



**International covenant
on civil and
political rights**

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**List of issues to be taken up in connection with the consideration of the
third periodic report of MADAGASCAR (CCPR/C/MDG/2005/3)**

**Constitutional and legal framework within which the Covenant
and the Optional Protocol are implemented (art. 2)**

1. Please explain the meaning and scope, in law and in practice, of article 8 of the Constitution in respect of the status of foreigners, and its compatibility with the Covenant.
2. Please cite examples of cases in which the provisions of the Covenant have been invoked before the courts pursuant to Supreme Court Order No. 231 of 5 September 2003 (State party report, para. 260).
3. Please comment on reports that the National Commission for Human Rights has been inactive since 2002, when its members' terms expired. Please indicate what steps are planned to re-establish it.

State of emergency (art. 4)

4. Please indicate whether the President has ever declared an emergency (report, paras. 45-67). What controls apply to the exercise of presidential powers in emergencies? What safeguards do individuals enjoy if a state of emergency is declared?

Non-discrimination and equality between sexes (arts. 2, 3 and 26)

5. Please provide information on the involvement of women in public life, including statistics on the number of women occupying senior positions in the public and private sectors and resistance based on custom to the application of the principle of equality between men and women (paras. 448 and 449) that gives rise to a certain kind of social behaviour (para. 84). What steps has the State party taken or is it planning to take in order to deal with this situation and ensure the full implementation of the Covenant?

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment (arts. 6 and 7)

6. Please state what measures have been taken to make contraception accessible in order to curb backstreet abortions and prevent infectious diseases. Quantify the impact of the legal ban on abortion on the maternal mortality rate (paras. 77 and 79-83).

7. What crimes are punishable by death under the new Criminal Code? Clarify whether the bill on abolishing the death penalty has been adopted (para. 107). Does the State party plan to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights?

8. How many summary or extrajudicial executions have been carried out pursuant to decisions by customary courts (para. 108)? Provide more details about the strength, composition and functions of *Dina*, the implementation of Act No. 2001-004 of 25 October 2001 and, in particular, the number of decisions by *Dina* that have been approved by the courts of law or the appeal courts (para. 113).

9. Persons presumed to be sympathetic to the current President, and subsequently supporters of the former President, are reported to have been widely tortured during the crisis that followed the elections in 2002. Please indicate whether the victims' complaints were recorded, whether the torturers, regardless of their political affiliation, were prosecuted and punished by the courts, and whether their victims were compensated. Please provide general information about the practice of torture and the infliction of punishments not sanctioned by law (para. 271). Does the lack of complaints mean that such practices do not exist?

Prohibition of slavery and forced labour (art. 8)

10. Please describe the type of work performed by detainees on remand pursuant to article 68 of Decree No. 59-121 of 17 October 1959 on the general organization of Malagasy prison services (para. 129). What steps has the State taken or is it planning to take in order to protect domestic workers?

Security of person and the right not to be subjected to arbitrary detention (art. 9)

11. Please indicate whether the reform proposal to reduce the length of pretrial detention has been adopted. What is the statutory maximum duration of pretrial detention? Is this upper limit observed in practice? Indicate what has been done to increase the number of persons released on bail (para. 150). Please cite the number of outstanding untried cases involving detainees who

have spent more than five years on remand (paras. 205 and 206) and indicate what has been done to expedite the processing of their cases. Is it true that an inmate of Nosy Lava prison has been waiting since 1972 for his appeal to be heard?

12. A number of persons presumed to be supporters of the two candidates in the presidential elections of December 2001 have reportedly been arrested and detained arbitrarily. Please indicate the number of supporters prosecuted and sentenced for offences committed before, during and after the elections (para. 462). Cite information about the offences concerned, especially where these involve “crimes against the internal security of the State”.

Treatment of persons deprived of their liberty (art. 10)

13. Please specify what steps have been taken to tackle prison overpopulation and to safeguard the right of detainees to be treated with humanity and with respect for their dignity (paras. 156-203). Please cite the adult mortality rate in penitentiary settings and state what efforts have been made to segregate remand prisoners from convicted prisoners and minors from adults. Please provide information on malnutrition among prisoners.

Prohibition of imprisonment for civil debts (art. 11)

14. In the light of paragraphs 220 to 228 of the report, please state unequivocally whether the provisions of article 11 of the Covenant are in fact observed.

Right to a fair trial (art. 14)

15. There appear to be disproportionately few judges in relation to the size of the population and the caseload. What measures has the State party taken or is it planning to take in order to strengthen the judiciary? Please supply information about the age structure of the judiciary. How many practising lawyers are there in Madagascar? How are they organized? Are lawyers permitted to intervene in cases at the stage of the preliminary police investigation?

16. Have the regulations governing the judiciary been adopted yet (para. 72)? Please indicate how judicial independence is guaranteed and list the circumstances in which judges may be removed.

17. Please provide information about the procedure for granting legal aid and the circumstances in which legal aid may be applied for and made available (para. 254). How many applications for legal aid have been filed over the past three years and how many have been granted?

Freedom of conscience and religion (art. 18)

18. Please provide information about the religious affiliation of the population, describe what safeguards are in place to guarantee freedom of belief and indicate what restrictions apply to the freedom to manifest one's belief.

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

19. Please indicate the number of private radio stations that have been attacked and/or closed down since the crisis following the elections in 2002, and state why they have been closed down.

20. Some political activists have apparently been arrested and even imprisoned for voicing perceived criticisms of the Government and/or for organizing political meetings. Please comment on these reports from the standpoint of compatibility with articles 19 and 21 of the Covenant. Is it true that such activists are tried as criminals under ordinary law and detained under high-security regimes?

21. What rules govern the formation and disbandment of non-profit-making associations? In the light of article 14 of the Constitution, what statutory conditions and procedures apply to the formation and disbandment of political parties and trade unions?

Political rights (art. 25)

22. Please indicate who is entitled to appeal to the Constitutional High Court or the Council of State in disputes involving elections (paras. 416 and 417). Outline the respective roles of the National Electoral Council and the Election Observers Committee during the presidential elections of December 2001 (paras. 421-429).

Rights of persons belonging to minorities (art. 27)

23. What ethnic and linguistic minorities live in Madagascar? How are they protected?

**Dissemination of information relating to the Covenant
and the Optional Protocol (art. 2)**

24. Please give details of training for State employees, especially teachers, judges, lawyers and police officers, regarding the Covenant and the Optional Protocol. Please also list other measures that have been taken to disseminate information about the Covenant and the Optional Protocol, as well as information about the submission of reports and their consideration by the Human Rights Committee, with special emphasis on the Committee's concluding observations.
