



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Republic of Madagascar and welcome the constructive engagement of your Government during the 34th session of the UPR Working Group in November 2019.

As the final outcome report on the review of Madagascar has been recently adopted by the Human Rights Council at its 43rd session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Madagascar – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 81 delegations and the presentation made and responses provided by the delegation of Madagascar. I have also considered the actions taken by the Government to implement the 159 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I recognize the progress that Madagascar has made regarding strengthening the national human rights framework, including establishing the Independent National Human Rights Commission in 2016, the High Court of Justice and the High Council for the Defence of Democracy and the Rule of Law, in 2018.

I also commend Madagascar for: abolishing the death penalty; setting up an effective and operational national mechanism for the prevention of torture; adopting and implementing a national anti-corruption strategy; the legalization of the right of Malagasy women, having married foreigners, to transmit their nationality to their children; decriminalizing media offences; adopting a national strategy on gender based violence; and implementing robust reforms of the criminal justice system to address the large number of pre-trial detainees and prison overcrowding.

His Excellency
Dr. Djacoba Tehindrazanravelo
Minister for Foreign Affairs
Republic of Madagascar

I congratulate Madagascar on developing, with my Office's support, an operationalization plan to implement recommendations issued by international human rights mechanisms, following its second UPR review in 2014. I would like to take this opportunity to respectfully request Madagascar to also consider all those recommendations accepted or noted in the third cycle, with a view to future support and implementation. I further welcome ongoing efforts to finalize an OHCHR technical cooperation project that envisages comprehensive capacity-building of the intragovernmental committee tasked with monitoring and reporting on, the implementation of recommendations, including updating the operationalization plan and establishment of a database within the Human Rights Department of the Ministry of Justice.

The above is in line with my continued encouragement to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for Madagascar's fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

I also encourage Madagascar to continue efforts to strengthen its national mechanism for reporting and follow-up on recommendations received from all international and regional human rights mechanisms and on treaty obligations, while linking these to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:
http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I welcome the practice of Madagascar to submit a mid-term report and encourage the Government to do so again on follow-up to the third cycle of the review, by 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*



Finally, kindly allow me to use this opportunity to express my Office's profound solidarity with your country and all Member States in connection with the negative impact of the COVID-19 pandemic. I hope that despite unprecedented challenges it will soon be over in all countries worldwide, including through implementation of human rights based approaches to our collective response to the pandemic. I look forward to discussing with you ways in which my Office may further assist Madagascar in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
High Commissioner for Human Rights

cc: His Excellency
Mr. Johnny Richard Andriamanhefarivo
Minister of Justice
Republic of Madagascar

Ms. Charlotte Faty Ndiaye
United Nations Resident Coordinator *Ad interim*
Republic of Madagascar

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

National human rights framework

- Ensuring that the Independent National Human Rights Commission has a strong mandate and sufficient resources to advance women's human rights and promote equality between women and men, and to bring cases before the courts.
- Taking into account the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, without any reservations, in its national legal system, public policies and local government procedures.

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

A. Cross-cutting issues

Equality and non-discrimination

- Adopting comprehensive legislation to combat racism and discrimination that include a definition of direct and indirect discrimination, including on grounds of sexual orientation and gender identity; ensuring that all victims of discrimination have access to effective remedies; and taking necessary measures to combat and prevent stigmatization and discrimination aimed at persons living with HIV/AIDS and lesbian, gay, bisexual, transgender and intersex persons.

Development, the environment, and business and human rights

- Implementing the recommendations of the Standing Committee and secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, including by strengthening the enforcement of its laws against illegal logging and trafficking.
- Strengthening its environmental laws, including by closing regulatory gaps with respect to pesticides and herbicides; by improving the environmental assessment procedure; by facilitating citizens' access to courts to ensure that environmental laws are being enforced; and by continuing to work to address household pollution.
- Responding quickly and effectively to threats against environmental defenders and ensuring that the revisions to the Mining Code meet human rights standards

and that the process of considering those revisions are transparent and open to public discussion.

B. Civil and political rights

Right to life, liberty and security of person

- Reviewing legislation to ensure that decisions to extend police custody are made on the basis of clearly established criteria in line with the Human Rights Committee's general comment No. 35 (2014) on liberty and security of person, and ensuring that all persons in custody have access to a lawyer, including by expanding legal aid services.
- Ensuring that, in exceptional cases where detention cannot be avoided, migrant workers and members of their families are placed in special facilities, that they are held separately from ordinary prisoners, and that their conditions of detention comply with the Nelson Mandela Rules, in accordance with the commitments made in 2014 as part of the Universal Periodic Review process.

Administration of justice, including impunity, and the rule of law

- Redoubling efforts to combat corruption and related impunity, and continuing efforts to recruit and train new judges and police officers, based on the criteria of maximum transparency and professionalism.
- Speeding up the process of national reconciliation, by, inter alia, investigating all allegations of acts of torture, enforced disappearances and extrajudicial and summary executions, and ensuring that no serious human rights violations perpetrated in the past go unpunished.
- Taking the necessary measures so that migrant workers and members of their families, including those in an irregular situation, have access to a legal remedy, particularly in the context of cross-border justice and in the event of an expulsion decision, and obtain redress in the courts in cases where their rights under the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families were violated.

Fundamental freedoms and the right to participate in public and political life

- Taking steps to ensure that journalists, political opponents and human rights defenders are protected against threats and intimidation; investigating, prosecuting and convicting perpetrators of acts of harassment, threats and intimidation against them; and reviewing its legislation on the press and media to bring it fully into line with article 19 of the International Covenant on Civil and Political Rights.
- Continuing to implement measures to ensure better representation of women in public affairs, raising the awareness of political parties of the need to achieve gender parity, and encourage women to stand for election to political posts.

Prohibition of all forms of slavery

- Guaranteeing access for all victims of trafficking in persons to legal, psychological, medical and social assistance and to shelters and reparation, regardless of their capacity or willingness to testify.

Right to family life

- Ensuring the equal rights of women and men in all matters relating to marriage and family relations, as well as to inheritance, divorce and custody of children, without further delay.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Strengthening efforts to implement a legal framework and applying appropriate penalties to employers who exploit migrant workers, especially women domestic workers, or subject them to forced labour and abuse.

Right to health

- Reducing maternal mortality, by improving access to basic prenatal and antenatal care and emergency obstetric care; increasing the access of women and girls to basic health-care services, according priority to rural areas, and ensuring sufficient resources to promote and protect women's health; adopting measures to prevent teenage pregnancy and improve access of women and girls to sexual and reproductive health services, including in rural areas; and legalizing abortion, at least in cases in which pregnancy is harmful to the mother's health and in instances of incest, rape and severe foetal impairment, and removing punitive measures for women who underwent abortion.

Right to education

- Reviewing legislation on education with clear provisions for 12 years of free education, of which 9 years should be mandatory.
- Fully implementing relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life, as set out in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, giving due consideration to the participation of communities, practitioners, cultural actors and NGOs representing civil society, and to that of members of vulnerable groups (such as minorities, indigenous peoples, migrants, refugees, young people and people with disabilities), and ensuring that equal opportunities are given to women and girls in order to address gender disparities.



D. Rights of specific persons or groups

Women

- Enhancing women's awareness of their human rights and implementing legal literacy programmes to empower women to claim their rights under the Convention on the Elimination of All Forms of Discrimination against Women, and removing obstacles faced by women who are victims of violence to gaining access to justice, including through an exemption from fees for medical certificates.
- Putting in place a comprehensive national strategy to combat discriminatory stereotypes, such as the concept of "the head of the household" and the perpetuation of "the father's name and estate", and harmful practices, in particular child and/or forced marriage, the sale of wives, girl markets (*tse nan'ampela*), bride price (*moletry*) and polygamy.
- Repealing all legislation discriminating against women's economic empowerment; adopting measures to ensure equal access for women and men to training opportunities, including income-generating opportunities, credit and loans, and pension and social benefits schemes; and conducting capacity-building programmes to increase the number of women entrepreneurs.
- Paying special attention to the situation of rural women, ensuring their participation in decision-making processes in the community and the family; ensuring that rural women have access to justice, health care, education and community services; and ensuring the integration of a gender perspective and the empowerment of rural women into efforts to mitigate and adapt to climate change.

Children

- Taking immediate and effective measures to ensure that robust investigations and effective prosecutions are carried out with regard to persons suspected of procuring, using, offering and employing children for prostitution, and that sufficiently effective and dissuasive penalties are imposed.
- Ensuring the provision of adequate human, financial and technical resources and quality services to provide assistance to all child victims of exploitation and violence and to promote their physical and psychological recovery and reintegration.
- Collecting comprehensive disaggregated data in order to identify children who had been recruited by or were involved in non-State armed groups called *dahalo* and who were eligible for demobilization, disarmament and reintegration; and taking all steps necessary to make appropriate assistance available to children who had been involved in armed conflict, to aid their physical and psychological recovery and their social reintegration.



- Adopting a comprehensive strategy to promote and protect the rights of children and families of Malagasy workers, in particular through education, entrepreneurial, training and community welfare programmes, and furthering its cooperation to that effect with civil society actors on the ground.

Persons with disabilities

- Ensuring that legal and regulatory provisions guarantee equal access to education for persons with disabilities and guarantee their right to education.

Migrants

- Stepping up efforts to finalize its comprehensive strategy for labour migration; implementing projects to protect the human rights of all Malagasy migrant workers and immigrants in Madagascar; and stepping up efforts to cooperate with countries of destination of Malagasy workers and members of their families in order to ensure the protection of their rights, even in the absence of a diplomatic or consular mission of Madagascar.
 - Enhancing the monitoring and inspection of recruitment agencies in order to ensure that appropriate working conditions are afforded to migrant workers.
 - Taking appropriate measures to put in place procedures to regularize the situation of migrant workers in an irregular situation and ensuring that they are informed of those procedures, and establishing bilateral agreements to ensure that migrant workers are protected against abuse and exploitation.
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