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Madagascar

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	
ICERD	7 Feb 1969	Yes (art. 22)	Individual complaints (art. 14)	No
ICESCR	22 Sep 1971	Yes (art. 13, para. 2)	-	
ICCPR	21 Jun 1971	None	Inter-State complaints (art. 41):	No
ICCPR-OP 1	21 Jun 1971	None	-	
CEDAW	17 Mar 1989	None	-	
CAT	13 Dec 2005	None	Inter-State complaints (art. 21): Individual complaints (art. 22): Inquiry procedure (art. 20):	No No Yes
CRC	19 Mar 1991	None	-	
OP-CRC-AC	22 Sep 2004	Binding declaration under art. 3: 18 years	-	
OP-CRC-SC	22 Sep 2004	None	-	

Core treaties to which Madagascar is not a party: OP-ICESCR (signature, 2009), ICCPR-OP 2, OP-CEDAW (signature only, 2000), OP-CAT (signature only, 2003), ICRMW, CRPD (signature only, 2007), CRPD-OP (signature only, 2007) and CED (signature only, 2007).

<i>Other main relevant international instruments³</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	No
Rome Statute of the International Criminal Court	Yes
Palermo Protocol ⁴	Yes
Refugees and stateless persons ⁵	Yes/except 1961, 1954 conv.-1967 op
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁶	Yes/except AP III (signature)
ILO fundamental conventions ⁷	Yes
UNESCO Convention against Discrimination in Education	Yes

1. In 2009, The Committee on Economic, Social and Cultural Rights (CESCR) welcomed the ratification by Madagascar of the Convention Against Torture on 13 December 2005, the two Optional Protocols to the Convention of the Rights on the Child, on 22 September 2004, as well as the signing, in 2009, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It also welcomes the ratification of International Labour Organization Conventions No. 98 (1949) on the Application of the Principles of the Right to Organize and to Bargain Collectively, No. 138 (1973) concerning the Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.⁸

2. In 2008, the Committee on the Elimination of Discrimination against Women (CEDAW) congratulated Madagascar for its ratification of the United Nations Convention against Transnational Organized Crime and both its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the

Smuggling of Migrants by Land, Sea and Air in 2005.⁹ CEDAW encouraged Madagascar to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women as soon as possible¹⁰ and to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention on the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.¹¹

3. In 2004, the Committee on the Elimination of Racial Discrimination (CERD) recommended that Madagascar make the optional declaration, provided for in article 14 of ICERD, concerning the competence of the Committee to receive and consider communications from individuals and groups of individuals.¹²

B. Constitutional and legislative framework

4. On 29 January 2009, the Secretary-General called on the Malagasy Government to place an absolute priority on the protection of the population, after dozens of people died as a result of serious unrest that took place in Antananarivo and elsewhere.¹³ On 8 February, the Secretary-General deplored the violence and lack of restraint on all sides that led to the tragic events of 7 February, in which at least 25 people were reportedly killed and dozens injured. The Secretary-General urged the Malagasy authorities to urgently initiate a fair process by which those responsible will be brought to justice.¹⁴ On 4 May, the Secretary-General remained concerned with the continuing crisis in Madagascar, which had led to politically motivated arrests, escalating violence and the loss of lives. He appealed to the authorities to observe human rights and respect the rule of law.¹⁵

5. On 10 August 2009, the Secretary-General welcomed the signing on 9 August 2009 in Maputo of agreements providing a framework for resolving the political crisis in Madagascar. He urged the Malagasy leaders to quickly agree on the composition of the Government of National Unity and on the transition leading to credible elections, the restoration of democracy and the rule of law.¹⁶ On 7 October, the Secretary-General welcomed the progress achieved towards the establishment of a Government of National Unity and stated that the United Nations was committed to supporting the full implementation of the Maputo agreements and a rapid return to constitutional order through credible elections.¹⁷

6. On 7 November 2009, the Secretary-General welcomed the agreement reached by the four Malagasy leaders on the establishment of a power-sharing administration. In this context, the Secretary-General urged the leaders to speedily inaugurate the Government and to put in place the transitional institutions foreseen in the Maputo agreement. The Secretary-General also confirmed that the United Nations would continue to support Madagascar through the transition and beyond.¹⁸

7. In the light of its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3), CESCR recommended that Madagascar adopt specific legislation on the equality between women and men on which strategies and plans could be built.¹⁹ CESCR also called on Madagascar to amend the Law on Export Processing Zones, in order to apply the Labour Code on persons working in these areas.²⁰

8. CEDAW commended Madagascar on the legal reforms undertaken to eliminate discrimination against women and promote gender equality, in particular, Law No. 2007–022.²¹ The United Nations Population Fund (UNFPA) noted that Act No. 2007–022 placed men and women on the same footing with regard to the joint administration of property and custody of children, and that the legal age of marriage was 18 for both sexes.²² CEDAW

recommended that Madagascar incorporate in its Constitution or in other appropriate legislation a definition of discrimination against women in line with article 1 of CEDAW.²³

9. While noting that Madagascar had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Human Rights Committee (HR Committee) stated, in 2007, that it should define torture in its legislation, taking into account internationally established norms, and make it a separate offence with appropriate sanctions.²⁴ CERD recommended that Madagascar should include a definition of racial discrimination in its legislation, drawing upon the elements contained in article 1 of ICERD.²⁵

10. UNICEF observed that the preamble of the Constitution states that, among others, the Convention on the Rights of the Child is an integral part of the law of the country.²⁶ Between 2005 and 2008, five important laws reinforcing the principles of child rights were promulgated, regarding adoption and alternative care, the legal age of marriage, protective measures connected with abuse, exploitation and lack of primary caregivers, trafficking and sex tourism, and retroactive birth registration.²⁷

C. Institutional and human rights infrastructure

11. The *Commission nationale des droits de l'homme de Madagascar* was accredited with C status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) in April 2006, which was reconfirmed in October 2006.²⁸

12. CEDAW was concerned that it did not receive a clear picture of the national machinery on women's rights²⁹ and called upon Madagascar to ensure that the national machinery for the advancement of women has the necessary visibility and decision-making and coordination powers to fulfil its mandate.³⁰

13. The Committee on the Rights of the Child (CRC) was concerned that the médiateur, established in 1992, was not yet fully operational and that children cannot address complaints directly.³¹ CRC recommended that Madagascar expedite the establishment of an institution to monitor and evaluate the implementation of CRC.³² The United Nations Children's Fund (UNICEF) observed that the National Council of Human Rights (*Conseil national des droits humains*), created in 2008, which has a mandate to monitor the application of the CRC among other duties, was not yet operational.³³

14. UNICEF mentioned that, in 2008, the Government created several new units in the Ministry of Justice, including the Direction for Integrity Promotion, Direction for Jurisdictions Control, Direction for Communication and Direction for Human Rights and International Relations. The effective functioning of these bodies remains problematic, due to scarce human and financial resources.³⁴

D. Policy measures

15. UNFPA indicated that the National Action Plan for equality of women and development included two specific programmes: improvement of the economic efficiency of women and undereducated girls; and improvement of the legal and social condition of women.³⁵ The ILO Committee of Experts on the Application of Conventions and Recommendations requested Madagascar to provide information on the measures taken under the National Employment Policy and the National Action Plan on Gender Equality and Development.³⁶

16. The ILO Committee of Experts requested Madagascar to supply information on the measures taken, and the impact thereby, under the programme “Promotion Income” to promote women's employment, including any measure taken by the Malagasy Office for Employment Promotion.³⁷

17. The ILO Committee of Experts recalled that four major priority issues within the ILO/IPEC Time-bound Programme (TBP) had been identified, namely the commercial sexual exploitation of children, child domestic labour, child labour in mining and quarrying, and child labour in hazardous and unhealthy environments in the rural and urban sectors. The Committee requested Madagascar to provide more detailed information on the number of children prevented from being engaged in the worst forms of child labour as a result of the implementation of the TBP.³⁸

18. In 2005, Madagascar adopted the Plan of Action (2005–2009) for the World Programme for Human Rights Education focusing on the national school system.³⁹ The Government provided information, inter alia, on the “Education For All National Plan” to reform the education system.⁴⁰

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body</i> ⁴¹	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2003	Aug. 2004		Combined nineteenth and twentieth reports overdue since 2008
CESCR	1985	April 2006	-	Second periodic report overdue since 1990, submitted in 2007, scheduled for consideration in 2009. Third, fourth and fifth reports overdue since 1995, 2000 and 2005, respectively
HR Committee	2005	Mar. 2007	Overdue since 2008	Fourth report due in 2011
CEDAW	2008	Oct. 2008	Due in 2010	Combined sixth and seventh reports due in 2014
CAT	None	None		Initial report overdue since 2007
CRC	2001	Sept. 2003	-	Third and fourth reports due in 2008, submitted in 2009, scheduled for consideration in 2011
OP-CRC-AC	None	None	-	Initial report overdue since 2006
OP-CRC-SC	None	None		Initial report overdue since 2004

19. In 2004, CERD welcomed the establishment of a committee responsible for drafting the initial and periodic reports under the human rights instruments ratified by Madagascar.⁴²

2. Cooperation with special procedures

<i>Standing invitation issued</i>	<i>No</i>
<i>Latest visits or mission reports</i>	
<i>Visits agreed upon in principle</i>	Special Rapporteur on the right to food
<i>Visits requested and not yet agreed upon</i>	
<i>Facilitation/cooperation during missions</i>	
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, five communications were sent concerning inter alia particular groups and one woman. The Government did not reply to any of these communications.
<i>Responses to questionnaires on thematic issues</i> ⁴³	Madagascar responded to one of the 16 questionnaires sent by special procedures mandate holders, ⁴⁴ within the deadlines. ⁴⁵

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

20. CEDAW in 2008⁴⁶ and the HR Committee in 2007⁴⁷ were concerned at the persistence of cultural norms, practices and traditions as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in all spheres of life. CEDAW urged Madagascar to put in place a strategy, including legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women.⁴⁸ The HR Committee requested that Madagascar strengthen its efforts in education and training so as to bring about genuine equality between men and women.⁴⁹

21. UNFPA noted the persistence of discriminatory practices in respect of land ownership and property and succession management, which had the effect of limiting women's access to economic resources.⁵⁰

22. In 2009, the Representative of the Secretary-General on the human rights of internally displaced persons made reference to the case of a village where single mothers with access to land were not included in the needs assessment lists of an international organization for seed distribution based on the assumption that those using the seeds would be male farmers only.⁵¹

23. The ILO Committee of Experts requested Madagascar to harmonize the Labour Code and the Civil Service Statute with the ILO Discrimination (Employment and Occupation) Convention and to provide information on the measures taken.⁵²

24. CERD regretted that despite the abolition of slavery and the caste system in 1896, discrimination against the descendants of slaves persists and recommended that Madagascar take the necessary steps to put an end to it.⁵³ In 2009, CESCR made similar recommendations.⁵⁴

2. Right to life, liberty and security of the person

25. On 24 February 2009, the Special Rapporteur on extrajudicial, summary or arbitrary executions transmitted an official communication, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning the deaths of 28 persons alleged to have been caused by the Malagasy Security Forces at Antananarivo during an anti-Government demonstration which had apparently been conducted peacefully. The Special Rapporteurs requested the Government to open an

inquiry into the deaths alleged to have taken place during that demonstration.⁵⁵ UNICEF noted that the political crisis has given rise to a range of alleged human rights abuses, including the use of excessive force by the armed forces and law enforcement officers resulting in the death and injury of civilians, illegal house searches, arbitrary arrests and detentions.⁵⁶

26. In 2008, the HR Committee regretted that summary executions have been carried out on the strength of a system of customary justice (*Dina*) and invited Madagascar to ensure that no further summary executions are carried out on the strength of *Dina* decisions.⁵⁷

27. The HR Committee stated that Madagascar should submit information on existing measures for the prevention of torture and similar maltreatment, and on a number of complaints of such treatment received and action taken in response.⁵⁸ The Committee also stated that Madagascar should define torture in its legislation, taking into account internationally established norms, and make it a separate offence with appropriate sanctions.⁵⁹

28. The HR Committee remained concerned by the excessive length of police custody and remand detention, and requested that Madagascar should bring its legislation and its practice into conformity with ICCPR and take measures to limit the duration of police custody and remand detention. Consequently, the Code of Criminal Procedure should be amended.⁶⁰

29. CESCR urged Madagascar to adopt emergency measures to combat the persistent problem of malnutrition in prisons, including by increasing the resources allocated to food for the prisoners and providing them with access to health care. The Committee also urged Madagascar to take appropriate measures to reduce and prevent overcrowding in prisons, including by using alternative measures of punishment.⁶¹

30. CEDAW⁶² and the HR Committee⁶³ expressed concern at the high prevalence of violence against women and girls, such as widespread domestic and sexual violence, including rape. CEDAW⁶⁴ and the HR Committee⁶⁵ were also concerned that such violence appears to be socially legitimized and is accompanied by a culture of silence and impunity. Furthermore, CEDAW noted with concern that marital rape was not recognized as a criminal offence and that the Criminal Code only criminalizes acts leading to physical violence.⁶⁶

31. CEDAW urged Madagascar to give priority attention to combating violence against women and to adopt comprehensive measures to address all forms of violence against women and girls. The Committee called upon Madagascar to ensure that violence against women and girls, including domestic violence, marital rape and all forms of sexual abuse, constitute a criminal offence; and that women and girls have immediate access to redress and protection. It recommended the establishment of counselling services and shelters for victims of violence, and training for the judiciary and public officials, and health service providers.⁶⁷ The HR Committee made similar comments.⁶⁸

32. CEDAW also expressed concern at the persistence of trafficking and sexual exploitation of women and girls, especially in rural areas and regretted the lack of a national plan of action to address both trafficking and sexual exploitation.⁶⁹ CRC noted with appreciation, inter alia, the enactment of Act 2000-021 amending and supplementing certain provisions of the Criminal Code relating to violence against women and to sexual offences.⁷⁰ UNFPA noted that Act 2007-38 amended and supplemented the provisions concerning human trafficking and sex tourism.⁷¹

33. CEDAW recommended that Madagascar, inter alia, adopt a comprehensive action plan to address trafficking and sexual exploitation and ensure the allocation of human and financial resources for its implementation; address the root cause of trafficking and

exploitation of women by improving their economic situation, including measures for their rehabilitation and social integration. CEDAW also called upon Madagascar to increase its efforts aimed at combating sex tourism, including in cooperation with countries of origin.⁷² The ILO Committee of Experts noted that section 13 of Decree No. 2007-563 categorically prohibits the procuring, use, offering and employment of children of either sex for prostitution or for commercial sexual exploitation.⁷³

34. The ILO Committee of Experts requested Madagascar to continue providing information in relation to the protection of children living on the street from the worst forms of child labour. It also requested Madagascar to provide information on the number of children who have up to now been removed from the streets and reintegrated into society.⁷⁴ The HR Committee requested that Madagascar take the necessary measures to put an end to the practice of children being employed as domestic servants in conditions that are often tantamount to slavery.⁷⁵

35. Noting that in the south-eastern region, the birth of twins is considered a bad omen and therefore only one of the newborns is kept by the family, while the other is automatically abandoned, the HR Committee⁷⁶ and CRC⁷⁷ requested Madagascar to take binding measures to eradicate this practice. CRC also recommended that Madagascar ensure that the institutionalization of twins is a measure of last resort.⁷⁸

3. Administration of justice and the rule of law

36. The HR Committee was concerned about the existence of a system of customary justice (*Dina*) which does not always produce fair trials. It took note of the assurance by Madagascar that *Dina* can no longer intervene in anything other than minor offences, and under judicial supervision. It requested that Madagascar should ensure that *Dina* authorities administer a fair justice system under the supervision of the State courts.⁷⁹ UNICEF noted that there is an insufficient number of judges and specialized magistrates. Only the court in Antananarivo has social workers available to assist and support judicial work.⁸⁰

37. The HR Committee requested that Madagascar amend its legislation and its practice in order to guarantee to anyone under arrest access to legal assistance from the moment of arrest, in particular where people are unable to pay a private defence attorney.⁸¹

38. UNICEF noted that juvenile justice is a major concern. Most adolescents in prison are awaiting trial and are often detained with adults because alternatives to detention are unavailable.⁸² CRC recommended that Madagascar ensure that persons of 16 and 17 years of age are not considered and sentenced as adults, make sure that children below the age of 13 years are not brought before a criminal court, establish juvenile courts and appoint trained juvenile judges.⁸³

4. Right to privacy, marriage and family life

39. CEDAW was concerned at women's unequal status in marriage and family matters owing to customary and traditional attitudes.⁸⁴ It urged Madagascar to harmonize civil and customary law with CEDAW and to implement measures aimed at eliminating polygamy. CEDAW also recommended considering the situation of women in de facto unions, and of the children resulting from such unions, and ensure that they enjoy adequate legal protection.⁸⁵

40. CEDAW noted with concern that the Nationality Code does not allow a Malagasy woman married to a foreigner to transmit her nationality to her husband or children on the same basis as a Malagasy man married to a foreigner.⁸⁶ The Committee urged Madagascar to amend the Nationality Code so as to bring it in line with CEDAW.⁸⁷ In 2004, CERD made similar comments.⁸⁸

41. UNFPA noted that polygamy continued to be practised, despite being banned by the Criminal Code, and that it was socially accepted in the south of Madagascar.⁸⁹

42. UNICEF indicated that birth registration is not perceived as a fundamental right of the child by parents, who often live far from the nearest municipality. Twenty-five per cent of children under five in Madagascar have not been registered at birth and hence have no legal form of identification.⁹⁰ CRC urged Madagascar to strengthen its efforts to rehabilitate its civil registration service to ensure that all children are registered at birth and to consider facilitating procedures for obtaining birth certificates free of charge.⁹¹

5. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

43. UNICEF noted that, since the beginning of 2009, the right to freedom of expression has been curtailed, and both media and youth have stated that the various political parties have manipulated them. As with previous political crises, no independent investigations have been conducted into the alleged abuses.⁹²

44. CEDAW encouraged Madagascar to increase the number of women in decision-making positions, in particular at the municipal/local level, in Parliament and in political parties; and to carry out awareness-raising campaigns aimed at enhancing women's political empowerment.⁹³ CEDAW also invited Madagascar to encourage political parties to use quotas.⁹⁴ The HR Committee made similar comments.⁹⁵

45. The ILO Committee of Experts noted reports concerning restrictions on the exercise of freedom of association in export processing zones, the risks of anti-union discrimination under a decree of 2000 requiring trade unions, among other measures, to provide a list of their members, and interference by the authorities in the appointment of worker representatives to tripartite bodies.⁹⁶

6. Right to work and to just and favourable conditions of work

46. The ILO Committee of Experts requested Madagascar: to ensure that no penalty of imprisonment or any other penal sanction be imposed on workers or trade unionists who organize or participate in a peaceful strike, and to indicate measures adopted in this respect;⁹⁷ to adopt formal provisions recognizing the protection of all public servants and public sector employees against anti-union discrimination and their right to bargain collectively.⁹⁸

47. CEDAW was concerned at the precarious situation of the large number of women in the informal sector, where they have limited access to land and lack job security and access to social security benefits.⁹⁹ The Committee requested Madagascar to ensure equal opportunities for women in the labour market, and that employment legislation apply to the public and private sectors.¹⁰⁰

48. The ILO Committee of Experts requested Madagascar to provide information on measures taken to facilitate women's access to credit and loan facilities with a view to fostering their engagement in economic activities.¹⁰¹

7. Right to social security and to an adequate standard of living

49. CESCR recommended that Madagascar allocate sufficient funds for the implementation of its poverty strategy and ensure the full integration of economic, social and cultural rights, as recommended by the Committee in its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/C.12/2001/10). The Committee also urged Madagascar to take immediate and effective measures to ensure that the population has affordable access to clean drinking water.¹⁰²

50. CESCR also recommended that Madagascar consider how to extend the coverage of social security to rural women and informal sector workers and implement social security legislation for all domestic workers.¹⁰³

51. UNICEF indicated that 68 per cent of the population lives on less than US\$ 1 a day and that poverty remains widespread in Madagascar, where rural populations and women are the most affected.¹⁰⁴ The whole social welfare system is still very weak in terms of its ability to reach the most vulnerable families and to offer access to social services and poverty alleviation.¹⁰⁵

52. A 2008 report by the Food and Agriculture Organization of the United Nations (FAO) noted that Madagascar is at risk of deteriorating food security due to high food prices.¹⁰⁶ A 2009 United Nations Statistics Division source indicated that, in 2004, the proportion of undernourished population was 37 per cent and that the proportion of children aged under five who were moderately or severely underweight was 41.9 per cent.¹⁰⁷

53. CEDAW recommended that Madagascar improve women's access to health care, especially emergency obstetric care, and the availability of sexual and reproductive health services, including family planning, with the aim of preventing early pregnancies and clandestine abortions. It encouraged Madagascar to enhance all health services, especially for rural women.¹⁰⁸

54. The HR Committee requested that Madagascar amend its legislation to help women avoid unwanted pregnancies and recourse to clandestine abortion. Madagascar should also consider amending its legislation on abortion so as to bring it into line with ICCPR.¹⁰⁹

55. The ILO Committee of Experts noted that, according to the most recent data from the Joint United Nations Programme on HIV/AIDS (UNAIDS), around 13,000 children aged between 0 and 17 years are AIDS orphans. The ILO Committee of Experts requested Madagascar to provide information on the protection of HIV/AIDS orphans, including the prevention of those orphans from being engaged in the worst forms of child labour.¹¹⁰

56. CRC recommended that Madagascar strengthen its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living, in particular, access to drinking water, health, housing and hygiene.¹¹¹ A 2008 United Nations Statistics Division source indicated that the total proportion of the population using an improved drinking water source in 2006 was 47 per cent.¹¹²

8. Right to education and to participate in the cultural life of the community

57. The ILO Committee of Experts considered it desirable to ensure that schooling is compulsory up to the minimum age for admission to employment.¹¹³ A 2009 United Nations Statistics Division source indicated that the net enrolment ratio in primary education increased from 93.2 per cent in 2005 to 99.3 per cent in 2007.¹¹⁴

58. CEDAW expressed concern at current conditions that impede girls' access to education including poverty, living in rural and remote areas, early marriage and early pregnancy.¹¹⁵ It recommended that Madagascar ensure equal access of girls and young women to all levels of education, to retain girls in school and implement re-entry policies so that girls and young women return to school after pregnancy.¹¹⁶

59. CRC recommended that Madagascar ensure that all children, especially girls, wherever they live, have equal access to educational opportunities; make primary education completely free; identify the causes of the high rates of repetition and dropout in primary school and provide remedies.¹¹⁷

III. Achievements, best practices, challenges and constraints

60. UNICEF indicated that Madagascar faces many challenges in meeting the Millennium Development Goals (MDGs). The second national MDG Progress Report in 2007 estimated that Madagascar was likely to achieve at least three MDGs on primary education, gender equality and HIV/AIDS. UNICEF noted that whether this remains likely will depend on the outcome of the current political crisis.¹¹⁸

61. UNICEF also indicated an improvement in child mortality figures and that some progress has been made to protect children against all forms of violence.¹¹⁹ The HR Committee welcomed the efforts undertaken to improve the situation of certain categories of vulnerable groups, in particular persons infected with the HIV/AIDS virus and persons with disabilities.¹²⁰

62. UNICEF noted that challenges remain in the functioning of the justice system and courts, and deficiencies persist in the application of the law, particularly regarding delays in and deficient information on court decisions.¹²¹ The HR Committee took note of the efforts to improve the functioning of the judicial institutions and underlined the importance of the Code of ethics for magistrates.¹²²

63. CRC acknowledged that natural disasters, the external debt, the structural adjustment programme and the limited availability of financial and skilled human resources have had a negative impact on the situation of children and have impeded the full implementation of CRC.¹²³

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

64. In 2007, Madagascar pledged to work to incorporate into its national legislation the human rights conventions and protocols to which it is party. It also pledged, *inter alia*, to continue to promote democracy, good governance and the rule of law as the foundations for the promotion of human rights; to ensure the effective enjoyment of human rights and respect for and protection of fundamental freedoms; cooperate with governments and with national, regional and multilateral human rights organizations; support international efforts aimed at increasing dialogue and understanding across cultures and civilizations; contribute to strengthening the measures adopted by the United Nations, and more specifically within the Human Rights Council; and comply with the system of periodic review.¹²⁴

B. Specific recommendations for follow-up

65. CEDAW requested Madagascar to provide, within two years, detailed information on the implementation of the recommendations relating to violence against women, as well as the trafficking and sexual exploitation of women and girls.¹²⁵

66. CEDAW also requested Madagascar to provide in its next periodic report detailed information about: legal provisions and their monitoring and enforcement; equal pay for work of equal value; complaints mechanisms and their outcome;¹²⁶ measures taken to improve women's access to health-related services and information, including in regard to sexual and reproductive health and family planning.¹²⁷

67. The HR Committee requested that Madagascar provide additional information, within a year concerning the implementation of the recommendations relating to the

resumption of the work of the National Human Rights Commission, and to the dysfunction in the judicial system.¹²⁸

68. CERD requested that detailed information on the situation of descendants of slaves, and of the persistence of the caste system, should be included in the next periodic report.¹²⁹

V. Capacity-building and technical assistance

69. CRC requested Madagascar to seek technical assistance from, among others, OHCHR and UNICEF regarding the *médiateur* and the National Human Rights Commission.¹³⁰

70. The 2008–2011 United Nations Development Assistance framework emphasized the need for action to be taken, as a matter of priority, in the fields of health, family planning and the effort to combat sexually transmissible infections (STIs), HIV and AIDS.¹³¹

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

³ Information relating to other relevant international human rights instruments, including regional instruments, may be found in the pledges and commitments undertaken by Madagascar before the Human Rights Council, as contained in the note verbale dated 3 May 2007 sent by the Permanent Mission of Madagascar to the United Nations addressed to the President of the General Assembly, A/61/893, pp 4–5.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

- ⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness. In a notification received by the Secretary-General on 2 April 1965, the Government of Madagascar denounced the Convention; the denunciation took effect on 2 April 1966.
- ⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at <http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html>.
- ⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ E/C.12/MDG/CO/2, para. 3
- ⁹ CEDAW, concluding observations, CEDAW/C/MDG/CO/5, para. 6.
- ¹⁰ *Ibid.*, para. 7.
- ¹¹ *Ibid.*, para. 41.
- ¹² CERD, concluding observations, CERD/C/65/CO/4, para. 22.
- ¹³ SG/SM/12074, available at <http://www.un.org/News/Press/docs/2009/sgsm12074.doc.htm> (last visited on 20 October 2009).
- ¹⁴ SG/SM/12090 – AFR/1808, available at <http://www.un.org/News/Press/docs/2009/sgsm12090.doc.htm> (last visited on 20 October 2009).
- ¹⁵ SG/SM/12219 – AFR/1839, available at <http://www.un.org/News/Press/docs/2009/sgsm12219.doc.htm> (last visited on 20 October 2009).
- ¹⁶ SG/SM/12407 – AFR/1881, available at <http://www.un.org/News/Press/docs/2009/sgsm12407.doc.htm> (last visited on 20 October 2009).
- ¹⁷ SG/SM/12528, available at <http://www.un.org/News/Press/docs/2009/sgsm12528.doc.htm> (last visited on 20 October 2009).
- ¹⁸ SG/SM12591 – AFR/1904, available at <http://www.un.org/News/Press/docs/2009/sgsm12591.doc.htm> (last visited on 10 November 2009).
- ¹⁹ E/C.12/MDG/CO/2, para. 15.
- ²⁰ *Ibid.*, para. 19.
- ²¹ CEDAW/C/MDG/CO/5, para. 4.
- ²² UNFPA submission to the UPR on Madagascar, p. 1.
- ²³ CEDAW/C/MDG/CO/5, para. 11.
- ²⁴ HR Committee, concluding observations, CCPR/C/MDG/CO/3, para. 19.
- ²⁵ CERD/C/65/CO/4, para. 12.
- ²⁶ UNICEF submission to the UPR on Madagascar, p. 1.
- ²⁷ *Ibid.*
- ²⁸ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.

- ²⁹ CEDAW/C/MDG/CO/5, para. 12.
- ³⁰ Ibid., para. 13.
- ³¹ CRC, concluding observations, CRC/C/15/Add. 218, para. 13.
- ³² Ibid., para. 14 (a), (b) and (c).
- ³³ UNICEF submission, p. 2.
- ³⁴ Ibid.
- ³⁵ UNFPA submission, p. 1.
- ³⁶ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2009, Geneva, doc. No. (ILOLEX) 092009MDG111, para. 3.
- ³⁷ Ibid., para. 4.
- ³⁸ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2008, Geneva doc. No. (ILOLEX) 092008MDG182, para. 12.
- ³⁹ See General Assembly resolution 59/113B, 14 July 2005, and Human Rights Council resolution 6/24, 28 September 2007. See also letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007, available at <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm> (accessed on 27 August 2009).
- ⁴⁰ Letter from the Ministry of National Education and Scientific Research, dated on 29 March 2008, and letters from the High Commissioner for Human Rights dated on 9 January 2006 and 10 December 2007, see <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm> (accessed 27 August 2009).
- ⁴¹ The following abbreviations have been used for this document:
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|--------------|--|
| CERD | Committee on the Elimination of Racial Discrimination |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CRC | Committee on the Rights of the Child |
- ⁴² CERD/C/65/CO/4, para. 5.
- ⁴³ The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate holder.
- ⁴⁴ See (a) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (b) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (e) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (f) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (g) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (h) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (i) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations sent in 2007; (j) report on the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/10/16 AND Corr.1), questionnaire on trafficking in persons, especially women and children; (k) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the HRC (June 2009) (A/HRC/11/9), questionnaire on Cash Transfer Programmes, sent in October 2008; (l) report of the Special Rapporteur on the right to education (June 2009) (A/HRC/11/8), questionnaire on the right to education for persons in detention;

- (m) report of the Special Rapporteur on violence against women, (June 2009) (A/HRC/11/6), questionnaire on violence against women and political economy; (n) report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), questionnaire on national legislation and initiatives addressing the issue of bonded labour; (o) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), questionnaire on measures to prevent and combat online child pornography; (p) report of the Special Rapporteur on the right to food to the twelfth session of the Council (A/HRC/12/31), questionnaire on world food and nutrition security.
- 45 The report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), para. 12.
- 46 CEDAW/C/MDG/CO/5, para. 16.
- 47 CCPR/C/MDG/CO/3, para. 8.
- 48 CEDAW/C/MDG/CO/5, para. 17.
- 49 CCPR/C/MDG/CO/3, para. 8.
- 50 UNFPA submission, p. 2.
- 51 A/HRC/10/13/Add.1, para 32.
- 52 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2009, Geneva, doc. No. (ILOLEX) 092009MDG111, para. 1.
- 53 CERD/C/65/CO/4, para. 17.
- 54 E/C.12/MDG/CO/2, para.13.
- 55 A/HRC/11/2/Add.1, p. 257.
- 56 UNICEF submission, p. 1.
- 57 CCPR/C/MDG/CO/3, para. 16.
- 58 CCPR/C/MDG/CO/3, para. 18.
- 59 Ibid., para. 19.
- 60 Ibid., para. 23.
- 61 E/C.12/MDG/CO/2, para. 28.
- 62 CEDAW/C/MDG/CO/5, para. 18.
- 63 CCPR/C/MDG/CO/3, para. 11.
- 64 CEDAW/C/MDG/CO/5, para. 18.
- 65 CCPR/C/MDG/CO/3, para. 11.
- 66 CEDAW/C/MDG/CO/5, para. 18.
- 67 Ibid., para. 19.
- 68 CCPR/C/MDG/CO/3, para. 11.
- 69 CEDAW/C/MDG/CO/5, para. 20.
- 70 CRC/C/15/Add.18, para. 3 (e), (h), (i) and (j).
- 71 UNFPA submission, p. 1.
- 72 CEDAW/C/MDG/CO/5, para. 21.
- 73 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2008, Geneva doc. No. (ILOLEX) 092008MDG182, para. 4.
- 74 Ibid., para. 16.
- 75 CCPR/C/MDG/CO/3, para. 21.
- 76 Ibid., para. 17.
- 77 CRC/C/15/Add. 218, paras. 30 and 31.
- 78 Ibid., para. 31.
- 79 CCPR/C/MDG/CO/3, para. 16.
- 80 UNICEF submission, p. 5.
- 81 CCPR/C/MDG/CO/3, para. 20.
- 82 UNICEF submission, p. 5.
- 83 CRC/C/15/Add. 218, para. 69, (a) to (c).
- 84 CEDAW/C/MDG/CO/5, para. 36.
- 85 Ibid., para. 37.
- 86 Ibid., para. 24.

- ⁸⁷ Ibid., para. 25.
- ⁸⁸ CERD/C/65/CO/4, para. 15.
- ⁸⁹ UNFPA submission, p. 2.
- ⁹⁰ UNICEF submission, p. 5.
- ⁹¹ CRC/C/15/Add. 218, para. 35.
- ⁹² UNICEF submission, p. 1.
- ⁹³ CEDAW/C/MDG/CO/5, para. 23.
- ⁹⁴ Ibid., para. 23.
- ⁹⁵ CCPR/C/MDG/CO/3, para. 9.
- ⁹⁶ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), 2009, Geneva, doc. No. (ILOLEX) 062009MDG087, para. 2.
- ⁹⁷ Ibid., para. 8.
- ⁹⁸ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2009, Geneva, doc. No. (ILOLEX) 062009MDG098, para. 5.
- ⁹⁹ CEDAW/C/MDG/CO/5, para. 28.
- ¹⁰⁰ Ibid., para. 29.
- ¹⁰¹ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2009, Geneva, doc. No. (ILOLEX) 092009MDG111, para. 4.
- ¹⁰² E/C.12/MDG/CO/2, para. 25.
- ¹⁰³ Ibid., para. 20.
- ¹⁰⁴ UNICEF submission, pp. 1 and 3.
- ¹⁰⁵ Ibid., p. 2.
- ¹⁰⁶ FAO, The State of Food Insecurity in the World 2008, Rome, 2008, p.21, available at <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (accessed on 15 October 2009).
- ¹⁰⁷ United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg/Data.aspx> (accessed on 15 October 2009).
- ¹⁰⁸ CEDAW/C/MDG/CO/5, para. 31.
- ¹⁰⁹ CCPR/C/MDG/CO/3, para. 14.
- ¹¹⁰ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2008, Geneva doc. No. (ILOLEX) 092008MDG182, para. 15.
- ¹¹¹ CRC/C/15/Add. 218, para. 56.
- ¹¹² United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg/Data.aspx> (accessed on 15 October 2009).
- ¹¹³ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138), 2008, Geneva, doc. No. (ILOLEX) 092008MDG138, para. 5.
- ¹¹⁴ United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg/Data.aspx> (accessed on 15 October 2009).
- ¹¹⁵ CEDAW/C/MDG/CO/5, para. 26.
- ¹¹⁶ Ibid., para. 27.
- ¹¹⁷ CRC/C/15/Add.218, para. 58 (d).
- ¹¹⁸ UNICEF submission, p. 3.
- ¹¹⁹ Ibid., p. 5.
- ¹²⁰ CCPR/C/MDG/CO/3, para. 3.
- ¹²¹ UNICEF submission, p. 5.
- ¹²² CCPR/C/MDG/CO/3, para. 4.
- ¹²³ CRC/C/15/Add. 218, para. 4.
- ¹²⁴ A/61/893, pp. 4–5.
- ¹²⁵ CEDAW/C/MDG/CO/5, para. 43.
- ¹²⁶ Ibid., para. 29.
- ¹²⁷ Ibid., para. 31.

¹²⁸ CCPR/C/MDG/CO/3, para. 28.

¹²⁹ CERD/C/65/CO/4, para. 17.

¹³⁰ CRC/C/15/Add. 218, para. 14 (b) and (d).

¹³¹ Madagascar UNDAF 2008–2011, 2007, p. 5, available at http://www.undg.org/docs/8973/UNDAF_2008-2011_Madagascar.pdf (accessed on 15 October 2009).
