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under article 40 of the Covenant

List of issues in relation to the fourth periodic report of Madagascar*, **

Addendum

Replies of Madagascar to the list of issues

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* The present document is being issued without formal editing.
** The annexes to the present report are available for consultation in the secretariat. They are also available from the website of the Human Rights Committee.



Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Under article 135 (2) of the Constitution of the Fourth Republic of Madagascar, duly ratified international conventions supersede the law. Consequently, such instruments can be invoked at any stage of a procedure where there is no relevant domestic law or where domestic law conflicts with the instrument in question.
2. The question of the justiciability of the Covenant was resolved through the enactment of a national law containing the provisions of the Covenant.
3. The National Independent Human Rights Commission has been operational since its members took their oaths of office before the Supreme Court on 13 October 2016. Since then, the Commission has initiated investigations into the lynching cases in Mananjary, the arrest and imprisonment of individuals demonstrating for the preservation of the environment in Soamahamanina and cases of mob justice in Antsakabary.
4. The Commission is headquartered in the 67 Ha district and the budget allocation process to ensure that it can continue to function is under way.
5. The accreditation procedure will take place one year after the Commission's effective establishment.
6. The National Independent Human Rights Commission Act No. 014-007 increased the number of members representing civil society, who are elected by their peers. Independent, participatory and inclusive elections have been held nationwide.
7. The Act also provides for the allocation of an independent budget to be included in the Finance Act.
8. In terms of the Commission's human resources, a general secretariat made up of technical and administrative staff will be set up to carry out the administrative tasks laid down in the Act.

State of emergency (art. 4)

9. The Public Emergencies Act No. 91-011 of 18 July 1991 remains in force.

Non-discrimination and equality between men and women (arts. 2, 3, 23, 25 and 26)

10. On 2 and 3 June 2016, a dialogue was held between public and private institutions for the general purpose of underscoring how important it is that Madagascar ratify and take ownership of the Protocol of the Southern African Development Community on Gender and Development in order to advance the issues of gender and gender equality.
11. Regarding women's access to land, a policy was adopted in 2015 for the purpose of intensifying the broad-based effort to guarantee land tenure and ensuring that everyone, irrespective of sex, age or resources, is included in the process to provide access to land, guarantee the various types of land-use entitlements and improve land use.
12. At the regional level, Madagascar adopted the 2015-2019 Indian Ocean Subregional Policy and Strategy on Gender, which promotes the integration of gender in public policy, plans and sectoral programmes on sustainable development. The framework law on effective gender equality, once adopted, will be followed up through lobbying of the Government and parliament.
13. The representation of women in decision-making in 2016:
 - Senate: 13 women out of 63 (20.63 per cent);
 - National Assembly: 30 women out of 151 (19.86 per cent);

- Government: 6 women ministers and secretaries of State out of 32 (18.75 per cent);
- Women mayors: 4.2 per cent;
- Women town councillors: 5.9 per cent.

14. A committee has been established to update and adopt the national action plan on Security Council resolution 1325 (2000) on women, peace and security. The resolution provides for the protection of women's rights and their full participation in all peace-building processes, from negotiation to consolidation.

15. A group of men open to gender issues has been set up to engage opinion leaders, traditional leaders and boys in efforts to promote and mainstream gender.

16. Gender focal points have been designated in all ministries in order to mainstream gender across all development projects and programmes at ministry level.

17. In order to support the adoption of laws on women's rights and the promotion of gender, a network of women parliamentarians has been set up in the Senate and the National Assembly.

18. The National Social Protection Policy was adopted in 2015 with a view to ensuring that at least half the vulnerable population will enjoy effective social protection by 2030 and cutting extreme poverty by 15 per cent. The Policy's priority target groups are girls, women with disabilities, older women and pregnant and breastfeeding women.

19. A women's town council made up of representatives of women's rights organizations was set up in the regions of Atsimo Atsinana and Atsimo Andrefana in 2015 to integrate gender in town development plans, study current issues with an impact on women's rights and implement joint actions. Efforts are being made, in partnership with the United Nations Development Programme (UNDP), to include women's needs in town budgets.

20. With a view to updating the National Policy for the Advancement of Women and designing a new National Gender and Development Plan, the Ministry of Population, Social Protection and the Advancement of Women, in collaboration with the Indian Ocean Women's Platform, the United Nations Population Fund and other United Nations agencies, held a national symposium on gender and development in 2015. Some 88 resolutions were adopted to reorganize the strategic focuses and the priority objectives of the National Policy.

21. To promote better economic performance among women, material, technical and financial support is provided to rural women and women living in poverty through the development of income-generating activities.

22. In an effort to support women's groups, the Ministry of Population, Social Protection and the Advancement of Women has deepened its partnership with microfinance institutions.

23. The Government, as part of its policy guidelines contained in the General State Policy, the National Development Plan and the Implementation Plan, formulated a strategic land policy in August 2015 that provides for guaranteeing the various types of land-use entitlements, negotiated land-use management and reconciliation of current and future land-use needs.

24. The laws in force cover discrimination in all its forms, in particular on grounds of ethnicity or caste. Persons infected with or affected by HIV/AIDS and homosexuals are not stigmatized or discriminated against.

25. The Government is considering enacting a law to strengthen the fight against discrimination.

Right to life (arts. 6 and 14)

26. Regarding the status of the bill on alternatives to the death penalty, a study has been conducted by an international consultant to take stock of existing legal provisions, identify

specific provisions to be amended in order to replace the death penalty with other punishments and propose an amendment that takes into account international human rights standards.

27. The outcome of these efforts will be submitted to the Criminal Reform Commission of the Ministry of Justice to be used in a draft bill.

28. The law authorizing the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty was enacted by parliament in December 2016 and promulgated by the President on 17 January 2017; the process to deposit the ratification instruments with the United Nations is under way.

29. Two cases of summary execution were recorded in 2016, and the perpetrators have been sentenced to life imprisonment. Other cases involving law enforcement personnel are being investigated.

30. Between January 2016 and February 2017, 54 cases of mob justice, involving 86 victims, were recorded. Of the 17 individuals arrested in this connection, 15 have been remanded into custody and 2 have been released pending trial.

31. Article 89 of the Health Code (Act No. 2011-002 of 15 July 2011) stipulates that: "Any medical professional, paramedical professional, medical assistant or traditional practitioner is required to obey the following imperative: he or she is prohibited from performing voluntary terminations of pregnancy or from advocating abortions, subject to the penalties under article 317 of the Criminal Code, except under the conditions provided for in current laws and regulations."

32. There is currently no legal text in force that deals with access to voluntary termination of pregnancy and exceptions to the ban on abortion.

33. There are still no reliable statistical data on legal abortions or on the grounds on which abortions have been denied; however, cases of miscarriage have been recorded in public and private health-care facilities.

Number of miscarriages in health-care facilities in Madagascar

<i>Year</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Primary health-care centres	7 805	8 461	9 033	8 210
District hospitals	N/A	2 468	2 361	1 944
Regional hospitals/University hospitals-Specialized Institutions	N/A	2 444	3 975	3 372
Total		13 373	15 369	13 526

Source: Statistical yearbook, Ministry of Health, 2012-2015.

34. Data on maternal mortality are only collected through the national demographic and health survey. According to the Madagascar Millennium Development Goals National Monitoring Survey, the maternal mortality rate was 478 per 100,000 live births for the period 2006-2013, which is high in comparison to the target for 2015 of 127 per 100,000 live births (Source: National Statistics Institute/Madagascar Millennium Development Goals National Monitoring Survey, 2012-2013).

35. To improve access to sexual and reproductive health services, the Ministry of Health has drafted a bill on reproductive health and family planning, which has been submitted to the National Assembly for adoption.

36. The following measures have also been taken in this connection:

- The formulation of a family planning strategy for the period 2016-2020;
- The organization of a national family planning conference in 2016;
- The formulation of the National Budgeted Action Plan 2016-2020;

- The updating of standards and procedures in the area of reproductive health and family planning;
- The updating of training materials in the field of inclusive financing.

37. The following measures have been taken in relation to the question on how women are informed about and have access to contraceptives:

- The establishment of 11 model family planning and rehabilitation centres, the provision of equipment and information, education, communication and audiovisual materials and the training of health-care professionals in inclusive financing and communication;
- The provision of training in immediate postpartum long-acting reversible contraception, and the strengthening of technical facilities in nine regions;
- The provision of training in integrated family planning, including for young people, long-term methods, innovations in family planning (Implanon NXT and Sayana Press) and postpartum family planning in five regions;
- The training of 10 regional instructors in the use of intrauterine devices;
- The increase of information, education and communication materials on postpartum family planning and of family planning management tools;
- The updating of the guide on stimulating the provision of injectable contraceptives at the community level, which is still in the validation process;
- The delivery of contraceptives to all 22 regions and 112 districts, down to the health district level.

38. To ensure sexual and reproductive health education for adolescents, the Ministry of Health has developed a guide for providers of health-care services to adolescents and young people, and 91 child-friendly health-care centres were set up in 2016.

39. In relation to the reduction of maternal mortality, the Ministry of Health has developed:

- Guidelines and reference documents for professionals in the area of mother-child and newborn health at all levels of the system;
- A road map for accelerating the reduction of maternal and neonatal mortality in Madagascar for the period 2015-2019;
- A guide for health-care providers on the review of maternal deaths in health-care facilities in Madagascar (September 2012).

40. The following actions have been taken to implement the Sectoral Health Development Plan 2015-2019:

- Six new primary health-care centres and seven centres have been built under the campaign accelerating the reduction of maternal and neonatal mortality in Africa;
- Three university hospitals, one level 2 district hospital and 39 primary health-care centres have been renovated;
- Twelve level 1 district hospitals have been equipped with operating theatres.

Harmful traditional practices and violence against women (arts. 3, 7 and 24)

41. Early marriage is prohibited in Madagascar. Article 3 of the Marriage and Matrimonial Property Regimes Act No. 2007-022 of 20 August 2007 sets the marriage age at 18 years. However, a judge may, under extraordinary circumstances and without prejudice to any criminal proceedings for offences against morality, authorize the marriage of a child at the request of the child's father, mother or guardian and with their and the

child's explicit consent. This consent must be given in the presence of the judge and be recorded in the legal decision authorizing the marriage.

Moletry

42. Moletry is defined as being a pre-marriage contract for a fixed period of time in exchange for a bride price (a cow and/or sum of money) given by the future husband to the bride's family. If the young girl is judged to have acted inappropriately or the husband is unsatisfied, the bride price does not have to be paid. Otherwise, the contract is renewed and the bride price irreversible, even if the union does not last.

43. To combat this harmful practice, a campaign to raise awareness of and advocate for girls' rights among traditional leaders was launched on International Day of the Girl Child by the Ministry of Youth and Sports on 11 October 2014. The themes of the campaign were: education versus early marriage, gender equality, the promotion of girls' rights and freedom of expression for girls.

44. The campaign lasted three months and was rolled out in 12 cities, namely Toamasina Fénérive-est, Moramanga, Ambovombe, Tuléar, Mananjary, Antsohihy, Mandritsara, Maevatanana, Manakara, Fianarantsoa and Farafangana. The following information, education, communication and media materials on girls' rights were developed and disseminated: 9,000 posters, 2,000 t-shirts, 1,000 DVDs, 27 banners, 700 pins and 3,000 advocacy documents.

Early marriage

45. Article 3 of the Marriage and Matrimonial Property Regimes Act contains the underpinnings of the ban on early marriage, while articles 354 to 356 of the Criminal Code prohibit the abduction of a minor, including acts facilitating the early marriage of children.

46. During the 2015 campaign against child marriage, community-level dialogues were held in an initial group of four regions. Following these dialogues, local actors, including the local administrative authorities, opinion leaders, religious leaders, teachers and members of civil society, signed a commitment to combat child marriage.

47. Since the last quarter of 2016, the Ministry of Population, Social Protection and the Advancement of Women has been designing a national strategy against child marriage in partnership with UNICEF. The process has included regional consultations. The strategy will be ready in March 2017.

48. Under the local child protection network, regional prefects and district chiefs help to raise awareness among traditional leaders and parents at the *fokontany*, town and regional levels.

49. On 2 June 2015, the Ministry of Population, Social Protection and the Advancement of Women, in partnership with the United Nations system, launched a campaign to combat child marriage. The programme is the result of the commitment made by the First Lady and the Prime Minister to combat child marriage.

50. In addition, a national strategy against child marriage is being developed, together with a three-year action plan. Approximately, 41.2 per cent of 20- to 24-year-old women got married or entered into a union before the age of 18.

51. There is a legal obligation, under articles 2 and 29 et seq. of the Marriage and Matrimonial Property Regimes Act, to register a marriage. Traditional marriages are legal provided that they have been entered in the civil register.

52. Article 30 of the Act states that the completion of a traditional ceremony is to be verified by the *fokontany* Chief, who attends in person on the day and at the time agreed upon in advance with the families. The proceedings are to be recorded and a copy of the minutes transmitted to the civil status official by the *fokontany* Chief within 12 days, subject to prosecution. The civil status official immediately draws up the marriage certificate on the basis of the minutes and other documents submitted.

53. This obligation is enforced by the organization, at the behest of the Ministry of Population, Social Protection and the Advancement of Women, of collective weddings. Some 4,000 couples in three regions¹ got legally married in this way between 2012 and 2016, notably at ceremonies held on 15 May, or International Day of Families. The last paragraph of article 24 of the Code of Conduct of the National Police (Order No. 24.480/2012), issued by the Ministry of Public Security on 6 September 2012, provides that the matrimonial home of a police official must be established through civil marriage.

54. Under the Civil Code and special conditions laid down in military regulations, the marriages of gendarmes must be entered in the civil register.

55. In the districts of Mananjary and Nosy Varika, the birth of twins is considered by the entire community as a curse; therefore, keeping such children with their biological family is absolutely banned. This prohibition also extends to the possibility of living in the locality of Mananjary.

56. In response, the Ministry of Justice, with the support of UNDP, has commissioned studies to ascertain the root causes and scale of the practice and find ways and means of eradicating this form of discrimination against twin children.

57. In 2008, a workshop for the judicial, administrative, religious and traditional authorities was held in Mananjary.

58. The objective was to convince the participants of the harm caused by discriminating against twin children and to obtain their commitment to fight the practice.

59. Following the workshop, the stakeholders signed a road map containing their individual commitments to combat the practice and take tangible steps at their level.

60. However, the *Ampanjaka*² hedged their position, stating that, while they would not prevent parents from abandoning their twin children, they would give their blessing to such decisions. In their view, those who dare to flout the rules and choose to raise twin children in Mananjary do so at their own risk.

61. Slight progress has been made in that twin children may live in Mananjary with their biological family and cohabit with members of the Antambahoaka ethnic community.

62. As part of efforts to combat these harmful practices, traditional leaders, the media, local and regional administrative authorities and civil society organizations have taken part in awareness-raising workshops in Mampikony, Mananjary, Manakara and Farafangana.

63. In connection with efforts to fight the traditional notion that women are inferior, which leads to discrimination against women, it should be noted that provisions on the unequal division of assets upon divorce have been repealed.

Punishment of marital rape

64. Article 332 of the Criminal Code criminalizes rape regardless of the perpetrator's relationship with the victim.

65. As part of awareness-raising activities on domestic violence, women are informed of the legal provisions punishing rape between spouses. The amendment to the Criminal Code to make marital rape an independent offence has already been discussed in various seminars and workshops, including a dialogue on the Southern African Development Community Protocol on Gender and Development held in Antananarivo in June 2016.

66. The National Strategy against Gender-Based Violence and associated five-year action plan (2017-2021) were launched in September 2016.

67. Additional steps taken in this regard include:

- The establishment of a dedicated helpline on gender-based violence that can be reached by everyone at all times;

¹ Alaotra Mangoro, Vakinankaratra and Diana.

² Traditional kings or chiefs.

- The development and distribution of a manual on supporting victims of gender-based violence;
- Capacity-building among law enforcement officers, social workers and medical personnel in Moramanga and Antananarivo;
- The establishment of legal counselling and advice centres to receive complaints of gender-based violence and, as a prevention measure, to raise awareness through direct counselling with victims and mobile community activities;
- The establishment of nine legal clinics as decentralized entities of the justice system responsible for disseminating information about rights and resolving community disputes through conciliation. The clinics can also provide advice to victims of violence, including women, and refer them to the competent services;
- The establishment of the National Independent Human Rights Commission pursuant to Act No. 2017-007. The Commission has the authority to conduct investigations into violations of all human rights, including violence against women.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment, summary and extrajudicial executions and enforced disappearances (arts. 3, 6, 7 and 24)

68. The Anti-Torture Act No. 2008-008 of 25 June 2008 is currently being amended to include a scale of penalties for ill-treatment.

69. It will also be amended to:

- Extend the limitation period to 20 years in cases of torture causing death;
- Require the immediate launch of an independent investigation where there are serious grounds to believe that torture has been committed;
- Criminalize acts of torture.

70. In order to facilitate the enforcement of criminal laws, including those on torture, some provisions of the Code of Criminal Procedure have been amended through Act No. 2016-017 of 22 August 2016.

71. The Act provides for inter alia:

- The establishment of witness protection measures, such as anonymous testimony;
- The introduction of court supervision;
- Highly specific and objective criteria for placing a suspect in pretrial detention;
- The use of new investigation techniques, including undercover work, surveillance, decryption and the interception of computer data and emails;
- Investigations under an assumed name with a view to effectively fighting crime in all its forms, including torture.

72. Of the 313 complaints received by the Inspectorate General of the National Police between 2014 and 2016, there was one case of torture and 10 cases of voluntary assault and battery committed by police officers.

73. The Ministry of Justice, with UNDP financial support, is continuing its work on setting up a statistical framework in order to compile data, disaggregated by sex and age, on criminal cases, including human rights violations.

74. Regarding the implementation of the road map to end the political crisis, the Government has adopted the General State Policy designed to rebuild an inclusive society based on the fundamental principles of respect, work and dialogue in order to turn the country's diversity into an asset and genuine opportunity. The road map highlights the policy of openness that reflects the population's continued desire for reconciliation through *fihavanana*, the bedrock of Malagasy culture. Hence the establishment of a new institution,

the Malagasy Fampihavanana Committee, to address the national reconciliation process. The Committee's mission is to:

- Set the terms for the compensation of all victims of the political events that took place in 2002 and after the signing of the road map;
- End and prevent cyclical political crises;
- Consolidate social peace, unity and cohesion between all the components of the nation in order to achieve harmonious and balanced development across the country taking into account cultural values and the principle of mutual respect.

75. In addition, a special commission under the Supreme Court was set up in 2012. It is responsible for pronouncing broad and full amnesty in relation to actions and penalties covered under articles 2 and 3 of Act No. 2012-007 of 3 May 2012 establishing amnesty for the purpose of national reconciliation. The commission also has the authority to rule on amnesty requests filed by persons subject to proceedings who do not qualify for broad and full amnesty under the Act.

76. Furthermore, legal texts have been adopted, including:

- Act No. 2011-014 of 28 December 2011 on the incorporation of the road map into domestic legislation;
- Act No. 2011-012 of 18 August 2011 on political parties;
- Act No. 2012-01 of 1 February 2012 on the establishment of the National Independent Electoral Commission for the Transition;
- Act No. 2012-005 of 22 March 2012 on the Electoral Code;
- Act No. 2012-006 of 30 July 2012 on the code of ethics and good conduct for political actors during the Transition.

77. Relevant provisions of the Criminal Code remain valid.

Liberty and security of persons (art. 9)

78. In order to prevent any abuse of pretrial detention, the Government adopted Act No. 2016-017 of 22 August 2016 amending parts of the Code of Criminal Procedure. Article 13 stipulates that all detention orders must be reasoned and serve one of the following objective purposes:

- To guarantee that the suspect is available to the justice system;
- To prevent the intimidation of witnesses or the exercise of pressure on or reprisals against victims and their families;
- To protect the suspect;
- To consider the specific charges against the suspect and the seriousness of the offence;
- To prevent the suspect from colluding with co-perpetrators or accomplices;
- To preserve proof and material evidence needed to determine the truth;
- To end an exceptional disruption of public order resulting from the seriousness of the offence, the circumstances in which it was committed or the degree of harm it caused;
- To end the offence or prevent its recommitment;
- To punish a violation of court supervision.

79. Remand prisoners may communicate freely with their lawyer in writing or in person, without the presence of prison personnel, and are afforded all facilities consistent with prison discipline and security requirements in order to exercise their defence.

80. Lawyers may visit their clients every day during the times set in the institution's rules of procedure.
81. There is an infirmary in every major prison, and 64 nurses work in 46 infirmaries across 82 correctional facilities.
82. In collaboration with the Ministry of Health, general practitioners provide free consultations and care to ill inmates.
83. Critically ill inmates are given the opportunity to be examined by a doctor of their choosing for cases requiring specific care.
84. Detainees who require special care can be treated in hospital.
85. The number of visiting days has risen by three days per week.
86. An information booth has been piloted at Antananarivo prison since 2016. It has provided 3,200 inmates and their relatives information on their rights from the outset of their imprisonment and helps maintain family ties.
87. The new Code of Criminal Procedure has been made available to judges and prosecutors.
88. In 2016, the Ministry of Justice held events for district head judges with a view to ensuring the effective application of legal provisions, in particular those on pretrial detention, which does not necessarily have to be reasoned.

Right to a fair trial and independence of the judiciary (art. 14)

89. The establishment of the High Court of Justice is contingent on the effective establishment of other institutions, such as the High Council for the Defence of Democracy and the Rule of Law, which is also under way.
90. To strengthen the independence of the judiciary, the Supreme Council of the Judiciary Act provides for the widening of membership by integrating representatives of the six appeals courts and the central administration of the Ministry of Justice. Furthermore, the Act upholds the representation of civil society and academia in the Council.
91. The establishment of the High Court of Justice will also greatly contribute to the eradication of political interference and the struggle against corruption, which would restore public trust in the justice system.
92. In order to guarantee universal access to justice, the Ministry of Justice has prepared a draft bill giving legal clinics official status with a view to ensuring their permanence. A single point for registering court documents was set up in 2016 for the purpose of ensuring the security of files as a means of effectively combating corruption.
93. In addition, in order to strengthen local justice, a new court of first instance is being built in the Sud-Est region and another new project is being planned. The Ministry has increased the number of mobile hearings.
94. To offset the backlog in the administration of justice, the Ministry has put in place the "Real Time Processing" programme whose objective is to resolve cases within a reasonable period.
95. Regarding the human resources shortage, the Ministry, in collaboration with the National College of the Judiciary and Court Officers, holds annual recruitment competitions for trainee judges and court officers in order to grow the ranks of the justice system.
96. In order to enhance the skills of practising judges and court officers, the National College has resumed the provision of in-service training.
97. In Madagascar, the *dina* were made an integral part of the domestic legal order through Act No. 2001-004. A *dina* is not legal until it has been accredited by the competent court of first instance, and all *dina* decisions are appealable before that court. The Ministry

of the Interior is working to harmonize the *dina* in order to categorize and list those that are accredited and those that are not and to raise awareness among all actors.

98. In 2011, 250 members of the Manakara *dina* were arrested by the National Gendarmerie for running an unaccredited *dina*. Three members were convicted by the court of first instance. The arrests prevented the extrajudicial execution of a murder suspect.

99. In 2016, the Directorate General of Territorial Administration of the Ministry of the Interior and Decentralization categorized and listed 16 accredited *dina* and 14 that had not been accredited for failing to respect the formulation and endorsement process set out in the Act No. 2001-004.

Treatment of persons deprived of their liberty (arts. 7 and 10)

100. In order to improve detention conditions, a new prison, with a capacity of 300-350 people divided into three blocks for men, women and minors, was built in 2016. In addition, antiquated infrastructure was renovated in five prisons in 2015 and eight in 2016 to improve ventilation, sanitation, water supply and sleeping areas.

Access to health-care services

101. The following measures have been taken in this connection:

- Training sessions for nurses in medication management and nutrition were held in 2016 and 2017;
- The establishment of a central supply pharmacy under the Ministry of Justice;
- The endowment of 11 prisons with medical equipment for the proper functioning of health facilities;
- The implementation of an epidemiological monitoring system to observe health problems in all prisons;
- The signing of an agreement between the Ministry of Justice and the Ministry of Health on free hospital care for inmates.

Access to better food

102. Under the Rapid Result Initiative 2016, the Ministry of Justice launched a policy to fight malnutrition in prisons with the goal of achieving a severe malnutrition rate of under 2 per cent. In addition, the Ministry, in cooperation with the International Committee of the Red Cross, has continued the nutritional programme in 19 prisons, whereby additional food is provided to malnourished inmates.

103. In order to increase food production and guarantee a 90-day stock of daily rations, the prison camps have been revitalized.

Access to a lawyer

104. Remand prisoners may communicate freely with their lawyer in person, without the presence of prison personnel, or in writing and are afforded all facilities consistent with prison discipline and security requirements in order to exercise their defence.

105. Lawyers may visit their clients every day during the times set in the institution's rules of procedure.

106. Regarding wrongful detention, the Government has promulgated Act No. 2016-17 of 22 August 2016 amending parts of the Code of Criminal Procedure.

107. The replies regarding the excessive recourse to pretrial detention have already been provided in the previous paragraph.

108. In order to enable inmates to file complaints, 41 prisons have put in place complaint boxes that are opened every two months by one prison staff member, two representatives of

civil society and two detainee representatives. Each prison collects on average 35 to 45 complaints every two months.

Elimination of slavery and servitude (arts. 8 and 24)

109. In Madagascar, trafficking in persons is an appalling phenomenon that affects women and children in economically and socially vulnerable situations. Sud, Sud-Est and Hauts-Plateaux are the regions most concerned. Madagascar is not only a source country for international trafficking but also a country where internal trafficking is common. Victims of trafficking are usually Malagasy nationals working in the sex and textile industries or as domestic workers. Poverty and unemployment are risk factors for trafficking.

110. Since its adoption in 2015, the National Action Plan against Trafficking in Persons has been implemented by the relevant actors. For example, the Ministry of Justice has conducted public awareness activities, including about relevant laws, and State officials have received training.

111. The Ministry of Population has provided psychological assistance and support to Malagasy victims of trafficking who have been repatriated by the Ministry of Foreign Affairs.

112. Pursuant to the Anti-Trafficking in Persons Act No. 2014-040 of 20 January 2015, traffickers and their accomplices have been investigated, arrested, prosecuted and convicted.

Statistics on the prosecution of trafficking cases

113. In 2015:

- 26 individuals were arrested, of whom 15 were remanded into custody and 10 were convicted;
- 1 network was dismantled.

114. In 2016:

- 25 individuals were arrested, of whom 16 were remanded into custody;
- 4 networks were dismantled, including 2 run by foreign nationals.

Measures to regulate and oversee placement agencies

115. In an effort to adopt an integrated approach to the management of migration flows, the Ministry of Labour is working on a project to set up a national migration council.

116. The council would be a tripartite body made up of representatives of the State, placement agency associations and trade unions and would be consulted in connection with all decisions regarding migration.

117. The inclusion of placement agencies in the council, to represent employers, is designed to give employers a sense of responsibility with regard to Malagasy migrant workers, particularly in relation to trafficking in persons.

118. The Ministry of Public Service still oversees placement agencies, regardless of whether or not they are accredited.

119. The Ministry also considers complaints regarding placements, especially those filed by workers or their dependents. The agencies concerned are subject to a targeted and strict inspection.

120. Since 2014, 42 agencies have seen their activities suspended and 53 have been called to account.

Measures taken to prevent the exploitation of migrant workers, protect migrant workers from exploitation and punish those who exploit them

121. In order to combat the exploitation of migrant workers, the Ministry of Labour, in cooperation with the International Organization for Migration, has been implementing the road map on labour migration in Madagascar through:

- The development of model contracts for Malagasy migrant workers by area of activity;
- Awareness-raising among workers to ensure that the rights contained in their work contract are respected;
- Strengthened cooperation among all the entities concerned in order to follow-up on the implementation of the road map by promoting better communication between Malagasy migrant workers and the Ministry, in particular through a hotline and website;
- The ratification of international conventions on professional migration and the alignment of national laws and regulations with international norms.

Measures to regulate and oversee placement agencies

122. A directorate responsible for employment and workers abroad has been established under the Ministry of Labour to regulate and oversee placement agencies. In addition, two orders have been adopted, one setting the terms for the awarding and revocation of certificates to private placement offices and the latter's responsibilities and the other on the revocation of certificates for placement agencies.

The scope of exploitation of children for purposes of forced labour, especially in domestic service, agriculture, mining and quarrying

123. Owing to the downturn in the formal sector and the relative ease of entry into the informal sector, which is the only employer of children, approximately 2,030,000 children are engaged in the worst forms of labour.

124. In the area of domestic service, 44.81 per cent of children are between the ages of 9 and 12 when first hired and 50.82 per cent are between the ages of 13 and 15. In urban areas, a child domestic worker works an average of 56 hours per week.

125. In the agricultural sector, 89 per cent of children are unpaid family assistants. Nine out of 10 children in rural areas and two thirds of children in urban areas work in this sector.

126. There are approximately 33,000 children between the ages of 5 and 17 working in mines and quarries.

Measures to eliminate forced labour and the worst forms of child labour

127. The National Police follows up on all complaints regarding child domestic workers. Between 2010 and 2016, 114 individuals were remanded into custody, including 52 men and 62 women.

128. In order to eliminate child labour, the Ministry of Labour is implementing the National Action Plan against Child Labour, which is currently in its third phase, namely capacity-building among agents and the extension of efforts to the regions.

129. Regarding assistance to Malagasy workers abroad, 43 were repatriated between 2015 and 2016 and received government assistance through the Ministry of Foreign Affairs.

Right to be recognized as a person before the law (arts. 7, 13, 16 and 24)

130. In an effort to improve birth registration, the Government has adopted Act No. 2016-60 on late registration procedures under the national identity card programme. The Act establishes that the Administration should hold mobile hearings, for a period of one year, in a simplified format that eliminates the risk of procedural errors.

131. The Act provides for the possibility for district chiefs, chief administrative officers or the police commissioner to preside special mobile hearings within their territory.

Refugees and asylum seekers (art. 13)

132. Decree No. 94-652 of 11 October 1994 on the application of the Organization and Control of Immigration Act No. 62-006 of 6 June 1962 remains in force.

133. A series of public consultations is being held by the Ministry of Justice, in partnership with Focus Development Association, to gather the views and comments of stakeholders regarding statelessness.

134. The outcomes of these consultations will serve as the basis for a bill on statelessness that is currently being drafted by the parliament.

135. There are currently no laws or regulations dealing specifically with refugees and asylum seekers.

Freedom of expression and right to freedom of assembly and association (arts. 19, 21 and 22)

136. To ensure an environment conducive to the practice of journalism, the Government has promulgated the Media Code Act No. 2016-029.

137. The Code provides for inter alia:

- The decriminalization of press offences;
- The establishment of a new regulatory body to replace the Audiovisual Communication Oversight Authority.

138. Freedom of the press is enshrined in the Constitution and its exercise is governed by law. No activity related to the exercise of this freedom may be censored and persons who exercise it may not be intimidated or harassed.

139. With a view to promoting freedom of expression and freedom of the press, remedial measures are being taken, including:

- The release, on 3 May 2012, of two journalists working for a private radio station who had been in police custody for libel, incitement to hatred and malicious accusations;
- The release, on 21 July 2014, of the editor-in-chief and an editor of a daily newspaper in the capital who were detained for one day for libel and the publication of unfounded news;
- The reopening of a radio station.

140. Law enforcement officers do not have excessive recourse to weapons during policing operations.

141. The enjoyment of freedom of expression by the public or protesters can be restricted whenever a crowd undermines the rights of others, for example by blocking the streets, looting or committing acts of vandalism or theft.

142. Law enforcement personnel act only on instructions duly issued by the competent administrative authority.

143. In response to the observations made by the relevant entities, the Government has amended article 20 of the Cybercrime Act No. 2016-006 through Act No. 2016-031. The amendment does not change the criminal nature of the offence under article 20, but is intended to remove the possibility of sentencing offenders to prison. Thus, judges may impose a fine but may not deprive offenders of their liberty.

Participation in public affairs and the fight against corruption (art. 25)

144. In order to comply with the electoral calendar, the Government has guaranteed the long-term operations of the National Independent Electoral Commission by renewing the mandate of its members and strengthening the capacity of actors in electoral matters.

145. To guarantee the universality of the right to vote and promote large-scale public participation in political affairs, the Government is striving to increase voter registration among the eligible population through the adoption of Act No. 2016-060 on late registration procedures under the national identity card programme whereby mobile hearings are held in a simplified format.

Anti-corruption measures

146. In order to effectively combat corruption, the Government has set up the Anti-Corruption Office pursuant to Act No. 2016-021 of 22 August 2016. As an independent entity, the Office is designed to move the fight against corruption forward and to radically change negative perceptions of the justice system. The Office has jurisdiction over corruption and related offences, money laundering and economic and financial offences that are or appear to be particularly serious or complex.

147. In addition, the Anti-Corruption Act No. 2016-020 of 22 August 2016 has also been adopted, providing for a prevention and punishment mechanism and the reorganization of how public officials declare their assets.

148. The new Supreme Council of the Judiciary has wide-ranging powers, notably with regard to disciplinary rules and ethics. It can order an investigation on the basis of a complaint filed with its permanent secretariat. In connection with the protection of the independence of the judiciary, the Council can decide to make public the actions taken in follow-up to a complaint filed by a judge who has been the object of undue pressure.

149. In order to further rationalize the justice sector, the Directorate of Oversight receives and processes public claims and complaints.

Independence of the Independent Anti-Corruption Office

150. The Anti-Corruption Act guarantees the operational independence of the Independent Anti-Corruption Office, which is attached, for administrative purposes, to the Office of the President.

151. The Director General of the Office does not report to either the executive or the legislative branch.

Statistics on investigations into corruption

<i>Year</i>	<i>Number of files transmitted to the court of first instance following a preliminary investigation</i>
2011	335
2012	296
2013	311
2014	227
2015	157
Total	1 326

Cases involving the Gendarmerie

<i>Year</i>	<i>Number of complaints filed</i>	<i>Number of files referred for investigation</i>
2014	387	84
2015	321	81
2016	201	93

Disciplinary measures

<i>Entities</i>	<i>Number of officials sanctioned</i>	<i>Sanctions imposed</i>
Judiciary	6	1 suspension 5 referrals to the Disciplinary Council (procedure under way in 2016)
National Gendarmerie	7	Dismissal