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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Pre-sessional working group
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**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 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 ensures 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 the 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 country given that some of them are more negatively affected by the low level of economic development.

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

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 prejudice against women and raise public 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 per cent 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 other, 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 party according to which unemployment rates for women doubled whereas those for men 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 does the Government intend to put an end to wage 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 workplaces in the EPZs, on the competent legal bodies responsible for dealing with the cases of sexual harassment, and on any case law in this regard.

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 for which categories of workers the right to strike is 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 measures have been taken to follow-up on the recommendation made by the ILO Committee of Experts on the Application of Conventions and Recommendations to amend article 137 of the Labour Code in order to ensure the full rights of workers' organizations to organize their activities without interference by public authorities.

20. Please comment on the information before the Committee according to which workers in the EPZs face great problems in 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 ILO Conventions No. 102 (Social Security (Minimum Standards) Convention), No. 168 concerning Employment Promotion and Protection against Unemployment, No. 130 concerning Medical Care and Sickness Benefits, No. 121 concerning Benefits in the Case of Employment Injury, and No. 128 (Invalidity, Old-Age and Survivors' Benefits Convention).

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 labour inspectors to effectively enforce laws on child labour? Please provide precise information on cases of violations involving child labour brought to courts, and more specifically, on legal actions against those who employ, abuse and mistreat child domestic workers whose conditions are said to be tantamount to slavery.

24. Please indicate whether the Government has amended the law on minimum age for marriage to raise 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) and on 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 per cent of the population was living under the poverty line (87.5 per cent 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 per cent of Malagasy children are chronically malnourished, with 13 per cent 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. 414-420 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 provided by the Government that infant and under-five mortality rates remain very high and that life expectancy is very low, please indicate whether the Government intends to increase the allocation of adequate human and financial resources to health programmes and in particular to 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 resorting to clandestine abortions at the risk of their lives. Please inform the Committee of any initiatives taken to develop a comprehensive sexual and reproductive health programme, including a 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 detained in the prisons of Morombe and Moramanga.

Articles 13 and 14. The right to education

34. Please provide additional information on specific measures taken to ensure access to education for children from low-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 dropout rates, 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 persons 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 and 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 taking 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 concrete measures taken or envisaged to protect cultural diversity and to promote the cultural heritage of ethnic groups, indigenous communities and minorities.
