



**International Covenant on
Civil and Political Rights**

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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Fourth periodic reports of States parties due in 2011

Madagascar*

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Introduction

1. Since the submission of the previous report, which was considered in 2007, Madagascar has been through a long sociopolitical crisis that began at the end of 2008 and lasted nearly five years.

2. In keeping with article 40 of the International Covenant on Civil and Political Rights, this report was prepared by the Inter-ministerial committee for the drafting of human rights reports,¹ with contributions from representatives of civil society. At the request of the Office of the United Nations High Commissioner for Human Rights (OHCHR), efforts were made to reduce the new version of the fourth periodic report to 21,200 words.

3. This report recounts changes in the political situation, the steps taken to emerge from the crisis and the negative impact of the crisis on the roll-out of measures to implement the Covenant.

4. The report contains supplementary and updated information on the following topics:

- The lifting of sanctions by the international community;
- The resumption of cooperation with financial institutions, namely the International Monetary Fund (IMF), the World Bank and the African Development Bank (ADB);
- The resumption of the country's activities as part of the African Union, the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), the International Organization of la Francophonie and the Indian Ocean Commission;
- The conclusion of cooperation agreements with entities of the United Nations system, including the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the United Nations Human Settlements Programme (UN-Habitat);
- Cooperation with the European Union as part of the 11th European Development Fund and the resumption of cooperation with the United States of America, France, Japan, Canada, China, Norway, Switzerland and Germany.

5. The adoption of the National Development Plan and the Implementation Plan are new factors that may help in the struggle against poverty and in the improvement of the population's living conditions in terms of the rule of law and good governance in the areas of health, education, housing and access to drinking water.

6. In light of the foregoing, some of the information on the implementation of the Covenant has been reviewed and condensed.

¹ The Inter-ministerial committee for the drafting of human rights reports consists of representatives of: the Ministries of Foreign Affairs; Justice; the Interior and Decentralization; Public Security; Population, Social Protection and the Empowerment of Women; Education; the Economy and Planning; Health; Communication and Inter-Institutional Relations; and Civil Service, Labour and Social Law; the State Secretariat for the Gendarmerie; and civil society organizations.

Part I

Territory and population

A. Territory

1. Administrative organization

7. According to data from census data mapping,² Madagascar covers an area of 587 295 km², divided into 6 provinces,³ 22 regions, 119 districts, 1,693 communes and 17,485 *fokontany*.⁴

B. Population

1. Main features of the population of Madagascar

8. The Malagasy population was 18 million in 2007 and was estimated at 22 million in 2013.⁵ The annual growth rate is 2.8 per cent.

9. The population is young: over 20 per cent is under 5 and 49 per cent under 15. The male to female ratio is 98 per cent.

10. According to the 2010 household survey (EPM),⁶ 20 per cent of the population lives in urban areas and 80 per cent in rural areas. The most densely populated regions are Analamanga, Vakinankaratra and Vatovavy Fitovinany, accounting for nearly one third of the country's total population.

Table 1
Population of Madagascar

Region	2008	2009	2010	2011	2012	2013
Madagascar	19 071 811	19 601 026	20 142 015	20 696 070	21 263 403	21 842 167

Source: National Statistics Institute/Directorate of Demography and Social Statistics/Demographic projections.

2. Main demographic indicators

Birth, fertility and mortality rates

11. According to the Demographic and Health Survey, the fertility rate is trending downward. The total fertility rate fell from 5.2 in 2003-2004 to 4.8 in 2008-2009.

12. There has been a net decrease in infant and child mortality, which dropped from 94 per thousand in 2003-2004 to 72 per thousand in 2008-2009⁷ and 62 per thousand in 2012, according to the findings of the Madagascar Millennium Development Goals National Monitoring Survey.

² This number may have changed since the end of the mapping operation in July 2009.

³ Provinces reinstated by the new Constitution.

⁴ The smallest administrative subdivision in Madagascar.

⁵ National Statistics Institute/Directorate of Demography and Social Statistics.

⁶ Household survey.

⁷ *Source:* Madagascar demographic and health surveys III and IV.

Table 2
Infant mortality rate

	<i>Madagascar health and demographic surveys</i>				<i>ENSOMD</i>	<i>Objectives</i>
	<i>1992</i>	<i>1997</i>	<i>2003-2004</i>	<i>2008-2009</i>	<i>2012</i>	<i>2015</i>
Neonatal mortality per 1,000 live births	42	41	34	24	26	17
Infant mortality (<1 year) per 1,000 live births	93	96	58	48	42	34
Child mortality (<5 years) per 1,000 live births	163	159	94	72	62	56

Sources: Madagascar demographic and health surveys (EDSMD) 1992, 1997, 2003-2004, 2008-2009 and Madagascar Millennium Development Goals National Monitoring Survey (ENSOMD) 2012-2013.

Life expectancy

13. Life expectancy at birth in Madagascar is 57.2 years. It is higher for women (58.1 years) than for men (56.3 years).

C. General political structure

1. Constitutional changes since the previous report

14. Towards the end of 2008, a popular protest movement against the sitting Government began, as a result of which Mr. Andry Nirina Rajoelina was able to take power as President of the High Transitional Authority and to exercise the functions of Head of State. This resulted in the international community⁸ imposing sanctions on Madagascar.

15. In order to find a comprehensive and consensual political solution, a dialogue was established between all the political stakeholders involved in the conflict and led to the signing by 10 political entities of a road map, which has been incorporated into domestic law.⁹

16. The implementation of the road map made it possible to form a national unity government and to set up and put into operation the Independent National Electoral Commission for the Transition and the Special Electoral Court charged with announcing the results.

17. The organization of the second round of the presidential election in conjunction with the legislative elections on 20 December 2013, supported and coordinated by UNDP through its Project in Support of the Electoral Cycle in Madagascar (PACEM), marked the restoration of the constitutional order.

18. Recognition by national and international observers and by the international community of the democratic nature of the elections led to the lifting of sanctions by SADC, the African Union, the European Union and the International Organization of la Francophonie.

19. The gradual establishment of the institutions of the Fourth Republic began with the investiture of the new president, Mr. Hery Rajaonarimampianina on 25 January 2014, the appointment of the Prime Minister on 11 April 2014 and the appointment of the members of the Government on 18 April 2014, at the same time as the 147 democratically elected members of parliament took their seats in the National Assembly.

⁸ The Southern African Development Community, the African Union, the United Nations, the World Bank, the International Monetary Fund, the European Union and other bilateral partners.

⁹ Act No. 2011-014 of 28 December 2011.

20. In his inaugural address, the new President set out his programme and expressed his determination to restore the rule of law and good governance, combat corruption and ensure respect for human rights. He also announced free primary education and the re-enrolment of children who had dropped out of school.

21. In February 2015, there was a Government reshuffle, in which a new Prime Minister, Air Force Brigadier General Jean Ravelonarivo, and other new members, were appointed.

2. Constitution of the Fourth Republic

22. The new Constitution, which was adopted by referendum on 17 November 2010, provides for the establishment of:

- A dual executive branch with a Head of State and a Head of Government;
- A parliament composed of a national assembly and senate;
- The High Constitutional Court;
- The High Court of Justice;
- The High Council for the Defence of Democracy and the Rule of Law;
- The Malagasy Fampihavanana Council;
- The Economic and Social Council;¹⁰
- The Independent National Electoral Commission;
- The High Council of Defence and National Security.

23. The Constitution enshrines the prohibition of torture and ill-treatment and states that detention shall be an exceptional measure.

24. The choice of a semi-parliamentary regime is reflected in the appointment of a Prime Minister nominated by the majority party or coalition in the National Assembly.

D. Framework for the protection of human rights

1. Constitution

25. Article 137 (4) of the Constitution stipulates that duly ratified or approved treaties or agreements shall, once promulgated, have primacy over laws.

26. Consequently, where domestic law conflicts with a ratified international instrument, the latter shall prevail.

2. Accession to and ratification of regional and international instruments

27. The laws authorizing ratification have been promulgated in respect of the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹¹

3. Legislative measures

28. Reforms have been undertaken through laws on:

¹⁰ National Reconciliation Council.

¹¹ Act No. 2014-031 of 20 January 2014 and Act No. 2013-014 of 20 February 2014.

- The establishment of the High Council for the Defence of Democracy and the Rule of Law;
- The establishment of the High Court of Justice;
- The abolition of the death penalty;
- Combating trafficking in persons;
- The Supreme Council of Justice;
- The establishment of the National Independent Human Rights Commission;
- Combating cybercrime, terrorism and organized transnational crime.¹²

4. Judicial, administrative and other authorities with a human rights mandate

Judicial authorities

29. The courts have the authority to hear all cases of human rights violations because there are not yet any specialized courts in this area.

Obligation to respect human rights

30. Law enforcement officers are required to uphold human rights in the performance of their duties.

31. Under article 114 of the Criminal Code, “any civil servant or Government agent or official who orders or commits an arbitrary act or infringes a person’s liberty, the civil rights of one or more citizens or the Constitution shall be stripped of his or her civil rights”.

5. Other bodies with a human rights mandate

32. In keeping with the Paris Principles, Madagascar has set up a national institution for the defence of human rights, the National Independent Human Rights Commission; it was established by Act No. 2014-007 of 22 July 2014.¹³

33. The Commission has the authority to investigate all cases of human rights violations, without discrimination, and to conduct visits to any place of detention.

34. To enable the Commission to start work, a decree on the process for nominating and electing its members was adopted by the Government Council and published on 3 February 2015.

35. As to the Commission’s budget, the Act provides for the inclusion in the general State budget of funds to cover operating expenses and equipment.

6. Other structures for the protection of human rights

36. An office for the harmonization and coordination of anti-trafficking efforts has been set up under the Office of the Prime Minister.

¹² Act No. 2015-001 of 12 February 2015 on the High Council for the Defence of Democracy and the Rule of Law; Act No. 2014-043 of 9 January 2015; Act No. 2014-035 of 9 January 2015; Act No. 2014-040 of 20 January 2015; Institutional Act No. 2014-019 of 12 September 2014; Act No. 2014-007 of 22 July 2014; Act No. 2014-006 of 17 July 2014; Act No. 2014-005 of 17 July 2014.

¹³ The Act provides for the Commission’s independence in the fulfilment of its mandate, administrative and financial autonomy, diverse membership, the representation of women, a mandate covering all aspects of the promotion and protection of all human rights, without exception, and the unimpeachability of its members.

37. It is made up of representatives of the relevant ministries and civil society organizations active in this domain.

38. The National Child Protection Committee has been established to improve the protection of children's rights.¹⁴

39. The establishment of the National Child Protection Committee is an item under the politics, legislation and institutional framework component of the government programme on the protection of children.

40. With the support of UNICEF, there are plans to set up a mechanism for the monitoring and assessment of efforts to protect children's rights.

7. Combating corruption

41. The Independent Anti-Corruption Office, the Committee for the Protection of Integrity and the Ministry of Justice have undertaken to work together to step up efforts to combat corruption through joint strategic and operational actions in a new anti-corruption strategy to be put in place in 2015.

42. The Independent Anti-Corruption Office and the Ministry of Justice will join forces in carrying out operations, while the Committee for the Protection of Integrity will be responsible for follow-up and impact assessment.

8. Remedies and the right to reparation

43. Any victim of human rights violations may apply to the competent courts to obtain reparation.

9. Raising awareness of international instruments

44. The Universal Declaration of Human Rights is available in the national language. It has been widely distributed to law enforcement officers, civil society organizations working with human rights and school students and teachers.

45. The main international instruments have also been translated into the national language.

E. Economic, social and cultural indicators

1. Economic indicators

46. As a result of the crisis, the socioeconomic situation has worsened significantly, with weakened public, private, national and foreign funding.

47. Consequently, the country's economic situation has not seen any real improvement, growing at a rate of -4 per cent in 2009, 0.3 per cent in 2010 and 3 per cent in 2012. The growth rate was 2.4 per cent in 2013, in large part due to the secondary sector and the vitality of the extractive industries.

48. The inflation rate has decreased, dipping from 9.2 per cent in 2008 to 9 per cent in 2009 and 5.8 per cent in both 2012 and 2013.¹⁵

¹⁴ The National Child Protection Committee was established by Decree No. 2012-858 of 28 December 2012.

¹⁵ *Source:* National Statistics Institute.

Table 3
Nominal and real gross domestic product (GDP) and inflation rate

Year	Nominal GDP (billions)		Real GDP (billions)		Growth (%)	Inflation (%)
	Ariary	Malagasy francs	Ariary 1984	Malagasy francs 1984		
2013(*)	23 423.0	-	642.5	-	2.4	5.8
2012	21 773.6	-	627.3	-	3.0	5.8
2011	20 033.9	-	608.9	-	1.5	9.5
2010	18 245.1	-	600.2	-	0.3	9.2
2009	16 726.3	-	598.6	-	-4.0	9.0
2008	16 080.9	-	623.6	-	7.1	9.2
2007	13 759.7	-	582.1	-	6.2	10.3

Source: National Statistics Institute/Directorate of Economic Analysis/1 ariary = 5 Malagasy francs (Fmg)/Data from January 2015.

2. Social indicators

49. In 2015, alongside the economic recovery came the adoption of the National Development Plan as a frame of reference for development with a vision of a modern and prosperous nation.

50. The National Development Plan consists of five strategic focuses:

- Governance, rule of law, security, democracy and national solidarity;
- Preservation of macroeconomic stability and development support;
- Inclusive growth and local ownership of development;
- Appropriate human capital for the development process;
- Enhancement of the natural capital and strengthening of disaster resilience.

51. In order to roll out the National Development Plan, an Implementation Plan was drafted, describing in detail the actions to be taken, the institutions and ministries concerned, the expected results, the means and the time frame.

52. Once the constitutional order had been reinstated, the sanctions had been lifted and the institutions of the Fourth Republic had been set up, cooperation with technical and financial partners resumed in the form of various signed commitments in support of the implementation of the National Development Plan.

53. Bilateral and multilateral partners with country programmes have been in contact.

Unemployment

54. In 2012, the unemployment rate was approximately 1.7 per cent, two points lower than in 2010. Unemployment is primarily an urban problem with a rate of 4.5 per cent in the cities and under 1.1 per cent in the countryside. The rate is 4.8 per cent among women and only 2.9 per cent among men.

55. Owing to the political crisis, tensions in the job market can be seen not only in open unemployment but also in widespread underemployment. Underemployment tied to the duration of work and the problem of inadequate employment affect, respectively, more than 25 per cent and 42 per cent of the employed active population.

56. Madagascar is currently among the countries benefiting from the African Growth Opportunity Act. Some 26,192 jobs have been created in 19 businesses eligible to penetrate the American market.

57. For the next five years, the association of free-zone enterprises and partners has set itself the goal of export volume of \$1 billion in exports and creating 200,000 direct jobs and nearly 1 million indirect jobs.

Poverty

58. The poverty rate rose from 68.5 per cent in 2005¹⁶ to 76.5 per cent in 2010¹⁷ and stood at 71.5 per cent in 2012-2013.¹⁸

Table 4
Poverty rate by region and urban/rural area, 2010

<i>Region</i>	<i>Urban</i>	<i>Rural</i>	<i>Average</i>
Analamanga	44.2	61.7	54.5
Vakinankaratra	59.5	80.1	75.8
Itasy	73	80.6	79.9
Bongolava	55.2	80.1	76.8
Matsiatra Ambony	55.5	91.1	84.7
Amoron'i Mania	61	88.2	85.2
Vatovavy Fitovinany	71.1	92.8	90
Ihorombe	72	82.6	80.7
Atsimo Atsinanana	63.1	97.5	94.5
Atsinanana	60.2	88.7	82.1
Analanjirofo	59.4	89.1	83.5
Alaotra Mangoro	47.5	72.2	68.2
Boeny	45.2	69.9	62.6
Sofia	52.8	73.8	71.5
Betsiboka	66.4	84.7	82.2
Melaky	60.5	85.8	80.2
Atsimo Andrefana	65.9	87.4	82.1
Androy	94.4	94.3	94.4
Anosy	55.1	87.6	83.5
Menabe	38.9	72.5	64.2
Diana	31.7	69.2	54.4
Sava	38.9	78.7	74.9
Average	54.2	82.2	76.5

Source: National Statistics Institute/Directorate of Demography and Social Statistics/Household survey 2010.

¹⁶ Household survey 2005.

¹⁷ Household survey 2010.

¹⁸ Madagascar Millennium Development Goals National Monitoring Survey 2012-2013.

F. Culture, communication and religion

1. Culture

59. The Malagasy language is unique.
60. The ministry responsible for culture carries out the following activities:
- Promotion of the Malagasy intercultural dialogue on the occasion of United Nations Day;
 - Showcasing national and regional cultural heritage;
 - Establishment of culture offices at the national and regional levels;
 - Inclusion of culture in the development process.

2. Religion

61. The Constitution of 2010 enshrines the secular nature of the State. Freedom of religion is respected, with 220 churches and cultural associations coexisting peacefully. Madagascar does not have religious conflict.

II. Implementation of articles 1 to 27 of the Covenant

Article 1

Right of peoples to self-determination

62. The information presented in the previous report is still valid.
63. The new Constitution embraced the International Bill of Human Rights and, as a result, enshrines the right of peoples to self-determination established in article 1 of the Covenant.
64. Under this article, Madagascar freely determines its political status and strives to ensure its social, economic and cultural development.
65. Moreover, the preamble upholds the sound and equitable management of natural resources for human development purposes.

Article 2

Non-discrimination and the right to an effective remedy

1. Non-discrimination

66. To ensure that the French version is linguistically consistent with article 8 in Malagasy and to re-establish the equality of all before the law, with no discrimination between nationals and foreigners, the constitutional amendment replaced the word “nationals” with “all individuals”.¹⁹

¹⁹ Article 8 as amended: “All individuals are equal before the law and enjoy the same fundamental freedoms protected by the law without discrimination based on sex, level of education, wealth, origin, race, religious belief or opinion.”

67. Guarantees of equal access to justice are established in article 13 of the current Constitution.²⁰

68. To ensure respect for human rights in the legal system and the effectiveness and credibility of criminal justice in Madagascar, the system of criminal court and related costs has been reformed. For example, Decree No. 2009-1441 of 31 December 2009 has been issued. This decree sets out reforms in four basic areas — namely, the nature of criminal court costs, the new categories of eligible expenses, reform of the system of administering, verifying and collecting legal fees and fines and updates to the schedule of fees.

69. To facilitate access to justice for people without the necessary financial means, legal support offices have been set up in the courts.²¹

2. Right to an effective remedy

Legal remedy

70. During the consideration of the previous report, it was recommended that Madagascar should ensure that the Covenant can be effectively invoked before and applied by the courts.

71. Article 137 (3) of the new Constitution retained the provisions of the former Constitution enshrining the precedence of treaties over domestic laws. This article states: “Duly ratified or approved treaties and agreements shall, once promulgated, have primacy over laws.”

72. Henceforth, the Court of Cassation should not merely review compliance with domestic law; it should also consider compliance with ratified treaties.

73. To encourage the invocation of the Covenant before the courts and its application by the courts, training courses, supported by the United Nations Development Programme (UNDP), have been given to law enforcement officials, including judges, criminal investigation officers, lawyers and civil society representatives.

74. Very few court decisions refer to this article of the Constitution, however.

75. Nonetheless, the principle of non-discrimination is beginning to be applied. In *Dugain v. Air Madagascar*, the Supreme Court of Madagascar quashed the judgement of the Court of Appeal on the grounds that it was based on a collective agreement that was discriminatory in relation to the gender and age of the applicant.

76. Furthermore, Madagascar, in addition to the training of law enforcement officials, plans to translate the ratified treaties into the national language and circulate them among the people, so that they may invoke their rights under the Covenant before the courts.

77. In any event, article 12 of the Malagasy Code of Civil Procedure states: “The judge may raise any legal grounds *proprio motu*, regardless of the legal arguments made by the parties.”

78. In referring to legal grounds, this provision is no longer limited simply to the application of domestic law. The term “legal” must be understood as an invitation to a domestic judge to refer to international law, including the Covenant, when that is the most appropriate means of resolving a dispute, in accordance with article 137 of the new Constitution.

²⁰ Article 13 of the Constitution of 2010.

²¹ A legal support office was established in each court and appellate court and in the Supreme Court by Decree No. 2009-970 of 14 July 2009.

79. Since 2010, judges have been informed of this option through workshops and training. These efforts will continue.

Non-judicial remedy

80. In addition to the mechanism for lodging complaints with the courts, victims of human rights violations can also appeal to the National Independent Human Rights Commission or the Office of the Ombudsman of the Republic.

Article 3 Equality between men and women in the enjoyment of civil and political rights

1. Equality in the field of education

81. The following table, which appears in the National Education for All (EFA) Report issued in January 2015 by the Ministry of Education, shows education initiatives aimed at ensuring equality between men and women.

Table 5
Literacy rates among the 15-24-year-old population by sex and zone

Zone	Gender	EPM 2005	EPM 2010	ENSOMD 2012
		15-24	15-24	15-24
Rural	Men			
	Literacy rate (%)	74.1	75.0	68.7
	Women			
	Literacy rate (%)	69.4	70.1	73.8
F/M parity ratio		0.937	0.935	1.074
Urban	Men			
	Literacy rate (%)	85.1	88.0	95.8
	Women			
	Literacy rate (%)	84.7	85.4	95.4
F/M parity ratio		0.995	0.97	1.00
Total (Urban+Rural)	Men			
	Literacy rate (%)	76.6	77.8	74.0
	Women			
	Literacy rate (%)	73.2	73.5	78.1
F/M parity ratio		0.96	0.94	1.06

Sources: Household surveys (EPM) 2005 and 2010, Madagascar Millennium Development Goals National Monitoring Survey (ENSOMD) 2012-2013 and authors' calculations.

82. For the 15-24 age group, according to the 2005 and 2010 household surveys, the proportion of individuals who can read and write and count has improved, irrespective of sex or zone. The national Millennium Development Goals Monitoring Survey, done in late 2012, showed that the female literacy rate in that age group is higher than that of men in rural areas.

83. In the field of formal education, the Ministry of Education is promoting a number of initiatives for girls, including “Girls’ Education”, a scholarship system to enable vulnerable girls to attend school and to help parents understand why they should give up traditional practices that obstruct schooling for girls.

84. According to the recent national Education for All evaluation, these initiatives have had positive effects on girls’ schooling:

- For 2013, national projections for the 3-5 age group report a gross preschool attendance rate of 13.2 per cent — 13.3 per cent for girls and 13 per cent for boys, resulting in a girl/boy parity index of 1.02;
- Between the 2009/10 and 2012/13 school years, girls dropped out and repeated years less often than boys. On average, 16.9 per cent of girls dropped out, as opposed to 17.2 per cent of boys, and 21 per cent of girls repeated a year, as opposed to 23 per cent of boys.

85. The table below shows higher completion rates for girls than for boys from 2011 to 2014.

Table 6
Primary school completion rate

	2010/11	2011/12	2012/13	2013/14
Completion rate (boys and girls)	74.3	71.9	70.0	69.5
Completion rate (girls)	74.3	72.3	70.7	70.4
Completion rate (boys)	74.3	71.5	69.3	68.5

Source: Statistical yearbooks of the Directorate of Educational Planning, Ministry of Education and authors’ calculations.

2. Progress in combating the spread of HIV/AIDS

86. Madagascar has adopted Act No. 2005-040 on combating HIV/AIDS and protecting people living with HIV/AIDS.

87. Since the first case of AIDS was diagnosed in 1987, HIV prevalence among the adult population increased from 0.02 per cent in 1989 to 0.13 per cent in 2007 and 0.37 per cent in 2010.

88. However, the results of the biological and behavioural survey conducted in 2010 among men who have sex with men showed an HIV prevalence rate of 14.66 per cent, thereby suggesting that the HIV epidemic had changed from an emerging to a concentrated epidemic.

89. In order to achieve the objectives “zero infections, zero deaths and zero AIDS-related discrimination”, a national strategic plan to combat HIV/AIDS, covering the period 2013-2017, is being implemented.

90. In 2013, the State had a national policy of comprehensive care for people infected with and affected by HIV.

91. In the area of education, in 2015, to improve the situation of some groups of vulnerable people, including people living with HIV/AIDS, the Ministry of Education, in association with the United Nations Population Fund (UNFPA), is helping strengthen prevention efforts by making sex education a part of the curriculum in primary, lower secondary and secondary school.

92. The approach lies mainly in conveying such values as “tolerance, rights and personal responsibility”,²² the aim being to reduce the rates of early pregnancy, prevent HIV/AIDS and encourage the development of life skills, responsible behaviour and interpersonal relations of a kind that will reduce the negative influences on sexual behaviour connected with customs and traditions.

3. Persons with disabilities

93. As noted in paragraph 22, Madagascar has adopted Act No. 2014-031 of 20 January 2014 authorizing the ratification of the Convention on the Rights of Persons with Disabilities.

94. Decree No. 2009-147 of 2 September 2009 established the inclusive education policy.

95. The implementation of this policy has made it possible for children with physical, intellectual, visual and/or hearing disabilities to be included in the regular primary schools.

96. In 2010/11, 37 public primary schools in the regions of Vakinankaratra, Diana and Itasy received children with disabilities within the framework of pilot projects carried out in collaboration with such international NGOs as Mothers’ Union, SIVE, Handicap International and Reggio Terzo Mondo.

97. In 2012/13, the project was expanded to public primary schools in Antananarivo-Renivohitra, and in 2013 to the Amoron’i Mania Region.

98. In 2013, 4,500 teachers were trained in the teaching of children with disabilities using a curriculum developed with the United Nations Children’s Fund (UNICEF) and Handicap International.

99. Starting in 2015, the Ministry of Education intends to reach eight target regions as part of its partnership with UNICEF.

4. Equal access to the public sector labour market

100. Discrimination in employment is prohibited by article 28 of the Constitution of 2010 as follows: “No one shall suffer harm at work or in employment on account of their sex, age, religion, opinions, origin, membership of a trade union or political beliefs.”

101. In 2011, as part of the drive towards equal rights for men and women, the national gendarmerie began recruiting and training women, who now number 222 — 4 officers and 218 gendarmes. In addition, 140 female cadets from among the 1,200 gendarme cadets recruited in 2014/15 are now in training at the National Gendarmerie Academy in Ambositra.

102. In terms of specialized and in-service training in the criminal investigation police, of the 30 gendarmes to have taken the course on criminal investigation techniques, 4 were women. Of the six gendarmes taking a course in criminal analysis, four are women.

103. The Education for All report notes that women account for more than 50 per cent of all teachers. The number of women appointed as directors at the Ministry of Education increased from two to six between 2011 and 2014.

104. The pay gap between men and women remains considerable at some 34 per cent in 2012 in the private sector, particularly in free zones and in rural areas (*Source*: Millennium Development Goals National Monitoring Survey).

²² Ministry of Education, Sex education guidelines.

105. With regard to access to political rights, equality between men and women is enshrined in the Constitution. In practice, however, much remains to be done to increase the number of women in Government and the parliament.

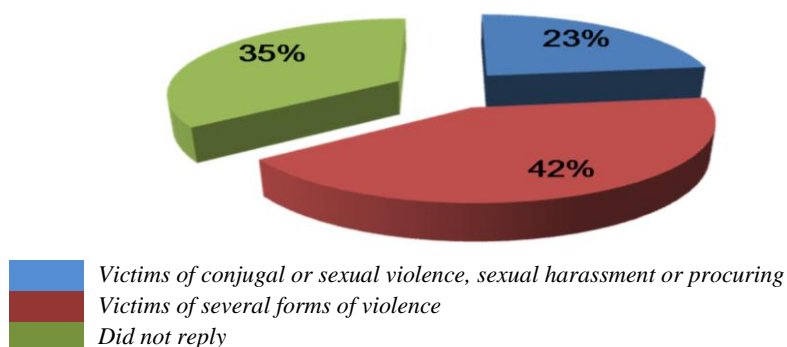
106. Relevant details are given under article 25.

5. Violence against women

107. Sixty-five percent of the women surveyed by the NGO Environnement et Développement du Tiers-monde — Océan Indien (Enda-OI) in 2009 reported that they had experienced violence.

Figure 1

Most commonly reported forms of violence against women in Antananarivo

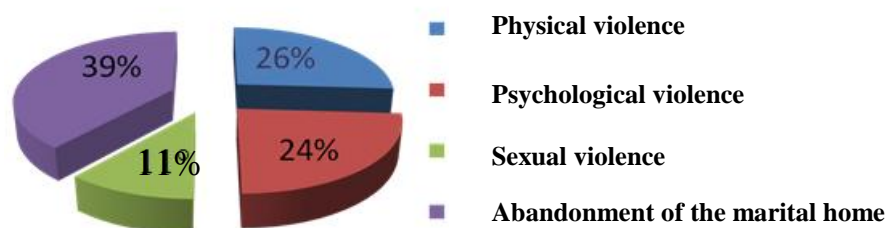


Source: Survey by the BABEO Programme.

108. A survey conducted in 2010 by BABEO, a programme of support and assistance for vulnerable persons, identifies the most commonly reported forms of violence against women reported in Antananarivo, as summarized by the chart below:

Figure 2

Most commonly reported forms of violence against women in Antananarivo



Source: Survey by the BABEO Programme.

Preventing violence

109. In 2012, in partnership with the NGO Groupe Développement, the Ministry of Education, working through the Office for Mass Education and Civics Teaching, joined in the efforts to combat the sexual exploitation of children, through preventive action such as educational radio broadcasts, visits to raise awareness among schoolchildren and parents at schools and training for 200 teachers in the capital and in Mahajanga on how children can

protect themselves from sexual exploitation. The teachers in turn ran awareness-raising sessions with 3,000 schoolchildren. Manuals, guides and teaching tools dealing with how children can protect themselves from sexual exploitation have been produced and distributed to teachers and schoolchildren.

110. Training events for traditional leaders have been organized, with the aim of obtaining their commitment to promoting women's rights and preventing all forms of violence against women.

111. In addition, a film on combating gender-based violence was made in 2013 to demonstrate the commitment of traditional leaders to advancing gender equality and combating gender-based violence.

112. A national strategy to combat gender-based violence is currently awaiting validation.

113. Following the evaluation in 2010 of the mechanism for preventing and combating gender-based sexual violence at the Legal Counselling and Advice Centres, a national platform and seven regional platforms to combat gender-based violence have been put in place.

Raising awareness

114. Awareness-raising activities have also been carried out.

115. In 2012, a book titled *Je brise le silence* (I'm breaking the silence) was published with a print run of 500. This book recounts acts of violence reported to the Legal Counselling and Advice Centres and Gender Links. It aims to help the people break the code of silence and report acts of violence of all kinds, and to steer them to the Legal Counselling and Advice Centres, the legal clinics, the vice and protection of minors squad, the children's courts or other relevant public services, such as health services. The ultimate aim is to combat impunity, by identifying the perpetrators, bringing them to justice and sentencing them if the facts are proven, and paying compensation to the victims by way of reparation.

116. Since 2013, information on the laws on women's rights, the various forms of violence and the related sanctions has been disseminated in the 22 regional capitals of Madagascar.

Protection and support for victims

Medical, psychosocial and legal assistance

117. In the capital, a one-stop unit has been set up at the university hospital to provide comprehensive care for child victims of sexual violence. This facility is staffed by health-care providers, social workers and investigators from the criminal investigation department. Two other units are planned for other localities yet to be determined. These facilities are supported by UNICEF. In the long term, women victims of violence will also benefit from this facility.

118. Psychosocial care is provided by 20 Legal Counselling and Advice Centres in 14 regions,²³ and legal assistance is provided by 9 legal clinics set up in Antananarivo, Mananjary, Manakara, Tôlanaro, Sakaraha, Ambalavao, Ihosy, Farafangana and Toliara.

119. In partnership with the Cooperation and Cultural Action Service, the Ministry of Justice has set up a team of lawyers within the Law Centre housed in the premises of the

²³ Boeny, Betsiboka, Atsinanana, Alaotra-Mangoro, Analamanga, Haute Matsiatra, Anôsy, Androy, Bongolava, Itasy, Analanjirifo, Amoron'i Mania, Menabe and Vakinankaratra.

Court of Anôsy to provide free defence services for women and children victims of any form of violence.

Training on provision of support

120. In 2014, as part of the Human Security Project on the protection of women and the strengthening of measures to prevent and punish violence against women, criminal investigation officers from the national police force and national gendarmerie, together with trainees from the National Gendarmerie Academy in Moramanga, received training in listening and counselling techniques, as well as the procedure for assisting victims of gender-based violence, with support from UNFPA.

121. In April 2015, in collaboration with Enda — Océan Indien, and as part of the Conjugal Violence Action and Prevention Project, two gendarme officers attended trainer training on interviewing, counselling and assisting female victims of conjugal violence. They will constitute the training team within the gendarmerie.

122. In addition, 95 police officers from the different police departments received training on combating conjugal violence in 2013; and another 145 were trained in 2014.

Penalties

123. To provide better protection for women against violence, the law specifies criminal penalties for offences against the physical integrity of women, including the sexual offences shown in the table below.

Table 7

Sexual offences

<i>Offence</i>	<i>Constituent elements</i>	<i>Criminal penalties</i>
Rape	Criminal Code, art. 332, Any act of sexual penetration of any kind that is committed against a person by force, coercion, threat or surprise	Term of hard labour if the victim of the rape is a child less than 15 years old In other cases, rape or attempted rape shall be punished by 5 to 10 years' imprisonment (art. 332 (2))
Indecent assault	Criminal Code, arts. 331-332, Use of violence to touch the genital organs or private parts of another person. Indecent assault exists even without violence when committed against a child aged under 14	2 to 5 years' imprisonment 5 to 10 years' imprisonment Fine of 2-10 million ariary (indecent assault without violence, victim aged under 14, or minor aged 14-21 and not emancipated by marriage) Term of hard labour (indecent assault on child under 14 or pregnant woman)
Corruption of minors	Art. 331 bis: Anyone who violates morals by inciting, promoting or encouraging, immoral behaviour, corruption or the prostitution of a child of either sex, in order to satisfy the passions of others	Term of hard labour

<i>Offence</i>	<i>Constituent elements</i>	<i>Criminal penalties</i>
Procuring	Criminal Code, arts. 334 and 334 bis	2 to 5 years' imprisonment and fine of 1-10 million ariary
	Knowingly helping, abetting or protecting the prostitution of others	5 to 10 years' imprisonment and fine of 4-20 million ariary.
	Soliciting for prostitution	• If the offence has been committed against a minor and
	Sharing the proceeds of prostitution	• Through coercion, abuse of authority or deception
	Living with a person habitually engaged in prostitution	• While openly or otherwise carrying arms
	Hiring or supporting a person for prostitution	perpetrator is victim's spouse, father, mother or guardian through his or her role in combating prostitution, protecting health and maintaining order
Art. 334 ter	Procuring, enticing or leading away, for purposes of prostitution, another person, even with the consent of that person	2 to 5 years' imprisonment and fine of 1-10 million ariary

124. The perpetrators of and accessories to the offences mentioned above are subject to penalties ranging from 2 years' imprisonment to a term of hard labour.

6. Economic empowerment of women

125. National legislation recognizes women's right to own real estate, to inherit property and to manage wealth on the same terms as men.

126. To help women become economically independent, enabling them to evade trafficking and sexual exploitation and also to keep their daughters in school beyond the age of puberty, women's associations and groups have been equipped by UNDP as part of the implementation of its programme to increase women's participation by enhancing their exercise of civil and economic rights. Three areas, Farafangana, Manakara and Mananjary, have been selected for action.

Table 8

Location of the programme's beneficiaries

<i>Action area</i>	<i>Number of groups supported by the project</i>	<i>Number of groups using community mobilization techniques</i>
Farafangana	80	75
Manakara	58	52
Mananjary	56	51

Source: Annual report of the UNDP-supported project, July 2013.

127. Women belonging to each group were given support to enable them to move into trades such as pig or poultry farming, rice farming and fish farming. The income generated

allowed them to keep their children in school and to avoid being vulnerable to trafficking and sexual exploitation.

128. Finally, in 12 of the island's regions, women were enabled to follow training courses on agriculture, livestock raising and craftwork provided by the Malagasy Observatory on Employment and Vocational and Business Training in 2012 and early 2013.

129. These courses are intended to empower rural women who are not yet receiving social benefits.

130. With the support of UNDP, and as part of the implementation of the programme to increase women's participation in community decision-making by enhancing their exercise of civil and economic rights, steps were taken between June 2011 and July 2013 in the south-eastern and south-western parts of the country to allow women to express themselves in public and to participate in running community affairs.

131. Following this programme, women and women's groups were able to take part in decision-making at community level.

Table 9

Women's participation in *fokontany* (FKT) meetings

<i>Action areas (districts)</i>	<i>Target groups</i>	<i>Membership of groups</i>	<i>Women over 18 in FKTs</i>	<i>Members attending FKT meetings</i>	<i>Percentage</i>
Farafangana	80	2 320	3 094	2 042	88.0
Manakara	58	1 348	1 925	1 117	82.8
Mananjary	56	1 312	1 730	1 176	89.6
Total	194	4 980	6 749	4 335	87.0

Source: Annual report, Increased Participation of Women in Community Decisions project, July 2013.

132. From 2007 to 2009, with support from UNFPA, the Ministry of Population made a fund to support the women's groups available to the microfinance institutions *Entreprendre à Madagascar*, OTIV and HARDI. Since 2009, these microfinance institutions have disbursed more than 520 million ariary, to 869 women.

133. In 2009, within the framework of the economic empowerment of women, the Ministry of Population provided material, technical and financial support to 200 needy women, including 30 in Manakara and 170 in Analamanga Region, to help them develop income-generating activities.

7. Updating of the National Policy for the Advancement of Women

134. An evaluation of the National Gender and Development Action Plan was done in 2008. It led to the following recommendations:

- The involvement of opinion leaders in actions for the advancement and integration of women and dissemination of outreach material on gender and on the responsibilities of each actor with a stake in the advancement of women;
- The advocacy and involvement of decentralized local authorities and traditional authorities in the advancement of women;
- The inclusion of the gender perspective in development programmes and projects at the regional level;

- Public awareness-raising on gender in the districts and municipalities.

135. For 2015, with the support of United Nations agencies in Madagascar, the Ministry of Population, Social Protection and the Advancement of Women is planning to update the National Policy for the Advancement of Women and the second National Gender and Development Action Plan.

Article 4

States of emergency

136. Despite the social and political turmoil it has been experiencing since late 2008, Madagascar has not declared states of emergency that could lead to restrictions on the rights and freedoms enshrined in the Covenant.

137. The absolute prohibition of torture even in times of emergency is enshrined in the Constitution and reflected in Act No. 2008-008 of 25 June 2008 on torture and other cruel, inhuman or degrading treatment or punishment.

Article 5

Strict interpretation of the provisions of the Covenant

138. The State has endeavoured to refrain from taking legislative, judicial or other measures that could result in denial of the fundamental rights provided for in the Covenant.

139. With a view to avoiding the risk of misinterpreting the Covenant, Madagascar has made efforts to amend its legislation in line with the Covenant.

140. Madagascar has been compelled under certain circumstances to take measures restricting freedoms. These temporary measures have been taken to preserve and maintain order. They are based on the notion of necessity and of proportionality to the risk of disturbances.

Article 6

Right to life

1. Decriminalization of abortion

141. In response to the recommendation that domestic legislation should be amended to decriminalize abortion, consultation workshops for all stakeholders concerned by abortion were held. Officials from the judiciary, the police, the gendarmerie, the health sector and civil society and religious organizations took part.

142. The workshops led to a proposal to make abortion a minor offence; that is, those charged would be subject to a fine rather than a prison sentence, as previously.

2. The death penalty

143. In follow-up to recommendation No. 15 of the concluding observations calling for the abolition of the death penalty and ratification of the second Optional Protocol to the Covenant, Madagascar has already demonstrated its commitment to responding favourably:

- By signing, in September 2012, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

- By promulgating, on 9 January 2015, Act No. 2014-035 on the abolition of the death penalty;
- By preparing a bill authorizing the ratification of the second Optional Protocol to the Covenant.

Article 7

Prohibition of torture and other cruel, inhuman or degrading treatment and punishment

144. To give effect to the recommendation that Madagascar should define torture, taking into account internationally established norms, and make it a separate offence with appropriate sanctions, Madagascar has adopted Act No. 2008-008 of 25 June 2008 on torture and other cruel, inhuman or degrading treatment or punishment. Article 21 (a) of this Act defines torture as:

“Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person:

“1. For the purpose, among other things, of:

- Obtaining from that person or a third person information, a statement or a confession;
- Punishing such person for an act he or she or a third person has committed or is suspected of having committed;
- Intimidating or coercing him or her or a third person;

“2. Or for any reason based on any form of discrimination;

“3. When such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

145. Furthermore, article 3 of the Act states that any act prejudicial to human dignity committed by any of the persons specified in article 2 (3) (a), but that does not fall under the definition of torture constitutes other cruel, inhuman or degrading treatment or punishment, which is prohibited on the same basis as torture.

146. The Act of 25 May 2008 criminalizes torture and ill-treatment as a separate offence punishable by a correctional or serious penalty, as applicable in accordance with articles 10 and 11.

147. In accordance with internationally established norms, the Act establishes:

- The absolute prohibition of torture even in a state of emergency;
- The obligation not to proceed with refoulement where there is substantial reason to believe that the person concerned would be tortured in his or her country;
- The inadmissibility of evidence obtained through torture;
- The obligation to conduct an immediate investigation into any allegation of torture where there are reasonable grounds to believe that such an act may have been committed;
- The protection of victims, witnesses and investigators;
- Extended jurisdiction of the courts;

- And satisfactory compensation for the harm caused to the victims.

148. To combat torture effectively, the Act is being amended. The new bill extends its scope to include acts of torture or ill-treatment committed by persons who are acting in a private capacity and are in a position of authority over the victims, including children.

149. Examples might be torture or ill-treatment of children, going beyond child abuse, or the prolonged solitary confinement of a patient ordered for no medically justified reason by a psychiatrist at a private psychiatric institution.

150. Training was organized in Antananarivo jointly by the National School of the Judiciary and Court Officers and by international experts from the World Organization Against Torture (OMCT) and the International Federation of Action by Christians for the Abolition of Torture (FIACAT), from 2008 to 2011. Sessions were run by Malagasy and international experts for persons responsible for law enforcement, including judges, criminal investigation officers, prison officials, lawyers and civil society representatives.

151. In 2010, three information and training sessions were held for judges, lawyers and criminal investigation officers at the National School of the Judiciary and Court Officers in Antananarivo.

152. Similarly, the National School of Prison Administration provides training on the rights of detainees (human rights; a rights-based approach to detainees), which includes coverage of the prohibition of torture and ill-treatment.

153. In addition, the Ministry of Justice, with support from the Cooperation and Cultural Action Service, has published a practical guide to the implementation of the Act on combating torture that has been widely distributed to law enforcement officials.

154. Act No. 2008-008 of 25 June 2008 on torture and other cruel, inhuman or degrading treatment or punishment was disseminated to the units and academies of gendarmerie and the national police. The provisions of the Act are the topic of an instructional session in criminal investigation training courses.

155. In 2014/15, further training courses for criminal investigation police on criminal analysis and forensic and technical police work were organized by the criminal investigation department: henceforth, criminal investigation officers, well prepared for criminal investigations, will no longer be tempted to resort to extracting confessions through torture, knowing that confessions obtained through torture are inadmissible as evidence, except against the person who has committed the torture, in accordance with article 6 of Act No. 2008-008 of 25 June 2015, which states that “any statement shown to have been obtained through torture shall not be admissible as evidence in any proceedings except against the person accused of torture as evidence that the statement was made”.

156. A memorandum of understanding between the United Nations system in Madagascar and the State Secretariat for the Gendarmerie on the provision of assistance and technical advice was signed on 13 March 2015.

157. Similarly, a partnership agreement in the area of human rights education and training was signed with the International Committee of the Red Cross (ICRC) on 13 May 2015.

Article 8

Prohibition of slavery

158. Act No. 2014-040 of 20 January 2015 on combating human trafficking contains a provision aimed at criminalizing slavery-like practices and all other forms of exploitation of human beings constituting trafficking within the meaning of article 3 of the Protocol to

Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

159. This Act criminalizes and punishes trafficking of all kinds, whether national or transnational, covering the following:

- Exploitation of the prostitution of a person or a group of persons;
- Exploitation of domestic work;
- Forced labour and slavery-like practices;
- Forced marriage;
- Sale of persons;
- Illegal adoption;
- Civil debt bondage;
- Exploitation of begging by others;
- Organ trafficking.

160. Trafficking also covers the sexual exploitation of children for commercial purposes.

161. The text of this Act has been distributed for implementation to all units of the national gendarmerie. The provisions of the Act will be taught in instructional sessions in criminal investigation training courses.

162. For more effective enforcement of the Act, the Government has set up an interministerial body, the National Office to Combat Human Trafficking, in which civil society is also represented. This Office is responsible for harmonizing and coordinating all actions to combat human trafficking and, in particular, the trafficking of women and children.

163. In partnership with the International Organization for Migration (IOM) and UNICEF, a national plan to combat human trafficking has been prepared and was validated on 6 March 2014.

164. The aim of the plan is to enhance the promotion and protection of children's rights in Madagascar.

Article 9

Right to liberty and security of person

165. Article 12 of the new Constitution retained the provisions relating to liberty and security of person formulated as follows: "Everyone has the right to liberty and may not be subjected to arbitrary arrest or detention. No one may be prosecuted, arrested or detained other than in the cases defined and the manner prescribed in the law. Anyone who has been the victim of unlawful arrest or detention shall have a right to reparation."

166. What is new in this Constitution is that it grants victims of unlawful arrest the opportunity to obtain compensation for the harm suffered as a result of such arrest.

167. In addition, the final paragraph of article 16 of the new Constitution enshrines the exceptional nature of detention by stating that "pretrial detention shall be an exception."

168. To give effect to recommendations Nos. 22 and 23 of the Committee's concluding observations, Madagascar has introduced legal reforms limiting the duration of pretrial detention.

169. Madagascar has adopted Act No. 2007-021 of 30 July 2007 amending and supplementing various provisions of the Code of Criminal Procedure on pretrial detention and limiting its duration.

170. Previously, the duration of pretrial detention in the context of pretrial proceedings was the same for crimes and ordinary offences. Under the new Act the length of pretrial detention depends on the seriousness of the offence.

171. In criminal cases, the first period of detention is set at 8 months, with a possible extension of 6 months, renewable once for a maximum of 4 months, i.e., 18 months rather than the previous 20 months.

172. For ordinary offences, the first period of detention is set at 6 months, with a possible extension of 3 months, renewable once, i.e., 12 months rather than the previous 20 months.

173. In the case of summary investigation proceedings by the public prosecutor, the duration of detention is limited to 3 months.

174. The duration of pretrial detention resulting from an arrest warrant that is subject to immediate enforcement is 30 months, whereas previously it was unlimited. This provision was adopted with a view to avoiding cases of prolonged detention stemming from an arrest warrant subject to immediate enforcement but not setting a limit on the period of detention.

Article 10

Humanization of detention

175. Efforts have been made to improve conditions of detention.

176. The Directorate for the Humanization of Detention and Social Reintegration has been established within the Directorate-General of the Prison Service. With the establishment of the Directorate in 2008, the humanization of conditions of detention became part of the mission of the prison service under Decree No. 2008-438 of 5 May 2008, which determines the authority of the Minister of Justice and the general organization of the ministry.

177. The efforts made by the Ministry of Justice to improve conditions of detention consist of constructing new buildings or refurbishing outdated existing ones with support from ICRC.

Table 10
Construction and refurbishment of prisons since 2010

<i>Fiscal year</i>	<i>Work carried out</i>
2010	Construction of sanitation facilities + septic tanks in the Fort Dauphin long-stay prison
2011	In the Tsiafahy prison: <ul style="list-style-type: none"> • Refurbishment of the kitchen and medical clinic In the Antananarivo long-stay prison: <ul style="list-style-type: none"> • Provision of a water supply

<i>Fiscal year</i>	<i>Work carried out</i>
	<p>In the Ambatondrazaka long-stay prison:</p> <ul style="list-style-type: none"> • Provision of a water supply • Two new septic tanks, latrines and showers completed • Construction of two new kitchens and sanitation facilities • Refurbishment <p>In the Fort Dauphin long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a septic tank, three latrines inside the cells and a drainage tank • Refurbishment of the medical clinic and the administrative wing • Construction of a new visiting room <p>In the Betroka long-stay prison:</p> <ul style="list-style-type: none"> • Repair of the hand pump for the well • Construction of a water tower fed by the well + a water supply and sewage system <p>In the Ampanihy long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a women's wing, medical clinic and kitchen • Increase in the water supply <p>In the Morombe long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a women's wing • Provision of a water supply <p>In the Farafangana long-stay prison:</p> <ul style="list-style-type: none"> • Increase in storage facilities • Draining of the septic tank • Increase in reception capacity from 119 to 157 places, and increase in the sleeping capacity from 208 to 251
2012	<p>In the Antananarivo long-stay prison:</p> <ul style="list-style-type: none"> • Refurbishment of the female juvenile wing + A block, kitchen and toilet facilities in B and D blocks <p>In the Maevatanana long-stay prison:</p> <ul style="list-style-type: none"> • Increase in the drinking water supply via the Jirama network • Increase in stored water • Main kitchen <p>In the Fort Dauphin long-stay prison:</p> <ul style="list-style-type: none"> • Refurbishment of the medical clinic <p>In the Betroka long-stay prison:</p> <ul style="list-style-type: none"> • Construction of toilets for women and sick prisoners + new kitchen and cassava storage

<i>Fiscal year</i>	<i>Work carried out</i>
	<p>In the Tuléar long-stay prison:</p> <ul style="list-style-type: none"> • Increase in the water supply from 37 to 47 litres per prisoner per day • Ventilation of cells • Drainage in the yard + exercise area • Construction of a new kitchen, men's showers, exercise area and refurbishment of the women's wing <p>In the Manakara long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a new roof and two kitchens • Establishment of a wing for minors + new visiting room • Increase in reception capacity from 77 to 85 places and 128 per cent of the required ventilated surface area
2013	<p>In the Fort Dauphin long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a main kitchen, an exercise area around the chapel, a men's shower block with 6 showers, and an exercise area and wash house for women • Complete renovation of the minors' wing and a new connection to the Jirama water supply network <p>In the Tuléar long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a new kitchen, men's showers, exercise area and refurbishment of the women's wing <p>In the Farafangana long-stay prison:</p> <ul style="list-style-type: none"> • Ventilation: increased from 55 to 69 per cent of the surface area • Increase in the drinking water supply • Construction of a new kitchen + stores • New minors' wing and new medical clinic <p>In the Mananjary long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a new kitchen with cassava store • Construction of a new visiting room and a new exercise area • Improved access to water: second connection to the Jirama network: ration increased from 13 to 168 litres per prisoner per day; 1 toilet for every 48 prisoners and 1 shower for every 71 prisoners • Sanitation facilities and construction of a new septic tank with a 350 person capacity + drainage tank for waste water • Construction of 10 individual cooking areas for the women's wing • 18 per cent increase in capacity, from 77 to 91 places • The sleeping capacity was increased from 143 to 171 places (increase of 20 per cent) <p>In the Antalaha long-stay prison:</p> <ul style="list-style-type: none"> • Installation of a new water tap for minors, older prisoners and men

<i>Fiscal year</i>	<i>Work carried out</i>
	<p>In the Toamasina long-stay prison:</p> <ul style="list-style-type: none"> • Refurbishment of the water supply system with a new connection to the Jirama network • Sanitation works: new septic tank for women and a drainage system for disposing of waste water (women and minors) <p>In the Vatomandry long-stay prison:</p> <ul style="list-style-type: none"> • Refurbishment of the water supply system with a new connection to the Jirama network — refurbishment of the connection between the women’s toilets and the main septic tank
2014	<p>In the Tsiafahy long-stay prison:</p> <ul style="list-style-type: none"> • Expansion of the kitchen <p>In the Antanimora long-stay prison:</p> <ul style="list-style-type: none"> • Refurbishment of the women’s wing • Refurbishment of the water supply system: B and D blocks <p>In the Toamasina long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a new medical clinic • Construction of a new kitchen • Sanitation: septic tanks, latrines and showers <p>In the Vatomandry long-stay prison:</p> <ul style="list-style-type: none"> • Sanitation: drainage system, septic tank, cesspits • Construction of a new kitchen + cassava stores • Refurbishment of the cell for persons on corvée and establishment of a solitary confinement cell and a pretrial detention cell <p>In the Ambatolampy long-stay prison:</p> <p>In the men’s wing:</p> <ul style="list-style-type: none"> • Refurbishment • Construction of a kitchen • Establishment of a new cooking area with a fuel-efficient oven <p>In the women’s wing:</p> <ul style="list-style-type: none"> • One kitchen fitted out with fuel-efficient ovens and a well-ventilated and well-lit shelter for cooking
2015	<p>The Morombe long-stay prison:</p> <ul style="list-style-type: none"> • Construction of a kitchen and sanitation facilities • Refurbishment • Construction of a minors’ wing

<i>Fiscal year</i>	<i>Work carried out</i>
	The Antananarivo long-stay prison: <ul style="list-style-type: none"> • Refurbishment
	The Antalaha long-stay prison: <ul style="list-style-type: none"> • Refurbishment
	The Majunga long-stay prison: <ul style="list-style-type: none"> • Refurbishment

Source: Directorate-General of the Prison Service/Directorate for the Humanization of Detention and Social Rehabilitation/Detention Humanization Service. 2015.

1. Separation of detainees

178. Efforts have been made to increase the number of prisons with separate wings. Of the 82 prisons currently operating, 18 do not have a wing for minors.²⁴ Further efforts will be made to furnish the remaining prisons with a separate wing for minors in conflict with the law.

179. Nevertheless, with support from NGOs, including the International Committee of the Red Cross (ICRC), wings for minors will be refurbished, and this year a minors' wing will be built in the Morombe long-stay prison.

180. Male and female detainees are held in separate areas. However, as yet there is no separation of girls from adult women.

181. In addition, the separation of accused persons from convicted persons remains a challenge for the prison authorities.

182. Article 11 (2) of the Constitution of 2010 states that no one shall be subjected to torture or to inhuman or degrading treatment or punishment.

183. Various legislative reforms have been undertaken since 2006. Madagascar has reviewed its legislation and has incorporated therein the main universally recognized rights of detained persons:

- Act No. 2008-008 of 25 June 2008 on torture and other cruel, inhuman and degrading treatment or punishment;
- Act No. 2007-021 of 30 July 2007, amending and supplementing certain provisions of the Code of Criminal Procedure concerning pretrial detention;
- Decree No. 2006-901 of 19 December 2006 on preparing detained persons for social, family and vocational reintegration;
- Decree No. 2006-015 of 17 January 2006 on the general organization of the prison system;

184. Article 16 of Decree No. 2006-015 stipulates that:

“Prison staff and persons with access to penitentiary institutions are prohibited from:

- Engaging in acts of torture or violence against inmates;
- Verbally abusing inmates;

²⁴ *Source:* Service for Monitored Education and the Preparation of Detainees for Social Reintegration.

- Employing detainees for their own personal service;
- Receiving any gift or other benefit from detainees or from persons acting on their behalf;
- Having sexual relations with detainees”.

2. Strengthening the policy on social reintegration for prisoners

Prison labour

185. Prison labour may be carried out as part of community service, under contract or in prison camps.

186. Prison labour in the form of community service is carried out in each prison, where detainees are assigned to a community service post either inside or outside the prison.

187. Under the contract system, prison labour may be made available either to public and semi-public services or institutions or to private companies. Remuneration and working conditions for detained persons must be in line with the provisions of the Labour Code.

Prison camps

188. Prison camps are agricultural or other enterprises and are under the authority of the director of the closest prison to the camp.

189. Upon their selection by a special “Selection Committee”, which is composed of the prison director, the custody officer, the yard chief and the camp chief, detainees who are chosen to join the prison camps are allowed to live with their families.

Placement of detainees in separate premises

190. Article 28 of Decree No. 2006-015 stipulates: “Men, women and minors shall be held in separate detention centres or separate wings. Detainees shall be guarded by persons of the same sex as them”.

191. Persons in pretrial detention must be kept separate from convicted persons.

192. One wing of the prison is reserved for male detainees, without distinction as to their penal situation.

193. Remand prisoners and convicted prisoners were originally detained separately, but owing to the shortage of space resulting from prison overcrowding, they are now housed in the same quarters.

194. One wing is also reserved for women prisoners, who may or may not have an infant with them.

Administration of juvenile justice

195. There are two types of establishments for the detention of children in conflict with the law in Madagascar: prisons and “young offenders’ institutions” or rehabilitation centres.

196. With regard to minors detained in prisons, article 28 of Decree No. 2006-015 stipulates: “Men, women and minors shall be held in separate detention centres or separate wings”.

197. The Decree requires that accused and convicted minors be placed in a separate wing reserved for minors. All prisons have separate minors’ wings.

198. As at December 2014, there were a total of 586 minors in detention, 113 convicted boys and 6 convicted girls, and 438 accused boys and 29 accused girls, out of a total of 20,353 detainees.

Overcrowding and capacity

199. As at December 2014, there were 20,353 persons detained in the 82 prisons in Madagascar, which have an official capacity of 10,360, while the relevant international standards set the maximum at 3,500. Efforts are being made to reverse the current ratio of accused persons to convicted persons, as at present 52.85 per cent of detainees are awaiting trial.

200. The prison staff numbers 2,400, of whom 1,600 are prison guards, which means there is a ratio of 1 guard for every 15 detainees.

Table 11

Prisoners by category in the 16 Regional Directorates of the Madagascar Prison Service, December 2014

Regional directorate	Convicted persons				Accused persons				Total	Capacity
	Men	Women	Boys	Girls	Men	Women	Boys	Girls		
Analamanga	1 738	100	18	3	2 282	159	117	11	4 428	2 022
Itasy	375	12	4	0	494	28	14	1	928	389
Vakinankaratra	364	23	3	1	438	28	26	1	884	673
Diana	716	28	18	0	341	20	32	1	1 156	577
Sava	697	42	12	1	244	13	13	2	1 024	493
Haute Matsiatra	508	10	2	0	1 017	35	34	1	1 607	701
Atsimo Atsinanana	374	6	0	0	500	9	26	1	916	217
Vatovavy Fitovinany	239	7	4	0	306	7	21	2	586	241
Boeny	575	30	10	0	673	28	20	4	1 340	470
Melaky	130	0	2	0	158	1	6	0	297	240
Sofia	659	14	11	0	439	20	18	1	1 162	688
Antsinanana	925	39	15	0	758	46	53	4	1 840	1 156
Alaotra Mangoro	639	21	3	1	561	35	19	0	1 279	660
Atsimo Andrefana	545	12	5	0	711	14	16	0	1 303	910
Menabe	290	2	4	0	386	5	9	0	696	430
Anosy	348	9	2	0	526	8	14	0	907	493
Total	9 122	355	113	6	9 834	456	438	29	20 353	10 360
Percentage	45	1.744	0.555	0.029	48.317	2.24	2.15	0.14	100%	

General overview

<i>Category</i>	<i>Convicted persons</i>	<i>Accused persons</i>	<i>Total</i>	<i>Percentage</i>
Men	9 122	9 834	18 956	93.1
Women	355	456	811	4.0
Boys	113	438	551	2.7
Girls	6	29	35	0.2
Total	9 596	10 757	20 353	100.0
Percentage	47.1	52.9	100.0	100.0

Source: Directorate-General of the Prison Service/Prison Service Directorate/Detention Monitoring Service, 2015.

Pretrial detention

201. In addition to the information provided in the reply concerning the implementation of the recommendations in the Committee's concluding observations on limiting pretrial detention, other measures have also been adopted to prevent cases of extended detention.

Faster processing of case files in appeals in cassation

202. The Supreme Court of Madagascar has made special efforts in the 2007 judicial year to clear the backlog of files relating to appeals in cassation that are held up in lower courts and appeal courts throughout the country. Thanks to these efforts, in 2007 the Supreme Court dealt with three times the number of cases it dealt with in 2006. The number of criminal cases dealt with increased from 542 in 2006 to 1,327 in 2007. As a result of this initiative, the number of detainees in Malagasy prisons with appeals in cassation pending has dropped. While in 2006 there were 992 such detainees, in 2007 that number fell by more than half, to 190. Also as a result of these efforts, the percentage of detainees awaiting trial fell from 60 per cent in 2007 to 34.36 per cent in 2008.

203. The adoption of the law limiting pretrial detention is a sustainable and lasting solution that makes it possible to avoid cases of prolonged pretrial detention.

3. Treatment of detainees**Monitoring of detainees' health**

204. Articles 76 to 81 of Decree No. 2006-015 regulate the medical services in the prisons of Madagascar.

205. At a minimum, each prison must offer the services of a doctor, a dentist and/or a nurse. The doctor is appointed by the Ministry of Health to monitor the health conditions in the prison and to assist the prison nurse as needed. There are 82 such appointed physicians.

206. In the capital, four doctors are seconded by the Ministry of Health to the Ministry of Justice — two to the Ministry itself and two to the Antanimora long-stay prison and the Tsiafahy long-stay prison.

207. Each prison should have a medical clinic where access to health care is open and free of charge. Of the 82 prisons in the country, 45 have medical clinics, which are staffed by 64 nurses. These facilities are furnished with equipment and medicine.

Medical examination on admission

208. The doctor examines every detainee upon admission and as often as necessary. He or she creates a medical file for each detainee after the initial examination.

209. Under current practice, the initial examination is conducted within 72 hours of the detainee's admission to the prison.

210. A technical medical committee has been established to centrally monitor the situation and health of detainees.

Hygiene

211. Regular insect extermination, application of lime and hosing down is carried out in each place of detention. Toilets and septic tanks have been installed wherever possible.

212. Local and national prison health committees have been established pursuant to Circular No. 20MJ/SG/DGAP/DHDPRS/SNHCD/14 of 4 November 2014. The national prison health committee comprises representatives of the Directorate for the Humanization of Detention and Social Reintegration, ICRC and Handicap International. This Committee is responsible for monitoring and supporting the local prison health committee in the exercise of its functions.

213. Workshops were held in March and May 2014 and in June 2015 to support the committee members in creating and maintaining prison health standards.

214. In addition, field visits are carried out to evaluate and strengthen the activities of the local prison health committees.

Food

215. Dried cassava is the staple food. The target quantity is 750 g per detainee per day, which provides 2,000 kilocalories per person per day.

216. The prison service has launched a policy to diversify its food sources, which is currently being implemented in the prisons in Diana, Fianarantsoa, Antsirabe, Maintirano, Toamasina and others.

217. The body mass index (BMI) is the indicator used to verify detainees' weight. Results vary and include cases of overweight, normal weight, moderate malnutrition and severe malnutrition.

218. In order to address the recurring problems stemming from chronic malnutrition in prisons, this year the prison service has made it a priority to revive the prison camps. In collaboration with ICRC, all prison camps are being visited with a view to identifying and researching the crops best adapted to the soil in each camp.

219. There are 153 prison camps in Madagascar, 91 of which are producing food.

Table 12

Food production in the prison camps of Madagascar

<i>Regional directorate</i>	<i>Prison camps (PC) and gardens (PG)</i>	<i>Arable surface area in hectares</i>	<i>Total surface area in hectares</i>	<i>Production (kg)</i>
Antsiranana	2 PG, 6 PC	105	169.9	18 291
Antalaha	4 PG, 6 PC	22	78.5	2 246
Mahajanga	7 PC	1 119	1 544	1 001
Antsohihy	2 PG, 14 PC	37.8	132.7	16 767

<i>Regional directorate</i>	<i>Prison camps (PC) and gardens (PG)</i>	<i>Arable surface area in hectares</i>	<i>Total surface area in hectares</i>	<i>Production (kg)</i>
Maintirano	4 PC	142	181.9	
Toamasina	4 PG, 14 PC	117.6	350.5	534
Antananarivo	2 PG, 1 PC	19	60.1	
Itasy	2 PG, 7 PC	257.5	552	9 217
Antsirabe	4 PG, 10 PC	101.14	192.96	5 183
Morondava	1 PG, 6 PC	52.5	276	650
Fianarantsoa	2 PG, 12 PC	1 307.05	1 463.7	14 718
Vatovavy Fitovinany	1 PG, 13 PC	687.2	1 110	2 456
Farafangana	1 PG, 9 PC	143.3	267	4 573
Tolagnaro	4 PC	12.9	223	
Toliary	3 PG and 13 PC	305	393.6	
Ambatondrazaka	2 PG, 2 PC	44.75	203.35	8 112

Source: Directorate-General of the Prison Service/Directorate for the Humanization of Detention and Social Rehabilitation.

Visits to detainees

220. Visits are regulated by articles 98 to 103 of Decree No. 2006/015.

Visitor permits

221. Visitor permits for family members of persons in pretrial detention are issued by the court dealing with the case, and for family members of convicted persons, by the prison director.

Lawyers' visits

222. Lawyers may communicate with accused persons in detention upon presentation of a permit issued by the judge or court responsible for the case. Lawyers may communicate freely with their clients in a specially designated area with no prison guards present.

Detainees' correspondence

223. Articles 93 to 97 regulate detainees' correspondence.

224. Accused or convicted persons in detention may write to anyone of their choosing and receive letters from any individual. The prison director may, however, prohibit occasional or regular correspondence in cases where it seems to be seriously undermining the detainee's reintegration or threaten security or order in the prison.

225. In some prisons,²⁵ the staff members responsible for prisoners' social reintegration write letters on behalf of illiterate prisoners.

226. Letters written in a foreign language may be translated for monitoring purposes.

²⁵ Toamasina, Vatomandry, Mahajanga and Toliary.

4. Rehabilitation, humanization and social reintegration measures

Need for collaboration between the prison authorities and civil society organizations

227. The prison authorities work in collaboration with national and international NGOs to improve living conditions in prisons.

228. For example, just now a project known as “Cell Blocks of the Future: from detention to reintegration” is being funded by the European Union and implemented by Handicap International in the prisons of Toamasina, Toliary, Vatovavy, Mahajanga and Antananarivo.

Ban on working for the personal convenience of individuals

229. Article 110 of Decree No. 2006-015 prohibits employment in the service or for the personal convenience of any individual, whether a judge, public official or private person.

230. In an effort to address the problems caused by prison overcrowding, an exploratory visit to look at good practices in Rwanda was organized with support from UNDP, to see how good practices in Rwandan prisons could be adapted.

Article 11 Prohibition of imprisonment for civil debt

231. Since the submission of its previous report, Madagascar has not faced any difficulties with implementing this article.

Article 12 Right to liberty of movement and freedom to choose one’s residence

232. Madagascar meets its obligations under international conventions with regard to official immigration and residence documents.

233. Since 2010, measures have been taken to facilitate entry into the country. A new provision was established in Note No. 001-MFB/SG/DGI of 6 January 2010 issued by the Ministry of Finance and Budget.²⁶ The Note introduces free one-month visas and the possibility of obtaining an entry visa upon arrival at airports or ports.

Article 13 Expulsion of foreigners

234. The expulsion of a foreigner is still governed by Act No. 62-006 of 6 June 1962 on the organization and control of immigration and Implementing Decree No. 94-652 of 11 October 1994.

Situation of refugees

235. Madagascar is not a party to the 1967 Protocol relating to the Status of Refugees; it is, however, a signatory to the 1951 Convention relating to the Status of Refugees and the

²⁶ “Pursuant to article 02.05.06 of the Tax Code: passport visas for foreigners and persons of indeterminate nationality give rise to the following fees in ariary: visas valid for one month or less = 0 ariary”.

1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.

236. The Government has granted refugee status to political asylum seekers and has cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations to assist refugees within its territory.

237. Madagascar does not expel or return refugees to countries where their life or freedom would be at risk on account of their race, religion, nationality, membership of a particular social group or political opinions.

238. In 2008, a national of the Democratic Republic of the Congo sought the protection of the Malagasy Government. He claimed to have fled his country after having allegedly been tortured by government militias because he was deemed to be connected with the leader of the opposition, as evidenced by a photograph of the two of them together. In order to verify his claims, an approach was made to the UNDP office in that country to determine whether he had indeed been rescued by a priest who had enabled him to escape from detention and torture.

239. If it is determined that he was indeed tortured, then Madagascar has an obligation not to return him, given that Madagascar is a party to the Convention against Torture and has enacted a law prohibiting refoulement when there are substantial grounds for believing that the individual would be tortured in his or her country of origin.

Articles 14 and 15

Right to a fair trial, principle of the legal definition of offences and charges

240. In order to ensure that traditional justice based on the *dina* works more fairly, Madagascar enacted Framework Act No. 2001-004 of 25 October 2001 regulating the *dina*. The Act regulates the drafting and judicial confirmation of a *dina* agreement by the president of the lower court in the place where the *dina* is issued.

241. Judicial confirmation cannot be granted if the *dina* contains any criminal provisions that are contrary to the law. The main purpose of the Act is to prevent the implementation of *dina* that order extrajudicial killings.

242. In 2011, in order to forestall mob justice, the gendarmerie arrested 250 individuals who were a party to a *dina* in Manakara. They were preparing an assault on the long-stay prison in order to physically remove and kill an accused person detained there. The alleged offender was in danger of being put to death in implementation of an unlawful *dina*. The arrests averted an extrajudicial killing. Three ringleaders were charged with attempted murder and detained, and proceedings are ongoing.

243. It should be noted that the number of lower courts has been increased from 36 to 40, the number of appeal courts from 5 to 6, and the number of administrative tribunals has been increased to 6, in accordance with the policy of bringing the justice system closer to the public.

244. In addition, the Office of Legal Support was established in order to defray legal costs, including lawyers' fees, for arrested persons who lack financial means. The first such office opened in 2010 in Tamatave. Elsewhere, their establishment has been hindered by difficulties in choosing civil society representatives.

Independence of the judiciary and changes to the composition of the Supreme Council of Justice

245. The new Organic Act No. 2014-019 on the Supreme Council of Justice calls for expanding the Council's membership to embrace academia and civil society in addition to the 14 judges elected and the ex officio members, namely: the President of the Republic, who serves as President; the Minister of Justice, who serves as Vice-President; the First President of the Supreme Court and the principal State prosecutor of the Supreme Court. It should be noted that the number of elected members is greater than the number of ex officio members.

Article 16**Right to recognition as a person before the law**

246. In implementation of this article, Madagascar has established the National Programme for Rehabilitating Birth Registration, known as "Ezaka Kopia ho an'ny Ankizy", for the period 2004-2013, in accordance with Decree No. 2004-495 of 26 April 2004.

247. The programme has been implemented, with UNICEF support, in 921 of the 1,579 communes.

1. Retroactive registration of births under late registration procedures

248. With regard to retroactive birth registration by court ruling, 1,029,005 children out of a total of 1,532,857 found to be without certificates during the period 2004 to 2010 have been entered in the civil registry. According to the available data, 503,852 children without birth certificates are still due to be registered retroactively.

249. There is work to be done in the 628 municipalities that have yet to receive support under the programme.

2. Systematic registration of births by reporting

250. The demographic and health surveys in Madagascar indicate that the rate of under-reporting of children aged 5 and under dropped from 25 per cent in 2003-2004 to 20 per cent in 2008-2009, a reduction of 5 per cent in five years, or an average decrease of 1 per cent per year.

3. Proposed extension of the deadline for birth registration

251. With a view to enabling everyone to register their children, a bill extending the time limit for reporting a birth to 45 days has been drafted.

Article 17**Right to protection of privacy**

252. The protection of the inviolability of a person's residence and correspondence provided for in article 13 (1) and (2) of the Constitution of 1992 was also included in the new Constitution of 2010. No changes have been made in this regard since the submission of the previous report.

253. The same applies to attacks on honour and interference with correspondence.

254. Act No. 2014-038 of 9 January 2015 on the protection of personal data is now in force in Madagascar. The Act seeks to protect individuals against the misuse of their personal data in violation of their human rights and fundamental freedoms.

Article 18

Freedom of thought, conscience and religion

255. Article 10 of the Constitution guarantees the freedom of conscience and religion.

256. Article 2 stipulates the State's neutrality with regard to different religions.

257. In Madagascar, there are no restrictions on the freedom of thought, conscience or religion except where there is a breach of public order or violation of the freedom of others.

258. There are now 220 regional and national cultural associations.

Article 19

Freedom of opinion

259. Article 10 of the new Constitution guarantees the freedom of opinion, freedom of expression, freedom of communication, freedom of the press, freedom of association and freedom of assembly.

260. The right to information is ensured by the various public and private media outlets.

261. The establishment of audiovisual media outlets is permitted, subject to compliance with the regulations of the Malagasy Telecommunications Monitoring and Regulation Office.

262. Twelve new daily newspapers have been launched in addition to the 20 that were already published.

263. The free flow of information is ensured by some 100 audiovisual media outlets.

264. Radio and television debates are held regularly to enable the authorities, associations, political parties and citizens to freely express their views on political, economic, social or cultural issues. No action is taken against anyone for disagreeing with the Government.

265. The draft Communications Code provides for, inter alia, the decriminalization of press offences, defamation, slander, insult and libel. Incitement to commit offences, on the other hand, remains criminalized and punishable under the Criminal Code.

266. On 8 April 2015, the draft Communications Code was approved by media stakeholders. It was adopted by the Government Council and the Cabinet and added to the agenda for the National Assembly's first regular session for adoption.

Article 20

Prohibition of propaganda for war

Prohibition of incitement to national, racial or religious hatred

267. As previously reported, the legislation prohibiting incitement to war or to national, racial or religious hatred, including article 91 of the Criminal Code and articles 74 and 75 of the Communications Code of 1990, remains in force.

Article 21

Freedom of assembly

268. Freedom of assembly is enshrined in article 10 of the Constitution, and gatherings and meetings in the streets are still governed by Ordinance No. 60-104 of 21 September 1960 under normal circumstances and by Act No. 91-011 of 18 July 1991 during states of emergency.

269. Freedom of assembly is limited by the need to maintain public order and safety and the rights and freedoms of others.

Article 22

Freedom of association and trade union rights

270. The Constitution of 2010 retains the provisions on freedom of association. Article 31 of the Constitution provides that the State shall recognize the right of all workers to defend their interests through trade union action, including by exercising the freedom to form and join a trade union.

271. Pursuant to article 22 of the Covenant, Act No. 2003-044 (the Labour Code) establishes the freedom of association and protection of the right to organize in the private sector, while Act No. 2003-011 contains the general regulations for civil servants.

1. Civil service trade unions

272. The exercise of trade union rights and freedoms is recognized for civil servants. Article 33 of the Constitution recognizes the right to strike, provided that its exercise does not jeopardize the continuity of public services or the fundamental interests of the nation. Other conditions on the exercise of this right are established by law.

273. In 2010, in response to trade union demands, the Council of State annulled the Ministry of Health decision to assign a trade union member to the Antsiranana regional hospital.

2. Trade unions in the private sector

274. The inter-union association known as the Malagasy Workers' Conference, which was founded by workers' trade unions in 1998 as previously mentioned in the 2007 periodic report, continues to coordinate actions taken by the 14 trade unions, representing all sectors that are members of the Conference. The Malagasy Workers' Conference continues to act as an intermediary between the trade unions and the Ministry of Labour.

275. The National Union of Social Workers, which is not a member of the above-mentioned Conference, complained to the authorities about violence against some Malagasy women workers in the Middle East.

276. The Government has repatriated the victims and has put a moratorium on sending female workers to the Middle East.

3. Women's participation in union leadership

277. Five national trade unions are headed by women. In addition, women hold leadership positions within trade unions and are treated the same as men.

Article 23

Protection of the family

278. The new Constitution retains the provisions on protection of the family, stipulating that: “The family, which is the natural and basic unit of society, shall be protected by the State”; and: “The State shall protect the family and allow it to flourish, and shall also protect mothers and children, through legislation and appropriate social institutions”.

279. Changes have been made to the health regulations by updating the Health Code contained in Act No. 2011-002 enacted on 15 June 2011 and by enacting Act No. 2011-003 of 1 August 2011 on hospital reform.

280. Book VI of the Health Code describes the health protection provided to families and incorporates the key provisions set out in international conventions on protection for the family and the child.

281. The well-being of the family, and particularly of the mother and child, is a priority for the State. Various activities in multiple sectors help to attain the relevant goals, in particular Millennium Development Goals 4, 5 and 6.²⁷

282. In June 2015, the Ministry of Population, Social Protection and the Advancement of Women, in partnership with the United Nations system, launched a campaign to combat child marriage in Madagascar.

1. Protection of women

283. Act No. 2007-022 of 20 August 2007 (Marriage Act) standardizes the age of marriage, setting it at 18 for both sexes (rather than 17 for boys and 14 for girls). The President of the Court may authorize the marriage of persons under 18 years of age if there are serious reasons for doing so.

Table 13

Marriages where at least one party is not yet 18

<i>Court</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Antananarivo Court	1 398	142	422
Arivonimamo Court	126	69	33
Fianarantsoa Court	08	06	00
Mahajanga Court	03	01	01
Maroantsetra Court	00	01	00
Nosy-be Court	00	01	00
Miarinarivo Court	10	22	19
Total	1 545	243	465

Source: Ministry of Justice.

2. Polygamy

284. Bigamy is a punishable offence in Madagascar. Polygamy, on the other hand, has not yet been established as a criminal offence.

²⁷ Millennium Development Goals 4, 5 and 6.

285. Implementation of the Human Rights Committee's recommendation is hindered by the traditions and customs in some parts of the island. The gradual elimination of polygamy requires:

- Holding community dialogues involving traditional leaders;
- Lobbying legislative authorities;
- Conducting public awareness-raising campaigns.

286. The following actions have been taken since 2008:

- Mainstreaming the issue of polygamy in the training provided to 3,000 women leaders;
- Raising the public's awareness of the benefits and advantages of legal marriage;
- Strengthening women's capacity to assert their rights;
- Raising awareness among policymakers, civil society and opinion leaders about legal marriage;
- Building capacity with respect to gender, the law and negotiation;
- Supporting women's organizations working to bring about change.

3. Right to marry and found a family

287. The right of all individuals to found a family is established in article 20 of the Constitution.

288. The new Act No. 2007-022 of 20 August 2007 (Marriage Act) raised the legal age of marriage to 18 for both sexes instead of 14 for women and 17 for men. The President of the Court may, however, authorize the marriage of persons under 18 years of age if there are serious reasons for doing so.

289. The consent of the intending spouses must be given before the President of the Court and duly recorded in the court ruling authorizing the marriage.

290. Article 4 of the Marriage Act stipulates: "Consent is not valid where it has been obtained by violence or where it has been given while under a misconception regarding an essential attribute of one of the prospective spouses such that the other would not have consented had he or she been aware of the error".

291. Article 5 of the same Act prohibits bigamy and states that a second marriage may not be entered into prior to the dissolution of the first marriage.

4. Equality of rights and responsibilities between spouses

292. Article 54 of the above-mentioned Act states: "The husband is the head of the family. However, the husband and wife jointly undertake to provide materially and morally for their family and raise their children".

293. Article 55 of the Act specifies that "spouses, by the very fact of marrying, enter into an obligation to feed, maintain, raise and educate their children". They have the same parental rights and therefore contribute to their children's upbringing and prepare them for the future".

294. These obligations apply even in the event of a disagreement. Each parent is required to help support the couple's children in proportion to their income. In the event that one of the spouses fails to meet his or her obligations, the other spouse may ask the court for the attachment of all or part of the other's earnings, commensurate with the applicant's needs.

Article 24

Rights and protection of the child

295. On 24 September 2012, Madagascar signed the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

296. In 2013 and 2014, the Ministry of Justice, working in partnership with UNICEF, offered training sessions on combating child abuse for police officers and gendarmes in the regions of Analanjirifo, Boeny, Menabe, Atsimo Andrefana and Diana.

297. In response to the recommendation made, the Malagasy Government, concerned about the problem of child domestic workers, has included child domestic labour among the worst forms of child labour. The following measures have been taken to eliminate the worst forms of child labour, including domestic work, and to protect children:

- Giving constitutional status to child protection by incorporating international instruments on child rights in the new Constitution;
- The adoption of Act No. 2007-023 of 20 August 2007 on the rights and protection of children, which provides that children themselves may report abuse to a children's court judge or to a representative of the public prosecutor's office or to lodge an appeal;
- The issuance of Decree No. 2007-563 on child labour, which regulates the implementation of Act No. 2003-044 of 28 July 2004 (the Labour Code) and, in article 16, prohibits children under the age of 18 from performing domestic labour and prohibits their employment in work that is hazardous, unsanitary or harmful to their health;
- The continued implementation of the National Plan of Action to Combat Child Labour by the National Commission to Combat Child Labour;
- The continued work of the Rights of the Child Reform Commission established in 2005 to bring national legislation into line with the Convention;
- The coordination of comprehensive plans and strategies for the realization of the rights of the child;
- The production and distribution of a booklet in the Malagasy language containing excerpts from conventions and laws on child protection;
- The translation into the national language, printing and dissemination of the Convention on the Rights of the Child in collaboration with UNICEF;
- The translation into the national language of the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182) in partnership with the United Nations Democracy Fund;
- The inclusion of modules on the rights of the child and on combating child labour in primary and middle school curricula;
- The holding of public awareness campaigns on the harmful effects of child labour by the National Commission to Combat Child Labour, the Office for Mass Education and Civics Teaching, the regional committees for combating child labour and NGOs working in the field of children's rights.

1. Child protection mechanisms

298. The institutional mechanisms for child protection are the Labour Inspectorate, the Children's Court, the Vice Squad and the Office for the Protection of Minors.

299. At a decentralized level, children's rights networks coordinate actions to protect minors.

300. At the sectoral level, plans, strategies and policies have been implemented in the areas of civil status, health and nutrition, education and child protection.

2. Implementation of policies, programmes and action plans on child protection**National Plan of Action on Violence Against Children**

301. At the initiative of the Ministry of Justice and with the participation of various ministries and civil society organizations working in the field of child protection, in 2007 the Government adopted the 2008-2011 National Plan of Action on Violence Against Children.

National Plan of Action to Combat Child Labour

302. The National Plan of Action to Combat Child Labour provides strategic directions, a framework for implementation and follow-up and possibilities for financing the national programme for (i) first and foremost, preventing the worst forms of child labour; (ii) extricating and reintegrating those already engaged in such work; and (iii) protecting all child workers over the minimum age for admission to employment from exploitation and dangerous work.

303. The Plan is to be implemented over 15 years in three phases: phase I from 2004 to 2008, phase II from 2009 to 2013 and phase III from 2013 to 2017.

304. The National Strategy to Combat Child Sex Tourism is set out in Decree No. 013-2012/MINTOUR of 17 January 2012.

3. Establishment of an institutional framework for coordinating action at the national level

- The National Commission to Combat Child Labour is an inter-sectoral body established by Decree No. 2004-985 of 12 October 2004 and chaired by the Minister for the Civil Service, Labour and Social Legislation;
- The Adoption Authority was established within the Ministry of Population, Social Protection and the Advancement of Women;
- The Interministerial Committee to Combat Child Sex Tourism was established through Ministerial Decision No. 005-2012/MINTOUR/SG/DGN/DNC of 20 March 2012 to ensure coordination and monitoring of activities to combat child sex tourism. This Committee is chaired by the Ministry of Tourism;
- The National Child Protection Committee was established by Decree No. 2012-858 of 28 December 2012. This Committee comprises representatives of relevant ministries and is mandated to:
 - Establish the broad lines of national policies and programmes on child protection;
 - Coordinate actions to protect children;

- Ensure collaboration among all stakeholders involved in child protection;
- The framework established to coordinate action at the district and commune levels is known as the child protection network, and is an organized system for collaboration and coordination among the various stakeholders from the public and private sectors who hold different but complementary mandates and share a common purpose — namely preventing and protecting children from all forms of violence, abuse and exploitation.

305. From 2009 to 2011, there were 765 networks spread out over 88 districts.

4. The right to a civil status

306. Following the implementation of the National Programme for Rehabilitating Birth Registration, which began in 2004 and ran for nine years pursuant to Decree No. 2004-495 of 26 April 2004, Act No. 2007-040 of 14 January 2008 on the issuance of birth certificates by court ruling under the National Programme for Rehabilitating Birth Registration was adopted.

307. Under article 5 of the Act, from the date of its enactment to 31 December 2011, special mobile hearings for the issuance of substitute birth certificates for children could be held in major towns at the district and commune levels at the initiative of the Directors of the General and Territorial Administration and District Heads in coordination with the town mayors.

308. As shown in the table below, as at 2010 the National Programme for Rehabilitating Birth Registration, working in collaboration with UNICEF and bringing together the Ministries of Justice, of the Interior, of Decentralization, of Education and of Population, had reached 921 out of 1,579 communes, spread out over 102 of the 119 districts in the 22 regions.

309. From 2004 to 2010, 1,532,857 children were found not to have birth certificates, and 1,029,005 of those have now been registered. This means that, based on the currently available data, 503,852 children without birth certificates are due to have their births registered retroactively. There is work to be done in the 628 communes that have yet to receive support under the programme.

Table14

Results of the National Programme for Rehabilitating Birth Registration

	2004-2007	2008	2009	2010	Total
No. of children surveyed	594 592	2 718 885	885 040	-	4 198 517
No. of children with no birth certificate	234 785	856 028	442 044	-	1 532 857
Number of cases opened	168 601	716 490	305 425	-	1 190 516
Number of rulings issued	140 314	621 588	249 682	-	1 011 584
Number of rulings transcribed	113 923	461 176	360 634	93 272	1 029 005
Number of originals issued	95 593	341 545	279 009	74 700	790 847

Source: Ministry of the Interior.

5. The right to a nationality

310. Madagascar ratified the Convention on the Nationality of Married Women in 2008.

311. A bill on the implementation of this Convention is under consideration. The bill aims to rectify all the provisions that discriminate against women or children with regard to the acquisition or loss of nationality. Thus, the reform addresses:

- Acquisition of Malagasy nationality by an illegitimate child born to a stateless father or to a father of unknown nationality;
- Retention of Malagasy nationality by a Malagasy woman who marries a foreigner.

Table 15

Cases of domestic violence handled in 2013

<i>Offence</i>	<i>Cases handled</i>	<i>Accused persons</i>							
		<i>Adults</i>				<i>Minors</i>			
		<i>Men</i>		<i>Women</i>		<i>Boys</i>		<i>Girls</i>	
		<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>
Abandonment of the home	27	7	15	0	0	0	0	0	0
Adultery and abetting adultery	127	21	43	21	43	0	0	0	0
Wounding with intent to harm	152	44	61	4	43	0	0	0	0
Verbal threats	15	3	5	1	6	0	0	0	0
Total	321	75	124	26	92	0	0	0	0

2014

<i>Offence</i>	<i>Cases handled</i>	<i>Accused persons</i>							
		<i>Adults</i>				<i>Minors</i>			
		<i>Men</i>		<i>Women</i>		<i>Boys</i>		<i>Girls</i>	
		<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>
Abandonment of the home	57	14	23	3	27	0	0	0	0
Wounding with intent to harm	193	63	86	13	31	0	0	0	0
Desertion of family	2	0	1	0	1	0	0	0	0
Adultery and abetting adultery	132	26	40	26	40	0	0	0	0
Procuring	2	1	1	0	1	0	0	0	0
Assault	34	4	17	0	13	0	0	0	8
Total	420	108	168	42	113	0	0	0	0

First quarter 2015

<i>Offence</i>	<i>Cases handled</i>	<i>Accused persons</i>							
		<i>Adults</i>				<i>Minors</i>			
		<i>Men</i>		<i>Women</i>		<i>Boys</i>		<i>Girls</i>	
		<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>	<i>DO</i>	<i>RL</i>
Abandonment of the home	15	4	3	1	7	0	0	0	0
Adultery and abetting adultery	38	6	13	6	13	0	0	0	0
Wounding with intent to harm	51	13	31	2	5	0	0	0	0
Sexual harassment	2	1	1	0	0	0	0	0	0
Total	106	24	47	9	25	0	0	0	0

DO: detention order.

RL: release on bail.

Article 25**Labour rights and political rights****1. Labour rights****Protection of worker's rights**

312. The principle of tripartite consultation set out in the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) was taken into account when establishing the National Labour Board, the Malagasy Observatory on Employment and Vocational and Business Training and the Governing Board of the National Social Security Fund, which include representatives of the State, employers and workers. They help draft reforms of labour legislation and regulations.

Equal access to the labour market in the public and private sectors

313. The new Constitution guarantees the right of all citizens to work and employment. Article 28 of the Constitution stipulates: "No one shall suffer harm at work or in employment on account of their sex, age, religion, opinions, origin, membership of a trade union or political beliefs".

314. Article 5 of Act No. 2003-011 of 3 September 2003 containing the general regulations for civil servants provides: "In the implementation of these regulations, there shall be no discrimination on the grounds of sex, religion, opinion, origin, kinship, financial situation, political beliefs or membership of a trade union".

315. Article 16 of the Act sets out the conditions for accessing various positions in the civil service. Civil servants must be:

- Of Malagasy nationality;
- In full possession of their civil rights;
- In compliance with national service requirements;

- Physically and medically fit for service;
- Aged not less than 18 and not more than 45 on 1 January of the year of the competition (first-time applicants);
- A holder of the relevant qualification for the minimum recruitment grade and scale.

316. There have not been any reports of discrimination in the employment of women in the private or public sector. Positions that were previously reserved for men are now open to women. Thus, this year the Military Academy of Madagascar will welcome its first group of 17 female cadets.

317. Women have been allowed to serve as police officers ever since the country gained its independence. Since 2010, the National Gendarmerie has organized competitions to recruit women.

318. As for other sectors, the majority of civil servants working in the judiciary and in the fields of education, health and foreign affairs are women. Women also serve in administrative positions, including as district and regional chiefs, and in senior government posts such as ministerial secretary-general, director or director-general.

319. In the judiciary, 432 out of 848 judges are women.

2. Political rights

Women's participation in political life and in the conduct of public affairs

320. In response to the Committee's concerns and recommendations, the following measures have been taken:

- A bill was drafted on gender parity in elected office and in senior government positions in 2012;
- The gender perspective was adopted in local governments and the media, in collaboration with Gender Links in 2011;
- A network of women and women's associations known as *Firaisankinan'Andriambavilanitra Malagasy (FIAMA)* has been operating in the 22 regions, districts, communes and even villages (*fokontany*) since 2009. This organization aims to develop women's socioeconomic and political autonomy. It allows women to organize, express themselves, claim their rights, assist each other in undertaking development activities, encourage participation in political life, and support female candidates in elections of various kinds;
- Leadership training was provided to 3,000 women with a view to gender advancement in 2008.

321. As part of the efforts to establish this network of women, the Ministry of Population conducted an awareness-raising campaign on gender, women's rights and women's participation in political life. In 2011, a similar awareness-raising campaign was conducted for 640 women leaders in partnership with the Ministry of Water with a view to incorporating the gender perspective into the water, health and sanitation programme.

Proportion of women in appointments and elected office since the start of the Fourth Republic

- Government: 6 out of 30 posts held by women;
- Parliament: 29 out of 151 posts;
- Regional prefect: 3 out of 22 posts;

- District Chief: 24 out of 119 posts;
- Mayor: 62 out of 1,579 posts.

322. In April 2015, in partnership with the United Nations system, the Ministry of Population, Social Protection and the Advancement of Women officially launched the “Gender and elections” strategy in Madagascar, covering the period 2015-2020.

323. The main objective of this strategy is to enhance the representation and participation of Malagasy women in decision-making, with multiple goals including: serving as a tool of gender integration in the public domain, informing public opinion and raising awareness, and achieving greater representation for women in national and local decision-making mechanisms.

324. To promote women’s representation at all levels of decision-making, the following key actions were included in the strategy: application and integration of women-men parity in the party political electoral mechanism; promotion of the national identity card for women of voting age; promotion of female candidacies in all decision-making posts; and the strengthening of advocacy and lobbying.

The right to elect and be elected

325. Under article 5 of the Constitution of 2010, “all citizens, of both sexes, who possess civil and political rights shall be voters under conditions determined by law. Voter status may be removed only by judicial decision”.

326. Article 15 of the Constitution states: “Every citizen shall have the right to stand for the elections provided for in this Constitution”.

327. Furthermore, in order to ensure the holding of free, fair and transparent elections and to ensure the free expression of the will of the voters, all elections shall be organized and run by an independent national body as mentioned in article 5 (2) of the Constitution.

328. The Electoral Code has been reformed to bring it into line with the Constitution. Those reforms include the establishment of the Independent National Electoral Commission to organize and supervise elections and to finalize and publish the provisional ballot count.

329. The Electoral Commission was established as the moral guarantor of the proper conduct and fairness of the ballot. To that end, the Malagasy Government admits national and international observers during elections and permits the involvement of civil society organizations and political parties throughout the entire electoral process.

330. With a view to achieving sustainable democracy, Madagascar has adopted legislation governing political parties, the status of the opposition and elections.

Act No. 2011-012 on political parties

331. The Act allows legally established political parties to:

- Engage fully in political activities;
- Improve political practices by forming coalitions of existing associations and political parties on the basis of a shared vision or programme;
- Establish rules of ethics and professional practice for political parties.

332. It provides an opportunity for political parties to fully implement the rules on democratic alternation of power and take part in actions to promote the development of the nation.

Act No. 2010-013 of 9 September 2011 on the status of the opposition and opposition parties

333. In order to increase the scope for action by political stakeholders, the opposition acts within a regulated framework that guarantees the effective exercise and enjoyment of its rights and obligations.

334. The Act enables the opposition and opposition parties to:

- Be legally recognized as key players in political life;
- Effectively wield their power to criticize and make counterproposals;
- Ensure their rights and determine their obligations.

Organic Act No. 2012-005 of 22 March 2012 (Electoral Code)

335. The Act establishes the general rules governing elections to public office, referendums and the exercise of the right to vote and sets out the fundamental principles for the holding of fair, transparent and equitable elections, which is the basis of a stable republic that upholds democratic values.

336. With a view to restoring credibility to elections and re-establishing the involvement of civil society organizations and political parties throughout the entire electoral process, improvements and innovations have been made regarding:

- The establishment of the Independent National Electoral Commission as the body responsible for organizing and managing elections as well as finalizing and publishing the provisional ballot count;
- The holding of a referendum during the dry season;
- The establishment of the single ballot paper as a means of voting;
- The periodic review and freezing of the electoral list;
- The incorporation of the College of Representatives of Candidates into the Independent National Electoral Commission and its regional branches to oversee the work of these commissions during the electoral period; and
- The updating of the amount of criminal fines.

Article 26**Equality before the law and equal protection of the law**

337. In Madagascar, nationals and foreigners enjoy equal protection of the law. Anyone may lodge an appeal before the courts in the event of a violation of his or her rights.

338. Article 13 (5) of the Constitution states: “The law shall ensure that everyone has access to justice; lack of resources will be no obstacle thereto”.

339. Decree No. 2009-970 of 14 July 2009 regulating legal support was adopted so as to defend the interests of the large number of people who have no access to legal proceedings due to financial constraints. This Decree enables them to receive legal support by establishing a legal support office within all lower courts and courts of appeal and at the Supreme Court.

340. The legal assistance office defends the interests of those involved in criminal proceedings at all stages, starting with the preliminary investigation.

341. Furthermore, efforts have been made to increase the number of courts so as to promote community-based justice. There are now 40 lower courts around the country.

Article 27

Right of minorities to enjoy their own culture, to profess and practise their own religion, and to use their own language

342. Article 26 (1) of the Malagasy Constitution recognizes the right of every individual to participate in the cultural life of the community, in scientific progress and in the benefits which result therefrom.

343. In order to protect the rights of minorities, article 2 of the Constitution stipulates that “access to culture is a fundamental right and every individual is entitled to the recognition of his or her culture and identity, provided that he or she respects those of others”.

344. In Madagascar, minorities enjoy the freedom to set up their own schools: there are French, Chinese, American and Koranic schools in Antananarivo and in regional and district capitals, where minorities can preach and practise their religion and speak their own language.
