



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

Forty-second session

20 October-7 November 2008

### Concluding observations of the Committee on the Elimination of Discrimination against Women

#### Madagascar

1. The Committee considered the combined second to fifth periodic reports of Madagascar (CEDAW/C/MDG/5) at its 862nd and 863rd meetings, on 31 October 2008 (see CEDAW/C/SR.862 and 863). The Committee's list of issues and questions is contained in CEDAW/C/MDG/Q/5 and the responses of the Government of Madagascar are contained in CEDAW/C/MDG/Q/5/Add.1.

#### Introduction

2. The Committee expresses its appreciation to the State party for its combined second to fifth periodic reports, while regretting that the submission was long overdue, did not fully comply with the Committee's guidelines for preparation of reports, did not refer to the Committee's general recommendations and only partially took into account the Committee's previous concluding comments. The Committee commends the State party for the written replies to the list of issues and questions raised by the pre-session working group, as well as the additional written information provided during the consideration of the report.

3. The Committee commends the State party for the high-level delegation headed by the Minister of Justice and the Deputy Minister for Health (Vice-Ministre chargé de la santé des mères et des enfants). The Committee expresses its appreciation to the State party for the oral presentation, which provided an overview of recent advances and challenges to the achievement of gender equality in Madagascar, and for the clarification to the questions posed by the Committee during the dialogue, but notes that some questions remained unanswered.

#### Positive aspects

4. The Committee commends the State party on the extensive legal reforms undertaken to eliminate discrimination against women and promote gender equality.

In particular, it welcomes Law No. 2007-002, which sets the age of marriage for both women and men at 18, and Act No. 2000-021, amending and supplementing certain provisions of the Criminal Code relating to violence against women and indecent assault.

5. The Committee welcomes the creation, by an inter-ministerial decree in October 2003, of a Committee responsible for the drafting of reports to the international human rights treaty bodies. It notes with appreciation that the Committee is composed of several Government representatives from different ministries, non-governmental organizations working in the field of human rights from all six provinces and other members of civil society.

6. The Committee congratulates the State party for its ratification of various international instruments, in particular the United Nations Convention against Transnational Organized Crime and both its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air on 15 September 2005.

7. The Committee commends the State party for accepting the amendment to article 20, paragraph 1, of the Convention in July 1996, concerning the meeting time of the Committee as well as for signing the Optional Protocol to the Convention in 2000. It encourages the State party to ratify the Optional Protocol to the Convention as soon as possible.

#### **Principal areas of concern and recommendations**

8. **The Committee recalls the State party's obligation to implement, systematically and continuously, all the provisions of the Convention, and views the concerns and recommendations identified in the present concluding observations as requiring the State party's priority attention between now and the submission of its next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. It calls upon the State party to submit the present concluding observations to all relevant ministries, to the Parliament and to the judiciary, so as to ensure their full implementation.**

#### **Parliament**

9. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee, stressing that the Convention is binding on all branches of Government, invites the State party to encourage its national parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.**

#### **Definition of discrimination and direct applicability of the Convention**

10. While noting that the Constitution of Madagascar ensures the direct applicability of the Convention and its primacy over domestic legislation, the Committee is concerned that there is no explicit definition of discrimination against

women, in line with article 1 of the Convention, which prohibits direct and indirect discrimination, in either the Constitution or the State party's legislation. The Committee is further concerned that the Convention's provisions, its concept of substantive gender equality and the general recommendations of the Committee are not sufficiently known or applied by the State party as a framework for all laws and policies on gender equality and the advancement of women. The Committee is similarly concerned that the Convention's provisions and the Committee's general recommendations are not sufficiently known by judges, lawyers, prosecutors and women themselves, as indicated by the scarcity of court decisions that refer to the Convention. The Committee is also concerned about the under-utilization by women of remedies for violations of their rights. The Committee also notes with concern that the administration of justice through the customary justice system may not be in full compliance with the provisions of the Convention.

**11. The Committee recommends that the State party incorporate in its Constitution or in other appropriate legislation a definition of discrimination against women, encompassing both direct and indirect discrimination, in line with article 1 of the Convention. It further recommends that the State party ensure that the understanding of indirect discrimination encompasses sex-based discrimination as well as other forms of discrimination that women may face. The Committee calls on the State party to take additional measures to ensure that the Convention is sufficiently known and applied by the State party as a framework for all laws and policies on gender equality and the advancement of women. The Committee also calls on the State party to take additional measures to disseminate information about the Convention and the Committee's general recommendations, as well as to implement training programmes for prosecutors, judges, lawyers and officials of the customary justice system on the Convention and its application. It recommends that sustained awareness-raising and legal literacy campaigns targeting women, including rural women and non-governmental organizations working on women's issues, be undertaken to encourage and empower women to avail themselves of available procedures and remedies for violations of their rights.**

#### **National machinery for the advancement of women and the national human rights institution**

12. While welcoming the establishment of a "Conseil national des droits humains", the Committee is concerned that it did not receive a clear picture of the national machinery on women's rights, its institutional and legal framework, its status and mandate or the resources allocated to it, both human and financial, in particular in the areas of decision-making and enforcement.

**13. The Committee calls upon the State party to ensure that the national machinery for the advancement of women has the necessary visibility, decision-making and coordination powers to enable it to effectively fulfil its mandate in promoting gender equality. It requests the State party to provide, in its next report, a clearer and more detailed picture of the national machinery, both the central coordinating body and the sectorial units to be created, including its authority, functions, powers and resources. Taking into account that the "Conseil national des droits humains" has been tasked with the implementation of the Convention and other human rights treaties, it also recommends that the Commission be comprised of an equal number of female and male staff and**

**members, as well as providing full and easy access to women to claim their rights.**

#### **Temporary special measures**

14. The Committee notes with concern the absence of any temporary special measures in accordance with article 4, paragraph 1, of the Convention that are aimed at accelerating the de facto, substantive equality of women.

**15. The Committee recommends that the State party implement temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, as part of a necessary strategy to accelerate the achievement of de facto equality between women and men. It calls upon the State party to consider using a range of possible measures, such as quotas, benchmarks, targets and incentives, in particular with regard to ensuring the accelerated implementation of articles 7, 8, 10, 11, 12 and 14 of the Convention.**

#### **Stereotype and adverse cultural practices**

16. The Committee is concerned at the persistence of adverse cultural norms, practices and traditions as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life. The Committee is concerned that such customs and practices perpetuate discrimination against women that they are reflected in women's disadvantageous and unequal status in many areas, including in public life and decision-making and in marriage and family relations, and in the persistence of violence against women, and that, thus far, the State party has not taken sustained and systematic action to modify or eliminate stereotypes and negative cultural values and practices.

**17. The Committee requests the State party to view its culture as a dynamic aspect of the country's life and social fabric and as subject, therefore, to change. It urges the State party to put in place without delay a comprehensive strategy, including legislation, to modify or eliminate cultural practices and stereotypes that discriminate against women, in conformity with articles 2 (f) and 5 (a) of the Convention. Such measures should include efforts which should be undertaken in collaboration with civil society, to raise awareness of this subject, targeting women and men at all levels of society, including traditional leaders. The Committee urges the State party to tackle harmful cultural and traditional customs and practices, such as the practice of "moletry" (bride price) in the north-west and the custom that prescribes the abandonment of a twin child in Mananjary, more vigorously. The Committee encourages the State party to implement effective and innovative measures to strengthen the understanding of the equality of women and men and work with the media in order to enhance a positive and non-stereotypical portrayal of women.**

#### **Violence against women**

18. The Committee expresses concern at the high prevalence of violence against women and girls, such as widespread domestic violence and sexual violence, including rape. The Committee is also concerned that such violence appears to be socially legitimized and is accompanied by a culture of silence and impunity, so that victims of such violence do not press charges against perpetrators because of fear of

retaliation, that cases of violence are thus underreported and that women are encouraged through customary law to leave the family home temporarily. The Committee is further concerned about the lack of information and data disaggregated by age groups on all forms of violence against women, and at the lack of information on the implementation of Act No. 2000-21, which criminalizes domestic and sexual violence. Furthermore, it notes with concern that marital rape is not recognized as a criminal offence and that the Criminal Code only criminalizes acts leading to physical injury and does not cover verbal, psychological and economic violence.

**19. The Committee urges the State party to give priority attention to combating violence against women and to adopt comprehensive measures to address all forms of violence against women and girls, in accordance with its general recommendation No. 19. It requests the State party to raise public awareness, through the media and education programmes, of the fact that all forms of violence against women are a form of discrimination under the Convention and therefore in violation of women's rights. The Committee calls upon the State party to ensure that violence against women and girls, including domestic violence, marital rape and all forms of sexual abuse, constitute a criminal offence; that perpetrators are prosecuted, punished and rehabilitated; and that women and girls who are victims of violence have access to immediate means of redress and protection. The Committee requests the State party to remove any impediment faced by women in gaining access to justice and recommends that legal aid be made available to all victims of violence, including through the establishment of additional legal aid clinics in rural or remote areas. The Committee recommends the implementation of training for the judiciary and public officials, in particular law enforcement personnel, health-service providers and community development officers, in order to ensure that they are sensitized to all forms of violence against women and can provide adequate gender-sensitive support to victims. It also recommends the establishment of counselling services and shelters for victims of violence. The Committee requests that the State party provide information on the laws and policies in place to deal with violence against women and girls and on the impact of such measures, as well as data and trends on the prevalence of various forms of such violence, disaggregated by age groups.**

#### **Trafficking and exploitation of prostitution**

20. While noting the adoption of Law No. 2007-38, modifying and completing the provision in the Penal Code concerning trafficking in persons and sex tourism, and the efforts of the State party aimed at raising awareness about sex tourism, the Committee expresses concern at the persistence of trafficking and sexual exploitation of women and girls, including sex tourism, in the country. In particular, the Committee expresses concern about the trafficking and sexual exploitation of girls in rural areas stemming from poverty and from their need to provide support for themselves as a consequence of being evicted from the parents' house upon reaching puberty. The Committee regrets the absence of data in respect of both trafficking and prostitution as well as the lack of a national plan of action to address both trafficking and sexual exploitation in the report of the State party.

**21. The Committee urges the effective implementation of the newly adopted law, and the introduction of effective prevention measures, timely prosecution**

and punishment of traffickers and the provisions of protection and support to victims. It recommends that information and training on the new law be provided to the judiciary and law enforcement officials, including border police, public officials, social workers and community development officers. It further recommends that the State party adopt a comprehensive action plan to address trafficking and sexual exploitation and ensure the allocation of sufficient human and financial resources for its effective implementation, including collection of disaggregated data. It also recommends that the State party address the root cause of trafficking and exploitation of women by increasing its efforts to improve the economic situation of women generally and, in particular, of girls who have reached puberty, thereby eliminating their vulnerability to exploitation and traffickers, including measures for the rehabilitation and social integration of women and girls who have been victims of such activity. The Committee also calls upon the State party to increase its efforts aimed at combating sex tourism, including in cooperation with countries of origin.

#### **Political participation and participation in public life**

22. While welcoming recent progress, notably in the judiciary and the diplomatic service, the Committee is concerned about the low level of participation of women in public and political life and in decision-making, and the lack of concrete steps taken to address the underlying causes, including prevailing social and cultural attitudes.

23. The Committee encourages the State party to implement concrete measures to increase the number of women in decision-making positions, in particular at the municipal/local level, in Parliament and in political parties. It recommends that the State party make effective use of article 4, paragraph 1, of the Convention on temporary special measures and the Committee's general recommendations Nos. 23 and 25, and establish concrete goals and timetables to accelerate women's equal participation in public and political life at all levels. The Committee also invites the State party to encourage political parties to use quotas. The State party is urged to carry out awareness-raising campaigns aimed at women and men to help ensure the elimination of stereotypes associated with men's and women's traditional roles in the family and in society at large and enhance women's political empowerment.

#### **Nationality**

24. While noting that the State party has adopted Law No. 2008-017, which authorizes the ratification of the Convention on the Nationality of Married Women and is aimed at rectifying the inequality of rights between women and men with respect to nationality, the Committee notes with concern that the Nationality Code does not comply with article 9 of the Convention in that it does not allow a Malagasy woman married to a foreigner to transmit her nationality to her husband or children on the same basis as a Malagasy man married to a foreigner.

25. The Committee urges the State party to amend the Nationality Code so as to bring it in line with article 9 of the Convention.

## Education

26. While the Committee recognizes the efforts of the State party to expand girls' access to education and to reduce drop-out rates, in particular through the construction of additional classrooms, the abolition of registration fees and the provision of school kits and school supplies, the Committee expresses concern at current conditions that impede girls' access to education at all levels, including poverty, living in rural and remote areas, emancipation at puberty, early marriage and early pregnancy. The Committee notes that education is a key to the advancement of women and that the low level of education of women and girls remains one of the most serious obstacles to their full enjoyment of their human rights.

**27. The Committee urges the State party to raise awareness about the importance of education as a fundamental human right and as a basis for the empowerment of women and to take steps to overcome traditional attitudes that constitute obstacles to women and girls in the full enjoyment of their human rights to education. It recommends that the State party take steps to ensure equal access of girls and young women to all levels of education, to retain girls in school and to implement re-entry policies so that girls and young women return to school after pregnancy. The Committee further urges the State party to take measures to increase the enrolment of girls at all levels and recommends the introduction of further temporary special measures, in accordance with its general recommendation No. 25, including incentives for parents to send girls to school.**

## Employment

28. While noting the various legislative measures taken by the State party in the formal sector, including Act No. 2000-021, which provides harsher penalties for sexual harassment in the workplace, Act No. 2003-011, which ensures equality between men and women in access to public office and Act No. 2003-044, which provides for equal pay for equal work and work of equal value, the Committee is concerned at the precarious situation of the high number of women in the informal sector, where they have limited access to land and lack job security and access to social security benefits. Furthermore, the Committee regrets the limited data on the situation of women in the labour force, which prevented it from obtaining a clear picture with regard to women's participation in the labour force in urban and rural areas, the wage gap and vertical and horizontal labour force segregation.

**29. The Committee requests the State party to ensure equal opportunities for women in the labour market, in accordance with article 11 of the Convention. It calls on the State party to ensure that employment legislation applies to, and is enforced in, the public and private sectors. The Committee also calls upon the State party to provide a regulatory framework for the informal sector, with a view to providing women in that sector with access to social protection and benefits. It calls on the State party to provide, in its next report: detailed information, including data disaggregated by sex; an analysis on the situation of women in the field of employment in both the formal and informal sectors and on trends over time; and information about measures taken and their impact on realizing equal opportunities for women in employment, including in new fields of employment and entrepreneurship. The Committee also requests**

**the State party to provide in its next periodic report detailed information about: legal provisions and their monitoring and enforcement; equal pay for work of equal value; and complaints mechanisms and statistical information on their use by women and their outcomes.**

### **Health**

30. While welcoming the increase in the health budget for 2009, as indicated by the State party during its dialogue with the Committee, the Committee remains concerned about women's limited access to adequate and good quality health-care services, especially in rural areas. It is particularly concerned about the high maternal and infant mortality rates, resulting from, inter alia, lack of appropriate care as well as lack of utilization of existing services during pregnancy and childbirth, the limited access to adequate sexual and reproductive health services for women, especially for women in rural areas, early marriage and clandestine abortions.

**31. The Committee recommends that the State party take measures to improve women's access to health care, especially emergency obstetric care and health-related services and information, in accordance with article 12 of the Convention and the Committee's general recommendation No. 24 on women and health. It calls on the State party to improve the availability of sexual and reproductive health services, including family planning, with the aim of preventing early pregnancies and clandestine abortions. It encourages the State party to enhance all health services, especially for rural women. The Committee requests the State party to provide in its next report detailed information on measures taken to improve women's access to health-related services and information, including in regard to sexual and reproductive health and family planning, and the impact of these measures.**

### **Economic empowerment of women**

32. While taking note of the State party's efforts to develop strategies for poverty reduction as well as to promote women's autonomy through the promotion of income-generating activities and the access to microcredit, the Committee is concerned that widespread poverty among women, in particular rural women and women heads of households, and poor socio-economic conditions are among the causes of violation of women's human rights and discrimination against women. It notes with concern that discriminatory practices with regard to land ownership and the administration of property and inheritance limit women's access to economic resources, as well as to credit and loan facilities. The Committee is especially concerned about the situation of rural women, particularly in view of their precarious living conditions and lack of access to justice, health care, education, credit facilities, economic opportunities and community services.

**33. The Committee urges the State party to ensure that the promotion of gender equality is an explicit component of its national and local development plans and programmes, in particular those aimed at poverty reduction and sustainable development. The Committee also urges the State party to pay special attention to the needs of rural women and women heads of households, ensuring that they participate in decision-making processes and have full access to credit facilities. The Committee further urges the State party to take**



**proactive measures to ensure that rural women have access to health services, education, clean water, electricity, land and income-generating projects. It recommends that the State party design and implement gender-sensitive rural development strategies and programmes, ensuring the full participation of rural women in their formulation and implementation.**

#### **Vulnerable groups of women**

34. The Committee notes that the State party's report lacked information and statistics about particularly vulnerable groups of women, including elderly women and women with disabilities who often suffer from multiple forms of discrimination.

**35. The Committee requests the State party to provide, in its next report, a comprehensive picture of the de facto situation of vulnerable groups of women, including elderly women and women with disabilities, in all areas covered by the Convention.**

#### **Family relations**

36. While welcoming the important legal reforms and progress that have taken place in the area of family relations, such as the adoption of Law No. 2007-022 on marriage and matrimonial regimes, which provides that the spouses have the same rights and the same responsibilities with regard to administering marital property and the setting of the minimum age of marriage at 18 years, the Committee is concerned at women's unequal status in marriage and family matter owing to customary and traditional attitudes. It is particularly concerned that customary law relating to marriage allows polygamy and that women in de facto unions and their children do not enjoy adequate legal protection. It also notes that the legislation on marriage still discriminates against women, imposing a six-month interval (the "délai de viduité") before they can remarry.

**37. The Committee urges the State party to harmonize civil and customary law with article 16 of the Convention and to repeal the provision requiring a six-month interval before women can remarry. The Committee also calls upon the State party to implement measures aimed at eliminating polygamy, as called for in the Committee's general recommendation No. 21 on equality in marriage and family relations. The Committee recommends that the State party seriously consider the situation of women in de facto unions, and of the children resulting from such unions, and ensure that they enjoy adequate legal protection.**

#### **Data collection and analysis**

38. While noting the establishment of an "Observatoire du genre" as highlighted by the delegation in its dialogue with the Committee, the Committee calls upon the State party to further improve the collection and analysis of statistical data, and to include in its next report comprehensive statistical data and analysis on the situation of women, disaggregated by age as well as rural and urban areas, in order to provide a clear picture of the situation of women in Madagascar. It also calls on the State party to describe the impact of measures taken and the results achieved in the practical realization of women's substantive equality with men.

**Beijing Declaration and Platform of Action**

39. The Committee urges the State party to continue to utilize, in implementing its obligations under the Convention, the Beijing Declaration and the Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

**Millennium Development Goals**

40. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Goals and requests the State party to include information thereon in its next periodic report.

**Ratification of other treaties**

41. The Committee notes that States' adherence to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the Government of Madagascar to consider ratifying the instruments to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention on the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

**Dissemination**

42. The Committee requests the wide dissemination in Madagascar of the present concluding observations in order to make the people, including Government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women and the further steps that are required in that regard. The Committee requests the State party to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

**Follow-up to concluding observations**

43. The Committee requests the State party to provide, within two years, detailed written information on the implementation of the recommendations contained in paragraphs 19 and 21 above. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate for implementation of the recommendations.

**Date of next report**

44. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its combined sixth and seventh periodic report, which is due in 2014.

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