



**Economic and Social  
Council**

Distr.  
GENERAL

E/C.12/MDG/Q/2  
10 December 2008

Original: ENGLISH

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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Pre-sessional working group  
Geneva, 24-28 November 2008

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the second periodic report of MADAGASCAR concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MDG/2)**

**I. GENERAL INFORMATION**

1. Please indicate whether the Covenant provisions have been invoked before, or directly enforced by the courts in view of the fact that the direct applicability of international treaties being is guaranteed by the Constitution.
2. Please indicate whether the newly established National Human Rights Council conforms to the Paris principles and whether its mandate covers economic, social and cultural rights.
3. Please indicate whether civil society organizations have participated in the process of preparing the State party's periodic report and if so, to what extent.

4. Please indicate to what extent the State party takes account of its obligation under the Covenant in its negotiations and bilateral agreements and how it is ensured that such negotiations and agreements do not impinge on the enjoyment of economic, social and cultural rights.

5. Please indicate whether human rights education is provided in schools at all levels and whether awareness is raised about human rights, in particular economic, social and cultural rights, among State officials and judiciary.

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)**

### Article 2(2): Non-discrimination

6. Please supply information on the legal framework which provides protection against discrimination in all its forms in the State party and inform the Committee of the institution which has been mandated with overseeing the prohibition of discrimination.

7. Please indicate how the State party will ensure that existing resources will be fairly distributed among the various regions of the countries given that some regions of the country are more negatively affected by the low level of the economic development.

8. Please inform the Committee of the measures taken or envisaged to eliminate discrimination against slave descents.

9. Please indicate whether the Government intends to revise the nationality law which discriminates against children born to a mother of Malagasy nationality and a father of foreign nationality.

### Article 3: Equal rights of men and women

10. Please provide accurate and detailed information on the steps being taken by the state party to promote the equal rights of men and women, in particular those designated to combat prejudices against women and raise people's awareness of the need to change the subordinate position of women in society. Please indicate whether the State party has a framework law on gender equality or intends to adopt one in the near future.

11. Please provide information on women's inheritance rights and on the measures taken to allow women to inherit property on the same basis as male heirs.

#### **IV. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)**

##### Article 6: The right to work

12. In light of the information provided by the State indicating that 78% of the population living in Madagascar's cities work in the informal sector with very low income and precarious conditions of work, please provide more detailed information on national programmes and policies to create employment in the formal economy. Please also indicate the specific measures, legislative or others, that the State party has taken or intends to take to increase employment opportunities for young persons between 15 and 24 years of age.

13. In light of information provided by the State according to which women's unemployment rate doubled whereas men unemployment remained stable between 1993 and 2001, please provide information, concerning the results of recent national, regional and communal efforts aimed at combating discrimination at work and supporting the employment and professional training of women. By which means the Government intends to end pay disparities between men and women

##### Article 7: The right to just and favourable conditions of work

14. Please explain why the practice of sexual harassment in the work place remains widespread across the country and particularly in the export processing zones (EPZs) where it remains unreported despite the fact that it is against the law. Please provide the Committee with information on any awareness raising campaigns conducted in the EPZ's workplaces, on the competent legal bodies responsible for dealing with the cases of sexual harassment and on any case law in this regards.

15. Please provide the Committee with information on the newly adopted law on EPZs and its impact on the enjoyment of economic, social and cultural rights. Please also comment on the allegations that the law includes elements that provide lower rights to workers in EPZs compared to workers subject to standard provisions of the labour code, notably regarding the maximum hours of work, and discriminates against migrant workers as compared to national workers, with regard to wages and social security coverage.

16. The Ministry of Civil Services and Labor is reported to have only 77 inspectors in office, which makes it difficult to monitor and enforce labour provisions effectively. Does the State party envisage increasing the number of inspectors and providing them with the necessary human and financial resources to carry out their responsibilities effectively?

##### Article 8: Trade union rights

17. According to information before the Committee, the Government has the power to require public employees engaged in essential services to go back to work and end or avert a strike. In this

context, Please clarify the sectors in which services are considered as essential (para. 298 of the State party's report) and which categories of workers have their right to strike restricted.

18. Please indicate whether the legal provisions applicable to seafarers and other workers in the maritime sector allow them to exercise their right to organize and join free trade unions as well as the right to strike.

19. Please indicate what measure have been taken to follow-up on the recommendation made by the ILO's CEACR to amend article 137 of the labour code of the State party in order to ensure the full rights of worker's organizations to organize their activities without interference of public authorities.

20. Please comment on the information before the Committee according to which workers in the EPZs face great problems forming trade unions or engaging in collective bargaining.

#### Article 9: The right to social security

21. Please explain why the State party has not ratified the Social Security Convention (102), the Employment Promotion and Protection against Unemployment Convention (168), the Medical Care and Sickness Benefits Convention (130), the Employment Injury Benefits Convention (121) and the Invalidity, Old-Age and Survivors' Benefits Convention (128).

22. Given that only a limited percentage of the Malagasy population is entitled to social security benefits, please inform of the steps taken to ensure that coverage of social security system is significantly increased. Please also provide information on the social security programmes available for workers in the private sector.

#### Article 10: Protection of the family, mothers and children

23. Please provide the Committee with updated and specific information on the concrete results achieved by the implementation of international cooperation programmes on the elimination of child labour. Has the Government increased the number of child labor inspectors to effectively enforce the child labor laws? Please provide precise information on cases of child labour violations brought to court and more specifically on legal actions against those who employ, abuse and mistreat child domestic workers whose conditions are said to tantamount to slavery.

24. Please indicate whether the Government has amended the law on the minimum age for marriage in order to increase the legal minimum age for girls. Please elaborate on the legislative and awareness-raising measures taken to prohibit and eradicate the traditional practices leading to forced marriages (paras 337-341 of the State party's report) as well as the measures to prevent teenage pregnancy.

25. Please indicate what is envisaged to urgently provide adequate protection to abused women and children. Please also indicate whether the Government intends to criminalize mistreatment of children and domestic violence.

26. Please provide detailed information on the implementation of the law on child sexual exploitation, child sex tourism, child pornography and trafficking in persons which was adopted at the end of 2007.

#### Article 11: The right to an adequate standard of living

27. In light of the information given by the Government that in 2004, 72,1 % of the population were living under the poverty line (87,5% in the rural area of Fianarantsoa province), please provide more detailed information on the impact of programmes and policies aimed at combating poverty, especially in rural areas.

28. Please provide detailed information on the number of forced evictions mentioned in the State party's report and whether those evictions complied with the guidelines set out by the Committee in its general comment No. 7. In particular, the Committee is interested to know whether the Government ensured that alternative lodging or adequate compensation was provided for people who were forcibly evicted from their homes.

29. According to information before the Committee, 48% of Malagasy children are chronically malnourished with 13% of them suffering from acute malnutrition. Please provide the Committee with more detailed information on the application of the National Nutrition Programme and the results it has achieved so far.

30. Please provide additional information on the actual land reforms (paras. 414 to 420 of the State party's report) and their impacts on the enjoyment of the right to food. Please also provide the Committee with information on the farming contracts signed with foreign companies and how the Government ensures that these contracts are respectful of biodiversity, provide direct benefits for the Malagasies and in particular contribute to the enjoyment of the Malagasy population's right to food.

#### Article 12: The right to physical and mental health

31. In light of information given by the Government that infant and under-5 mortality rates remains very high and life expectancy very low, please indicate whether the Government intends to increase the allocation of adequate human and financial resources to health programmes and in particular ensure universal access to affordable primary health care.

32. In light of information before the Committee that an estimated 16 per cent of maternal deaths in hospitals are due to complications resulting from abortion, please indicate whether the Government envisages amending its law on abortion to avoid women recourse to clandestine abortion at the risk of their lives. Please inform the Committee of any initiatives taken to develop

comprehensive sexual and reproductive health programme, including public awareness-raising campaign about safe contraceptive methods.

33. According to information before the Committee, conditions of detention in overcrowded prisons are said to be deplorable and detainees are reportedly not provided with sufficient food. In this context, please indicate which measures are envisaged to address the situation of detainees and in particular those in the prison of Morombe and Moramanga.

#### Articles 13 and 14: The right to education

34. Please provide additional information on the specific measures taken to ensure access to education to children of poor income families and notably those living in rural areas.

35. Please indicate steps taken to overcome traditional attitudes that impede girls' education (para. 544 of the State party's report) and inform of any special measures adopted including incentives for parents to send girls to school. Please also provide the Committee with data on girls school dropouts including dropouts as a result of pregnancy.

36. Please provide the Committee with precise data on child workers reintegrated into the school system. Please also provide the Committee with information on the outcome of the evaluation of reinsertion programmes for people with disabilities and street children (para. 324 of the State party's report).

37. According to information before the Committee, children with disabilities have limited access to specialized health care as well as to education opportunities and students with disabilities have been rejected by schools on the basis of inadequate facilities. Please comment on this information.

38. Please indicate what measures the State party is undertaking to increase literacy rates, and to ensure that women in rural communities have access to education, literacy and vocational programmes.

#### Article 15: Cultural rights

39. Please indicate what measures have been taken by the State party to promote the right of all Malagasy people and especially the poorest amongst them to take part in cultural life.

40. Please provide the Committee with information on the concrete measures taken or envisaged to protect cultural diversity and to promote the cultural heritage of ethnic groups, indigenous communities and minorities.

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