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Reports on economic, social and cultural rights, for the period
1 July 1969-30 June 1973, received from Governments under
Economic and Social Council resolution 1074 C (XXXIX)

MADAGASCAR 1/

/20 March 1974/

- I. Concise introductory description of general policies of economic and social development which have contributed in a significant manner during the period 1 July 1969 to 30 June 1973 to ensuring the recognition, realization and protection of economic, social and cultural rights

Various texts designed to promote the achievement of the above-mentioned aims were adopted during the period under consideration.

Act 71-034 of 14 December 1971, concerning the development charter, defines the general guidelines for development plans, the objective of which is to promote the economic, cultural and social development of the nation along socialist lines. They are designed in particular to improve living conditions for individual citizens, and notably to raise the standard of living and achieve full employment and economic independence.

1/ In addition to its report the Government of Madagascar has furnished the Secretariat with a dossier, consisting of texts of laws and regulations and previously compiled reports on various matters in the field of human rights. This dossier is available to delegations upon request.

The pursuit of these objectives requires in particular:

The intensification of internal and national capital accumulation;

State control of economic processes and of key sectors of production and marketing;

The rapid promotion of nationals to positions in which they exercise economic decision-making powers and control the means of production;

The priority allocation of available resources to the production of capital goods essential for the attainment of economic independence and of the most urgently required consumer goods;

The modification of the tax system in order to promote democratically oriented economic growth and development.

With regard more particularly to cultural matters, mention should be made of Decree 1570/AC of 24 April 1974, which reorganized private education, and Ordinance 73-030 of 16 June 1973, which established the University of Madagascar. The latter, like its implementing decrees, seeks in particular:

To improve the structure of the University of Madagascar;

To institute a form of education which provides both the university and the vocational training the country requires;

To provide training in the practice of democracy and the techniques of dialogue within the context of the administration of the University;

Substantially to increase the University's contacts with the country and to give it an important role in national development.

II. Influence of United Nations instruments containing principles and norms for the recognition, realization and protection of economic, social and cultural rights and, in particular, measures adopted to implement such instruments during the period from 1 July 1969 to 30 June 1973

Among the United Nations instruments definitively adopted during the period under consideration, the following should be mentioned:

The International Covenant on Civil and Political Rights and the Optional Protocol thereto, accession to which was approved in Act 70-001 of 23 June 1970, and the International Covenant on Economic, Social and Cultural Rights, ratified by Act 70-005 of 24 June 1970.

The existence of these international obligations was one of the reasons which led to the repeal, by Act 70-013 of 15 July 1970, of Ordinance 62-062 of

25 September 1962 and subsequent texts concerning the suppression of idleness, and to the repeal, by Ordinance 72-008 of 11 July 1972, of Ordinance 62-001 of 10 July 1962 concerning measures to be taken by the administrative police against cattle-thieves. The latter Ordinance was contrary to the principle of individual freedom and infringed the rights of defendants.

III. Significant developments during the period from 1 July 1969 to 30 June 1973 with regard to the recognition, realization and protection of economic, social and cultural rights

The questions asked in this section concern the right to work, the right to social security, the right to an adequate standard of living, the right to the enjoyment of the highest attainable standard of physical and mental health, the right of the family, motherhood and childhood to protection and assistance, the right to education and the right to participate freely in cultural life.

By ratifying the International Covenant on Economic, Social and Cultural Rights, the Malagasy Government recognized the legitimacy of such rights, but it is clear that that is an ideal towards which it will strive and which it cannot attain fully in the immediate future. This can be seen from the fact that Act 70-005 of 23 June 1970, by which the Covenant was ratified, contains the following reservations:

"The Government of Madagascar states that it reserves the right to postpone the application of article 13, paragraph 2, of the Covenant, [.../] since, while the Malagasy Government fully accepts the principles embodied in the said paragraph and undertakes to take the necessary steps to apply them in their entirety at the earliest possible date, the problems of implementation, and particularly the financial implications, are such that full application of the principles in question cannot be guaranteed at this stage."

This reservation relates to the right to free primary education. The State is not currently in a position to guarantee free primary education for all pupils, for it does not have the necessary funds. It is thus constrained to tolerate private primary education for which fees are charged, but it is its duty to supervise and regulate such education - which it did by Decree 1570-AC of 27 April 1972 - and, as it in fact does, to provide substantial assistance for such education until such time as it is able to absorb it. It should be borne in mind that recognition of a right is one thing, but realization of it is another.

The same is true with regard to the application of the principle proclaimed in article 9: the recognition of the right of everyone to social security, including social insurance. The social security costs borne by the State in developed countries are enormous: all workers of every kind are members of the scheme and contribute to it, whether their income comes from agriculture or trade, whether they are wage-earners or members of the professional classes. But in Madagascar, which does not have the same financial resources, the Government has been

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obliged to restrict contributions to wage-earners. These workers receive family allowances, which are paid to them by the National Social Security Fund (Caisse nationale de prévoyance sociale); the Fund also reimburses them for hospital costs in respect of occupational diseases and industrial accidents. They receive free medical care from inter-enterprise health organizations such as OSTIE; in the absence of any special labour contract or collective agreement providing expressly for the reimbursement of hospital costs by employers, hospitalized workers receive such medical assistance as is commonly available. But such rights are currently limited to wage-earners. As soon as it is financially possible and as soon as the living standard of all citizens has reached the level at which they can be required to contribute, these rights will be extended to all, as in the developed countries.

The same is true of the right to protection against unemployment and underemployment. For this right to be implemented, the State must have a large unemployment fund from which it can subsidize unemployed persons, and this is not currently the case.

It should also be noted that certain rights enshrined in the Covenant, such as the "right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing" do not depend solely on the State, but, in essence, on each individual citizen.

Subject to these reservations, Malagasy legislation already guarantees the bases of the rights proclaimed in the Covenant:

The right to work (art. 6);

The right to just and favourable conditions of work (art. 7);

Trade union rights (art. 9);

The rights relating to motherhood, childhood, marriage and the family (art. 10);

The right to an adequate standard of living (art. 11);

The right to health (art. 12);

The right to education (art. 13);

The rights relating to science and culture (art. 15);

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IV. Action with a view to ensure that the rights referred to under III above are enjoyed by increasing numbers of the population and without distinction as to race, colour, language, sex, religion or political opinion

Of the relevant measures taken, the following are the most noteworthy:

(1) Decree 3743 of 7 October 1970, establishing a National Committee for the Advancement of Women and the Protection of Children. This Committee, which is made up of delegates from private organizations and representatives of public services, is responsible for advising on and recommending action by departments, services and institutions dealing with social affairs.

(2) Ordinance 73-009 of 24 March 1973, concerning the structuring of the rural environment to ensure popular control over development.

(3) Decree 73-010 of 24 March 1973, concerning the organization and operation of the Fokotany.

Legislation now being drafted to achieve the aims in question includes:

A draft decree setting up a national food and development action committee;

A draft decree establishing a permanent committee to combat illiteracy;

A draft decree establishing a national council for social action.

V. Difficulties encountered in ensuring the enjoyment of the rights referred to under III above

As stated in section III, these difficulties are essentially financial. They can be resolved only through the industrialization and economic development of the country, a task to which the Government is devoting itself.

The right to education

(1) Right to free primary education

In its efforts to democratize education, the Government is attaching very special importance to the extension of primary education.

However, because of the limited financial resources available to the State and the vast educational requirements resulting from the population explosion - Madagascar has a population growth rate of 3 per cent - it has not been possible to provide free primary education for all Malagasy children between the ages of 6 and 14.

Consequently, in addition to public primary education, the costs of which are borne entirely by the State (construction, materials and equipment, staff, staff housing); there is also private primary education (denominational and secular) for which fees are charged.

Nevertheless, the State grants subsidies to private educational institutions and to parents of children attending those institutions.

It should also be noted that the village communities (Fokonolona) are playing an increasingly active and important role in the development of primary education (such as construction and maintenance of school premises and payment of teachers' salaries and provision of housing for them).

At present, out of a school-age population of 2,108,100 children, the situation is as follows:

| Pupils | | Teachers | | Institutions | |
|---------------|----------------|---------------|----------------|---------------|----------------|
| <u>Public</u> | <u>Private</u> | <u>Public</u> | <u>Private</u> | <u>Public</u> | <u>Private</u> |
| 743,721 | 260,724 | 9,487 | 6,066 | 4,477 | 1,577 |
| <u>Total</u> | 1,004,445 | | 15,553 | | 6,054 |

The problem is thus the following:

(a) The installation of an adequate school infrastructure (premises and equipment);

(b) The training and remuneration of teaching staff sufficient in number to ensure an acceptable teacher/pupil ratio (this ratio is currently estimated at more than 80 pupils per teacher for the entire island, public and private schools);

(c) The establishment of a rational school distribution map, so that schools will be properly sited with due regard to the location of the villages concerned.

(2) Right to equal access to higher education on the basis of capacity or merit, including technical, vocational and professional education

The only criteria for access to higher education relate to the capacity and merit of the students.

In addition, the State is seeking to decentralize higher education.

Scholarships are awarded to enable deserving students from families with relatively modest resources to attend higher educational institutions.

In some institutions (in particular the national schools), the number of places is limited and access is reserved for applicants who have successfully passed a competitive examination.

(3) Right of parents to choose the kind of education that shall be given to their children

Parents are entirely free to choose the kind of education that shall be given to their children. The substance of the programmes followed in public and private educational institutions remains the same, and examinations and tests are organized by the State.

A. The right to work

(1) Right to free choice of employment

The offence of idleness no longer exists.

Act 70-013 of 15 July 1970 repealed Ordinance 62-062 of 27 May 1962, as amended by Act 65-006 of 7 July 1965, as well as its enactment Decree 63-268 of 15 May 1963 relating to the suppression of idleness.

(2) Right to just and favourable conditions of work

The situation described in the previous report remains unchanged.

(3) Right to protection against unemployment and underemployment

The particulars given in the previous report are still valid.

(4) Right of everyone who works to just and favourable remuneration ensuring a decent living for himself and his family

The Malagasy Government raised the level of the guaranteed minimum wage for all occupations in 1971 and again in 1972, an increase which was noted in the previous report. The increase in minimum wages, the standardization of the indexes relating to the various occupational classifications and the reduction in the number of salary zones from four to two (see the Journal Officiel of 18 March 1974) became effective as from March 1974. As this report covers only the period from 1 July 1969 to 30 June 1973, further details concerning these changes will be given in the next report.

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- (5) Right of everyone, without discrimination of any kind, to equal pay for equal work

The particulars given in the previous report are still valid.

- (6) Right to rest, leisure and reasonable limitation of working hours and periodic holidays with pay

The information given previously is still valid, in particular the particulars relating to Convention No. 52.

- (7) Right to form trade unions and to join the trade union of one's choice

There has been no change in the information given in previous reports.

- (8) Right to strike

The information given previously is still valid.

- B. The right to social security, including social insurance in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond one's control

The information given previously is still valid, in particular the statement in the report on Convention No. 118.

- D. The right to the enjoyment of the highest attainable standard of physical and mental health

The reports included in the file for the period under consideration (see footnote 1 above) should make it possible to evaluate the efforts made in the following fields:

- (2) Improvement of all aspects of environmental and industrial hygiene.

- (4) Creation of conditions which will ensure medical services and medical care for every one in the event of sickness.
