetings are held behind closed doors. Custody is exceptional for children who have perpetrated an offence. Minors are detained in a lock-up separate from cells for adults.

143. Capital punishment is not applicable to children who have committed an offence. Madagascar has eight rehabilitation centres for children. As of September 2007, minors accounted for 1.80 per cent of incarcerated persons.

(g) *Non-involvement of children in armed conflicts*

144. The forced recruitment of children for armed conflicts is prohibited.<sup>47</sup>

145. In compliance with the provisions of article 38 of the Convention on the Rights of the Child, the minimum age for recruitment for national military service is set by law<sup>48</sup> at 18 years, even in the event of a total or partial mobilization.

## 2. The rights of women

146. Madagascar ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1989. Article 8 of the Constitution provides that citizens

are equal before the law and enjoy the same freedoms without discrimination on the basis of sex.

147. A department of gender mainstreaming set up within the Ministry of the Population is responsible for putting into effect national and international resolutions and recommendations in the area of the advancement of women, in particular those of the National Action Plan for Gender and Development.<sup>49</sup> Each ministry has a gender focal point to monitor the inclusion of the gender perspective in all development programmes and projects.

148. At socio-economic level, steps have been taken to facilitate the access of women to basic social assistance, including free services for family planning, childbirth and caesarean deliveries. With the help of the African Development Bank, a programme to provide drinking water and sanitation in rural areas was launched in eight regions, in the context of which 1,200 water points and sanitary units were installed in 2008–2009.

149. The following measures have been taken to attain the objective of making women more independent and to address problems relating to certain traditions considered discriminatory:

- 150 young girls and women in 11 settlement houses and public socio-economic development centres have received vocational training annually.
- 200 women received aid to start income-generating activities in 2008.
- 3,151 land deeds were issued to women in 2007/2008.<sup>50</sup>
- The national microfinancing strategy has earmarked 3 million dollars for the creation of five microfinanced enterprises for women's groups in the period 2008–2010.
- 8,000 women in seven districts have benefited from income-generating activities under the “*Entreprendre*” programme.

150. Local bodies, including 6 crisis and legal counselling centres, 5 legal clinics and 13 information offices, have been set up to combat violence against women and children, including marital violence. They conduct initiatives for awareness-raising, dissemination, and assistance for women and girl victims.

151. In order to combat trafficking in women and the sexual exploitation of children, educational films have been produced and disseminated by the Ministry of Justice so as to create an awareness of the Convention on the Elimination of All Forms of Discrimination against Women and international instruments on trafficking, and in particular on trafficking in women and children. The films are meant to encourage law enforcement officials<sup>51</sup> to embrace universal norms and are also designed to enhance the ability of civil society to take action in cases of trafficking.

152. No law specifically prohibits marital rape, but efforts to combat such acts have been stepped up.<sup>52</sup>

153. Two consultation workshops, attended by State officials and members of civil society, were held in 2007 and 2008 to consider whether to revise legislation on abortion. The results of the consultations will serve as a basis for deciding whether or not to legalize abortion.

154. In 2007, 250 judges, lawyers, traditional chiefs and members of NGOs attended a training course on the content of the Convention on the Elimination of All Forms of Discrimination against Women.

155. At regional and national level, the staff of ministries have taken training courses on the gender perspective, family and marital law, and the Convention on the Elimination of All Forms of Discrimination against Women. Local officials, community leaders active in promoting education and the family, and members of civil society at local level have also attended the courses.

156. To change attitudes and combat cultural practices and stereotypes, including “*moletry*”, dialogues have been held at local, regional and national level in order to involve all stakeholders and raise the awareness of the population at large. Traditional and religious leaders have been urged to protect the rights of women and to address the problem of certain practices.

157. A capacity-building strategy was adopted in 2007 to increase women’s participation in politics and the decision-making process, and 3,250 women from the 22 regions received leadership training. UNICEF, UNFPA and the World Bank have supported the introduction of 22 networks of women leaders. In addition, 200 potential female candidates in the legislative elections have received political training with the support of the Embassy of Norway and the Electoral Institute of Southern Africa.

### **3. The rights of persons with disabilities**

158. Madagascar signed the Convention on the Rights of Persons with Disabilities on 25 September 2007. Steps are being taken to encourage its ratification.

159. Act No. 97-044 of 2 February 1998 on persons living with a disability guarantees the right of such persons to education. Article 17 of Implementing Decree No. 2001-162 of 21 February 2001 stipulates that “children and adolescents with disabilities shall be offered normal education within the normal schooling system. Where necessary, and based on the type and degree of severity of their disability, education in a specialized centre may be considered”. The Decree also specifies that children with disabilities may use typewriters and Braille during examinations. A study on special examinations for persons with disabilities was produced in 2007.

160. On the basis of surveys conducted by the Ministry of Health in 2003 and 2004/2005, the overall prevalence of disabilities is estimated at 7.5 per cent, or 1,347,150 persons in 2007. About 100 associations are grouped under the Confederation of Organizations for Persons with Disabilities, which receives assistance from international organizations, including Handicap International.

161. In cooperation with Handicap International and UNICEF, the Ministry of Education is elaborating a programme of inclusive education, the aim of which is to enable children with a disability to attend normal classes. The programme covers 15 school districts in nine regions, with 44 so-called integrated classes and seven disabled children per class.

162. Madagascar also has 11 special education centres for disabled children, 1 public and 10 private.

163. The municipality of Diégo and Handicap International have signed a partnership agreement to facilitate transport and access to municipal services.

## **IV. Cooperation with human rights mechanisms**

164. As is the case in many developing countries, poverty is causing a variety of problems in Madagascar and is having an adverse impact on efforts made in the area of education, health care, the judicial system and employment.



165. With regard to education, the failure of girls to enrol in school and their tendency to drop out early lead to phenomena that are a cause for ongoing concern, such as early marriage, forced marriage, sexual exploitation, trafficking and traditional practices incompatible with universal norms.

166. The set of programmes launched requires support and warrants an increase in specific and sustained assistance from national and international organizations.

167. Assistance for destitute persons in accessing free health-care services has been started through a system of financial participation of users and a direct payment system; their continuation and generalization require considerable human and financial resources. International aid is requested.

168. The remoteness of dispute settlement mechanisms and the complexity of procedures have prevented indigent and illiterate persons from asserting their rights in cases of human rights violations.

169. The introduction of community dispute settlement mechanisms in the form of legal defence offices, or “legal clinics”, has enabled poor persons to have access to a body empowered to resolve their problems through conciliation or to advise them on how to apply to the competent public services.

170. Under the supervision of the local court, this mechanism has dealt with a number of common conflicts which otherwise would have gone unresolved. The most frequent disputes brought before the legal clinics concern arguments with neighbours, disturbance of the peace at night, assault and battery and other lesser offences.

171. With regard to access of poor people to the courts, the large-scale opening of legal defence offices for the poor will make it possible to have access to a mechanism that can respond to violations of rights in a community context. Assistance in implementing the extension plan is requested.

172. On the initiative of the Ministry of Justice and with UNDP assistance, a study has begun to identify possibilities for maintaining and extending the mechanism in the future.

173. In the area of employment, job creation and respect for the rights of workers continue to pose problems despite the existing judicial arsenal, due to the inadequacy of available infrastructures and the insufficient number of labour inspectors. Assistance in implementing international instruments ratified by Madagascar is needed with regard to capacity-building and the allocation of adequate funding.

174. As to cooperation with the treaty monitoring bodies, Madagascar has taken steps to ratify the relevant international instruments. Seeking to comply with its obligations, it has made progress in reducing the backlog in the submission of overdue reports.

175. With a view to strengthening existing initiatives and programmes, Madagascar intends to set out in the right direction to improve the human rights situation with the help of national and international organizations, in particular through technical and financial support of the capacity-building for institutions, officials and stakeholders in civil society.

176. To implement the international instruments which it has ratified, Madagascar has received tangible ongoing assistance from international organizations through United Nations bodies with offices in the country, including UNDP, WHO, UNFPA, UNICEF, UNESCO and ILO, as well as from other international organizations such as the European Union, the World Bank and the African Development Bank. Madagascar is also cooperating with NGOs, such as Transparency International and the Association for the Prevention of Torture.

177. Making this council operational after the appointment of its members requires assistance through a strengthening of the capacities of the members and material and technical support. To that end, Madagascar requests support from the international community.

**1. At regional and subregional level**

178. In the framework of the African Union, Madagascar has ratified and implemented the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child.

179. Madagascar participates actively in various meetings on human rights under the auspices of the African Union.

180. A member of the Southern African Development Community since 2005, Madagascar has ratified the United Nations Convention against Corruption and cooperates with Member States in that area.

**2. At international level**

181. Madagascar collaborates with the United Nations and conducts an ongoing dialogue with the treaty monitoring bodies through the submission of initial and periodic reports.

182. It is also cooperating with the Office of the United Nations High Commissioner for Human Rights on the establishment of a National Human Rights Council by implementing the relevant concluding observations and by taking the Paris Principles into account.

183. The Special Rapporteur of the High Commissioner for Human Rights visited Madagascar in July 2008 in the framework of the implementation of the right to food. The Executive Director of UNICEF visited Madagascar in July 2008 to launch a project focusing on a programme for the provision of drinking water.

184. Two United Nations experts joined members of the drafting committee at the civil society regional consultation workshop held in Antsirabe from 23 to 29 August 2009 to produce a national report in the context of the universal periodic review.

185. Madagascar has participated actively in international meetings on human rights held under the auspices of the United Nations. It has also taken part as a designated member of the troika in the consideration of the national reports of Morocco, Benin and Burkina Faso at the session of the Human Rights Council held in Geneva in 2008 in the framework of the universal periodic review.

186. With the support of ILO/IPEC (US\$ 4,780,000 in funding for the period 2004–2008), national mechanisms have conducted a number of initiatives for the prevention of the worst forms of child labour and for the removal and rehabilitation of victims.

## **V. Progress and good practices**

### **A. Progress**

- Creation of the Office of Public Education and Civics in 2002, which is designed to promote a culture of human rights in schools and in the curricula of other institutions
- Creation of the department of preschool education and literacy within the Ministry of Education to implement policy on the education of children and literacy
- Formulation of a national non-formal education policy<sup>53</sup>

- Launching of an initiative for the issuance of birth certificates
- Elaboration in 2008 of a national literacy strategy document, which:
  - Introduces guidelines for nationwide literacy initiatives
  - Sets the goal of reducing the rate of adult illiteracy to 27.5 per cent by 2015, and targets 861,647 adults in the age bracket 15–45 years and 287,216 adolescents under 15 years of age

## **B. Good practices**

187. In 2004, Madagascar introduced a national plan of action to combat child labour over a period of 15 years in order to promote and protect children's rights. A national committee to combat child labour has been set up by decree.<sup>54</sup>

188. At decentralized level, eight regional committees for combating child labour and three regional child labour offices have been created.

189. Since 2001, 144 children's rights protection networks to combat violence and ill-treatment have been put into place with the support of partners.

190. The age of marriage has been raised to 18 years to combat early and forced marriages. Multisectoral networks ensure the social reintegration of child victims. In March 2009, 5,711 children were removed from the worst forms of child labour.

191. With regard to training, all labour inspectors and trainees have attended courses on combating the worst forms of child labour.

## **VI. Constraints on and challenges to the implementation of universally recognized rights**

192. Inadequate resources for realizing the right to education and health have caused difficulties in implementing universal human rights.

193. As to education and literacy, obstacles are due to inadequate financial, material and human resources and the remoteness of certain districts and communes.

194. The following obstacles have been noted in the area of health:

- Limited access to health-care facilities
- Limited resources available for the care of indigent persons
- Difficulties maintaining free maternity and emergency paediatric care

195. The following difficulties have been encountered in gender mainstreaming:

- The illiteracy of women
- The poverty or uncertain income of households
- The inferior status of women, perpetuated through traditions and customs
- Insufficient inclusion of the gender perspective in rural development policies and programmes
- Inadequate microfinancing mechanisms specifically for women
- Insufficient initiatives to facilitate the access of women to land ownership
- Public indifference to the fight against trafficking in children

## VII. Initiatives and perspectives

196. In compliance with obligations entered into through the ratification of treaties, an inter-ministerial committee has been established to prepare initial and periodic reports with the participation of civil society.

197. Five legal defence offices, known as “legal clinics”, have been opened to facilitate access of underprivileged persons to a local recourse mechanism.

198. A national institution for the protection of human rights has been set up through the National Human Rights Council, in conformity with national observations and the Paris Principles.

199. A national commission on international humanitarian law has been established to facilitate the implementation of the Geneva Conventions of 1949 and their additional protocols as well as the dissemination of international humanitarian law.

200. The following measures have been taken to promote the issuance of documents establishing civil status:

- Training of local office workers and other staff at civil status registries
- Conducting information and awareness-raising campaigns
- Improving and strengthening the services of civil status registries
- Reform of legal texts relating to civil status

201. In order to make the most of the results, the following contributions are essential:

- Support for the implementation of the national plan of action to combat child labour and the national plan of action to combat violence against children
- Support for the training of labour inspectors and supervisors
- Support for training of law enforcement officials
- Support for capacity-building for national structures

## VIII. Commitments and expectations

202. Madagascar is committed to complying with its international obligations stemming from the ratification of international human rights instruments, and it requests support from the international community in areas requiring the mobilization of considerable resources.

203. It reiterates its readiness to pursue a dialogue with the treaty bodies in order to improve the promotion and protection of human rights at national level.

204. Madagascar requests international support in continuing to meet its international obligations and wishes to step up cooperation with technical and financial partners.

### *Notes*

<sup>1</sup> Ordonnance n° 2009-001 en date du 17 mars 2009.

<sup>2</sup> Ordonnance 2009-002 en date du 17 mars 2009.

<sup>3</sup> Atelier de consultation en août 2009 à Antsirabe et en septembre 2009 à Antananarivo.

<sup>4</sup> Selon la projection de l’Institut National de la Statistique (INSTAT).

<sup>5</sup> Rapport annuel sur le développement humain 2009.

- <sup>6</sup> Signataires de la Charte : Mouvances Andry RAJOELINA, Didier RATSIRAKA, Marc RAVALOMANANA, Albert ZAFY.
- <sup>7</sup> Sous l'égide du Groupe International de Contact incluant les représentants des Nations unies, de l'Union Africaine, de la SADC, de la COI, de l'Union Européenne, de l'OIF, des Etats-Unis, de la France.
- <sup>8</sup> Incluant entre autres les deux Pactes, la CEDAW, la CERD, la Convention contre la Torture, la CDE et ses deux Protocoles additionnels, la Convention relative à la protection des droits des Travailleurs migrants et les membres de leurs familles, la Charte Internationale des droits de l'Homme, la Charte africaine des droits de l'Homme et des peuples, le Protocole Additionnel à la Charte Africaine pour les droits de la femme.
- <sup>9</sup> Article 132.4 de la Constitution.
- <sup>10</sup> CERD 2004, Pacte International relatif aux Droits civils et politiques (PIDCP) 2007, CEDEF 2008.
- <sup>11</sup> Loi n° 2008-012 du 17 juillet 2008.
- <sup>12</sup> Ordonnance 92-012 du 29 avril 1992.
- <sup>13</sup> Créé en juillet 2003.
- <sup>14</sup> Créé par le décret 2006-206 du 21 mars 2006.
- <sup>15</sup> Créé par le décret n° 2004-937 du 05 octobre 2004.
- <sup>16</sup> Créé par le Décret 2005-510 du 4 juin 2007.
- <sup>17</sup> L'article 2 alinéa 1er de la loi n° 90-031 du 21 décembre 1990.
- <sup>18</sup> Source Ministère de l'Intérieur.
- <sup>19</sup> Loi n° 2007-022 du 22-08-2007 sur le mariage et les régimes matrimoniaux.
- <sup>20</sup> Loi n° 90-013 du 20 juillet 1990 permettant aux époux de fixer d'un commun accord la résidence commune et le mandat de représentation.
- <sup>21</sup> Loi n° 90-014 du 20 juillet 1990 relative aux régimes matrimoniaux.
- <sup>22</sup> Article 357 du code pénal (Loi n° 96-009 du 09/08/1996).
- <sup>23</sup> Contrat de fiançailles engageant une fille pour une durée d'une année en contrepartie d'une dot constituée de zébus et de sommes d'argent. En cas de faute commise par la fiancée, elle est répudiée et privée de sa dot.
- <sup>24</sup> Article 9 du Décret n° 96-174 du 18 mars 1996.
- <sup>25</sup> Article 16 du Décret n° 2006-015 du 17 janvier 2006 portant organisation générale de l'Administration pénitentiaire.
- <sup>26</sup> Article 11 alinéa 3 de l'Arrêté n° 5246-96/MEN du Ministère de l'Education Nationale en date du 28/8/96.
- <sup>27</sup> Note circulaire n° 85/168-MINESEB/CAB/SP du 25/03/85 portant Code de conduite des éducateurs.
- <sup>28</sup> Décret n° 2006-015 du 17 janvier 2006 et le décret n° 2006-901.
- <sup>29</sup> Loi n° 2003-011 du 03 septembre 2003 portant statut général des fonctionnaires.
- <sup>30</sup> Loi n° 2003-044 du 28 juillet 2004 portant Code du Travail.
- <sup>31</sup> Le Conseil National du Travail et ses démembrements régionaux ainsi que le Conseil National de la Formation technique et professionnelle Le Conseil supérieur de la fonction publique et la commission administrative paritaire.
- <sup>32</sup> Le Conseil supérieur de la fonction publique et la commission administrative paritaire.
- <sup>33</sup> La loi n° 2005-019, du 17 octobre 2005 et la loi n° 2006-031 du 23 novembre 2006.
- <sup>34</sup> Loi n° 2007-036 du 14 janvier 2008.
- <sup>35</sup> Loi n° 97-012 et 2004-015.
- <sup>36</sup> Suivant Décret n° 90-026 du 16 février 1992.
- <sup>37</sup> Loi n° 2005-040 portant sur la lutte contre le VIH/SIDA et la protection contre la discrimination et la stigmatisation des personnes vivant avec le VIH/SIDA.
- <sup>38</sup> Articles 23 et 24 de la Constitution.
- <sup>39</sup> Selon les données du Rapport d'Etat sur le Système Educatif National 2008.
- <sup>40</sup> Loi n° 2008-011 du 26 juillet 2008.
- <sup>41</sup> Article 7 et 8 du Décret n° 2006-901.
- <sup>42</sup> Article 26, alinéa 1.
- <sup>43</sup> Loi n° 2007- 023 du 20 août 2007 sur les droits et la protection des droits de l'enfant, la loi n° 2007 - 022 sur le mariage et les régimes matrimoniaux, la loi n° 2007-014 sur l'adoption, la loi n° 2007-038 complétant et modifiant certaines dispositions du Code Pénal sur la protection contre la traite et le tourisme sexuel, le décret 2006-885 du 05 décembre 2006 sur les familles d'accueil et le décret

n° 2007-563 du 03/07/07 relatif au travail des enfants. Actuellement, le projet de loi sur les enfants en conflit avec la loi se trouve en phase d'adoption. Par ailleurs la loi n° 2003-044 du 28/07/04 portant Code du Travail prévoit en ses articles 100, 101, 102 et 103 le travail des enfants. L'ordonnance n° 62-038 du 19 septembre 1962 sur la protection de l'enfance reste en vigueur.

<sup>44</sup> Boeny, Atsimo Andrefana, Diana.

<sup>45</sup> Institué par le décret n° 2004-495 du 20 avril 2004.

<sup>46</sup> n° 805.

<sup>47</sup> Décret n° 2007-563 du 3 juillet 2007 relatif au travail des enfants.

<sup>48</sup> Article 2 de la loi n° 2005-037 du 20 février 2006 modifiant et complétant certaines dispositions de l'Ordonnance n° 78-002 sur les Principes généraux du Service National.

<sup>49</sup> Plan d'Action National Genre et Développement PANAGED pour la période 2004–2008.

<sup>50</sup> Source : observatoire national du foncier.

<sup>51</sup> Magistrats, avocats, chefs coutumiers et membres d'ONG.

<sup>52</sup> Article 332 et suivants du Code Pénal.

<sup>53</sup> Décret n° 2003-834 du 5 août 2003.

<sup>54</sup> Décret n° 2004-985 du 12 octobre 2004, modifié par le décret n° 2005-523 du 09 août 2005. Ce Comité est un organe intersectoriel, chargé de veiller à la mise en œuvre dudit Plan. En outre, un service de la Promotion des Droits Fondamentaux a aussi été instauré dans le MFPTLS, au sein duquel opère la Division de Prévention, Abolition, Contrôle du Travail des Enfants (PACTE).

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