



Convention on the Rights of the Child

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Committee on the Rights of the Child

Fifty-ninth session

16 January – 3 February 2012

Consideration of reports submitted by States parties under article 44 of the Convention

Concluding observations: Madagascar

1. The Committee considered the combined third and fourth periodic report of Madagascar (CRC/C/MDG/3-4) at its 1677th and 1678th meetings (see CRC/C/SR.1677 and CRC/C/SR.1678) held on 20 January 2012, and adopted, at its 1697th meeting, held on 3 February 2012, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic report as well as the written replies to its list of issues (CRC/C/MDG/Q/3-4/Add.1). The Committee expresses appreciation for the dialogue held with the delegation of the State party, which allowed the Committee to gain a better understanding of the situation of children in the State party.

II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the adoption of the following legislative measures:

- (a) Law No 2007-038 of 14 January 2008 amending and supplementing certain provisions of the Penal Code combatting trafficking in persons and sex tourism;
- (b) Law No. 2007-023 of 20 August 2007 on the rights and protection of children;
- (c) Marriage and Matrimonial Property Act No. 2007-022 of 20 August 2007 on marriage, setting the legal age for marriage at 18; and
- (d) Law No. 2005-014 of 7 September 2005 on adoption.

4. The Committee also welcomes the ratification of or accession to:

- (a) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2005;

- (b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2004;
- (c) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2004;
- (d) Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (with Protocols I, II and III), in 2008;
- (e) Convention Against Transnational Organized Crime, in 2005;
- (f) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), in 2005;
- (g) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2005;
- (h) The Hague Convention No. 33 on Protection of children and cooperation in Respect of Intercountry Adoption, in 2004;
- (i) WHO Framework Convention on Tobacco Control, in 2004;
- (j) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in 2005; and
- (k) African Charter on the Rights and Welfare of the Child, in 2005.

5. The Committee also welcomes the following institutional and policy measures:

- (a) The National Human Rights Council, established by Law No. 2008–012 of 17 July 2008;
- (b) National strategy for risk management and social protection (2007);
- (c) The National Plan of Action on Violence against Children (2007);
- (d) The establishment of the Commission on the Rights of the Child, by Decree No. 2005-025;
- (e) National policy for risk and disaster management (2003).

6. The Committee notes as positive the standing invitation to all UN special procedure mandate holders, extended by the State party in August 2011.

III. Factors and difficulties impeding the implementation of the Convention

7. The Committee takes note of the current and unfolding political crisis in the State party, which is currently led by a transitional government, and the negative effect this has had on the development and implementation of relevant legislation, policy and programs for children. The Committee reminds the State party of the continuity of international human rights obligations, that the rights under the Convention apply to all children at all times, and that it is the primary responsibility of the State party to take all appropriate measures to respect and ensure the rights set forth in the Convention regardless of political disputes or leadership structure. The Committee also takes note of the negative impact of

recurrent natural disasters, including hurricanes and typhoons, on the children in the State party.

IV. Main areas of concerns and recommendations

A. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

The Committee's previous recommendations

8. The Committee welcomes efforts by the State party to implement the Committee's concluding observations on the State party's second periodic report (CRC/C/15/Add.218). Nevertheless, the Committee notes with regret that several of these concluding observations have not been sufficiently addressed or not addressed at all.

9. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second report that have not yet been implemented or sufficiently implemented, including on developing a comprehensive national plan of action on children's rights, efficient and effective coordination, independent monitoring and children with disabilities, and also to provide adequate follow-up to the recommendations contained in the present concluding observations on the combined third and fourth periodic report.**

Coordination

10. The Committee notes with concern that there is no single government entity responsible for overall coordination of the policies, laws and programmes relating to children's rights. The Committee notes that the Ministry of Population and Social Affairs plays a role in coordinating and monitoring children's rights and that specific sectorial coordination fora exist. However, the Committee notes with concern that these mechanisms are inadequate to ensure an effective and comprehensive coordination of implementation of children's rights. across all sectors and between national and regional levels.

11. **The Committee urges the State party to clearly assign a government entity as responsible for overall coordination of the implementation of the laws, policies and programmes relating to children's rights, to provide such an entity with a clear mandate and adequate human, technical and financial resources to carry out its functions that must include monitoring of and evaluation of the implementation of the rights. The Committee encourages the State party to provide information on the measures taken on coordination of the implementation of the Convention in its next periodic report.**

National Plan of Action

12. While noting the numerous existing sectorial action plans, including on education, nutrition, HIV/AIDS, water and sanitation, the Committee remains concerned that the State party does not have a comprehensive policy or national plan of action for the implementation of the Convention. The Committee is further concerned that relevant sectorial plans of actions on children's rights, including the National Plan of Action on Violence against Children (2008-2012) and the National Strategy for Preventing Abandonment, Deinstitutionalization and Community Care of Children in Madagascar (2011-2015) have been developed but do not have a budget allocated to them and have not been implemented.

13. The Committee recommends that the State party develops and implements a comprehensive policy or national plan of action for implementation of children's rights which coordinates all sectorial action plans and is harmonized with the overall national development plan and poverty reduction strategies. The Committee recommends that the State party allocates the necessary financial resources required for the implementation of existing and new policies and plans of action for children. The Committee encourages the State party to seek technical assistance from the United Nations Children's Fund (UNICEF) and to involve civil society in the preparation and implementation of such policies and plans.

Independent monitoring

14. While noting the establishment of the National Council for Human Rights in 2008, the Committee notes with concern that the National Council is not yet operational and that independent monitoring of children's rights is insufficient and inefficient. The Committee notes the existence of the Office of the Ombudsman, but notes that its mandate is limited to public administration matters and does not have a practise of considering complaints from children.

15. The Committee urges the State party to take all necessary measures to ensure that the National Council for Human Rights becomes operational and complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), to ensure comprehensive and systematic monitoring of children's rights. The Committee recommends that the State party review the mandate and operation of the Office of the Ombudsman and consider how children could have greater access to this institution. The Committee recommends that the State party ensure that child victims of human rights violations are comfortable and secure when approaching these institutions and are not subject to any repercussions after submitting complaints. Drawing attention to its general comment No. 2 on the role of independent human rights institutions in the promotion and protection of the rights of the child (CRC/GC/2002/2), the Committee also calls upon the State party to ensure that these national mechanisms be provided with the necessary human, technical and financial resources to ensure its independence and efficiency.

Allocation of resources

16. The Committee expresses its concern that the current suspension of international development aid to the State party due to the political situation in the State party has negatively affected the provision of services for children, in particular in education and health. Furthermore, the Committee notes with concern that the State party has increased its 2010 budget for domestic security and armed forces, while reducing funding in the areas of health, education, social affairs, justice, and youth. The Committee notes that disaggregated analyses on budget allocations for children are not available.

17. The Committee recommends that the State party take urgent action to ensure, despite the current political and subsequent financial crisis, that budget allocations for policies, plans and programmes on children's rights, in particular education and health, are protected and sustained to a maximum extent within available resources. The Committee recommends that the State party take urgent action to remedy the recent decrease in funding to the social sector and increase resources to this sector, as it affects children, taking due note of the investment on the next generation as a means to ensure sustainable and peaceful development of the State party.

18. Furthermore, the Committee recommends that the State party in planning its future budgets take into account its recommendations during the Day of General Discussion in 2007 on "Resources for the Rights of the Child - Responsibility of States" and specifically:

(a) **Build capacity to utilize a child rights approach in the elaboration of the State budget and implement a tracking, monitoring and evaluation system for the allocation and the use of resources for children by all relevant sectors throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system is used for impact assessments on how investments in any sector may serve the best interests of the child, ensuring that the differential impact of such investment on girls and boys is measured;**

(b) **Conduct a comprehensive assessment of budget needs and establish clear allocations for those areas that progressively address the disparities in indicators such as gender, disability and geographical location related to children's rights; and**

(c) **Define strategic budgetary lines in general and sectorial allocations for children in disadvantaged or vulnerable situations (such as girls and children with disabilities) that may require social measures including affirmative action and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies.**

Data collection

19. The Committee takes note of the efforts of the State party to improve data collection through the National Statistics Institute but is concerned that data in relevant areas are still lacking or not sufficiently disaggregated. In particular, the Committee notes that data is lacking on children living with HIV, alcohol and drug consumption of children and percentage of children with disabilities enrolled in school, and children living on the streets. The Committee is also concerned about the lack of coordination of data collection between different ministries and between national and regional levels.

20. The Committee recommends that the State party continue strengthening its data collection system, to ensure coordination of data collection on all areas of the Convention and in all the regions and to analyse the data collected as a basis for assessing progress achieved in the realization of child rights and to help design policies and programmes to implement the Convention. The Committee encourages the State party to disaggregate data by age, sex, geographic location, ethnicity and socio-economic background to facilitate analysis of the situation of children.

Child rights and the business sector

21. The Committee is concerned that exploitation of natural resources, among others through the mining sector, extractive and forestry industries and tourism sector, does not always benefit the local community, including its children, and brings harmful effects to families and children such as economic exploitation of children and sex tourism, resettlement of communities without appropriate services, and harm to the environment and wildlife. The Committee notes the lack of information on any regulatory framework regarding social and environmental responsibility of business corporations and industries, both national and international, to prevent possible negative impact of their activities on children.

22. **The Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and domestic standards on corporate social responsibility, in line with the UN Business and Human Rights Framework which outlines the duty of States to protect against human rights abuses by businesses; corporate responsibility to respect human rights; and the need for more effective access to remedies when violations occur. In doing so, the Committee encourages the State party to focus on the protection of the rights of the child and to investigate and provide remedies to reported cases of abuse by corporations and their executives. The Committee encourages the State party to consider the Human Rights Council Resolution 8/7 of 2008 adopting the report**

“Protect, Respect and Remedy” Framework and of Resolution 14/7 of 16 June 2011 requesting the new Working Group to follow-up on this matter, both of which note that the rights of the child be included when exploring the relationship between business and human rights.

B. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

23. The Committee welcomes the efforts by the State party to address discrimination, including the adoption of Decree 2009-1147 on inclusive education and legislation against discrimination due to HIV status. However, the Committee remains concerned that discrimination is still widespread in the State party, in particular against girls, twins, children with disabilities and children living with HIV/AIDS.

24. The Committee recommends the State party to increase measures to combat discrimination, in particular against girls, twins, children with disabilities and children living with HIV/AIDS, through programs and policies to combat inequalities in access to education, health and development, raising awareness of discrimination and fostering an inclusive and tolerant environment in schools and other spaces for children.

Best interests of the child

25. The Committee welcomes the incorporation of the principle of the best interest of the child into national legislation. The Committee is nevertheless concerned at the low level of awareness of this principle among professionals working with children and for children, the general public and in particular among children.

26. **The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle. The Committee further recommends that the State party raise awareness of the principle of the best interest of the child amongst professionals working with children such as teachers, judges and social workers, traditional and community leaders and in the community at large, including children, through radio, TV and newspaper campaigns.**

Right to life, survival and development

27. The Committee notes the programmes by the State party, in cooperation with UNICEF, to protect twins, particularly in the region of Mananjary against ill-treatment and discrimination. However, the Committee remains seriously concerned about persistent traditional beliefs that twins bring bad luck, and the continued practise of ill-treatment, rejection and abandonment of twins in the Mananjary region leading, in some cases, to the death of children.

28. **In light of article 6 of the Convention, the Committee recommends that the State party take all necessary measures to stop the ill-treatment, rejection and abandonment of twins, including through legislation and increased awareness-raising in the society at large, which should involve traditional leaders. In addition, the Committee recommends that the State party take all necessary measures to ensure that the placement in institutions of twins must be a measure of last resort.**

Respect for the views of the child

29. The Committee is concerned that traditional attitudes towards children in society limit, and often prevent, children from expressing their views on a wide range of issues that affect them within the family, schools, institutions, judicial system and society at large. The Committee is concerned that the views of the child are only sought on special occasions such as on child and youth days.

30. **The Committee recommends that the State party, by taking into consideration the Committee's general comment No. 12 (2009) on the right of the child to be heard:**

(a) **Strengthen its efforts to ensure that children have the right to express their views freely in all matters affecting them and to have those views given due weight in schools and other educational institutions, as well as in the family, and reduce the disparities in the opportunities for the participation of students from different social backgrounds and various regions; and**

(b) **Ensure that children are provided with the opportunity to be heard in any judicial, including civil and penal matter, and in administrative proceedings affecting them, and that due weight is given to those views in accordance with the age and maturity of the child.**

D. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37 (a) of the Convention)

Nationality

31. The Committee notes with concern that legislation on nationality discriminate against children born to a Malagasy mother and a father of foreign nationality as well as children born out of wedlock in some cases and welcomes the indication given by the State party that this legislation is currently being reviewed. The Committee is further concerned that Malagasy legislation does not grant children born in Madagascar Malagasy nationality in cases where such children would otherwise be stateless.

32. **The Committee recommends that the State party urgently finalize the reform of the legislation on nationality of children and ensures that no discrimination exists against children born from Malagasy mothers and a father of foreign nationality or children born out of wedlock. The Committee also urges the State party to ensure that children born in Madagascar do not risk being stateless.**

Birth registration

33. The Committee welcomes the progress made in registering children at birth through the National Program for Rehabilitating Birth registration (EKA). However, the Committee is concerned that the level of birth registration are still low (20 per cent of births were not declared in 2008-2009), that the EKA program does not cover all regions (only 921 out of 1549 municipalities received support in 2010) and reports that funding for the programme decreased in 2010.

34. **The Committee recommends that the State party continue and intensify its efforts in ensuring free and compulsory birth registration for all children, including through use of mobile registration centres, and to raise public awareness about the importance of birth registration. To achieve this objective, the State party should allocate adequate human, technical and financial resources to ensure easy access to registration by population in rural as well as urban areas.**

Freedom of expression and access to appropriate information

35. The Committee notes with concern reports of infringements on freedom of expression including attacks on journalists and closing down of media outlets in conjunction with information that the population of Madagascar, in particularly its children, have very limited access to information through media.

36. **The Committee recommends that the State party take all available measures to ensure the respect for freedom of expression, despite the current political crisis, and ensure that children have access to appropriate information, inter alia by providing greater access to newspapers, libraries, radio and television, and to ensure that children are protected from harmful information. The Committee also urges the State party to ensure that children have the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.**

Corporal punishment

37. The Committee notes that although corporal punishment is prohibited in schools, it remains lawful in the home and in alternative care settings. The Committee regrets that the State party report provides limited information on corporal punishment.

38. **Taking due note of the Committee's General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee recommends that the State party:**

(a) **Consider enacting legislation to explicitly prohibit corporal punishment of children in all settings, including within the family and in alternative care settings;**

(b) **Ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible of violence against children; and**

(c) **Introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and education as alternative forms of discipline.**

E. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)

Family environment

39. The Committee welcomes the efforts of the State party and traditional authorities in providing parental guidance to families in vulnerable situations. The Committee notes the negative effects of poverty on the family structure and that parents of families living in extreme poverty often place their child in an institution. The Committee notes with concern that the strategy for preventing Abandonment, Deinstitutionalization and Community based Care of the Child drafted in 2010 has only been validated at the technical level and lack sufficient resources for its implementation.

40. **The Committee recommends that the State party:**

(a) **Continue and strengthen its support to families in vulnerable situations, in particular single-parent families and families living in extreme poverty through systematic, long-term policies and programs to ensure access to social services and sustainable income opportunities;**

(b) Ensure adequate funding and implementation of the Strategy on the prevention of Abandonment, Deinstitutionalization and Community Care of Children;

(c) Ratify the Convention on the Recognition and Enforcement of Decisions relating to the Maintenance Obligations, the Convention on the Law Applicable to Maintenance Obligations, and the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children.

Children deprived of a family environment

41. The Committee welcomes that the Law No. 2007-023 (2007) on the rights and protection of children provides that children may only be separated from their parents by judicial decision, based on their best interests, when their safety, health and care are compromised. The Committee is however concerned about the lack of monitoring of institutions or foster care by the relevant authorities, that limited sanctions are enforced in case of irregularities and that those placements are rarely subject to review leading children to remain in institution until reaching adulthood.

42. **The Committee recommends that the State party ensure that institutions and foster placements are monitored and reviewed systematically and that irregularities are investigated and lead to appropriate changes or sanctions. In particular, the Committee encourages the State party to ensure that placements in alternative care are subject to periodic reviews. The Committee recommends that the State party ensure that the relevant Governmental institutions have sufficient human, technical and financial resources to carry out this mandate. In implementing these recommendations, the Committee encourages the State party to take into account the Guidelines for the Alternative Care of Children annexed to the United Nations General Assembly resolution 64/142 of 20 December 2009.**

Adoption

43. The Committee notes with serious concern the prevalence of illegal international adoption in the State party. The Committee takes note of new legislation on criminalising illegal adoption (Act No. 2005-014 of 7 September 2005 and Decree No. 2006-596 of 10 August 2006) and that a number of cases have been investigated and prosecuted. However, the Committee notes with concern that the Authority for Adoption in Madagascar has limited human, technical and financial resources and that low level of birth registration and high level of poverty facilitate and provide incentives for illegal adoptions.

44. **The Committee recommends that the State party:**

(a) Take all available measures to prevent illegal adoption through relevant policies and programs, awareness raising activities and through implementing relevant legislation including investigating and prosecution of relevant cases;

(b) Take all available measures to address root causes, including providing support to families vulnerable to engage in illegal adoption; and

(c) Strengthen the Central Authority for Adoption in Madagascar, including by providing it with sufficient human, technical and financial resources to fulfil its mandate and to monitor and investigate cases of illegal adoption.

Violence against children, including abuse and neglect of children

45. The Committee notes with concern the high level of domestic violence in the State party including sexual violence, affecting in particular women and girls, which appear to be

socially tolerated. The Committee is seriously concerned at reports on sexual abuse of children, which remain without investigation, sanction or reparation. The Committee notes with concern the absence of a child protection policy, and that the State party has not set a legal age for sexual consent. While the Committee welcomes the establishment of phone helplines, the Committee is concerned that such services are not accessible for children in all regions.

46. The Committee urges the State party to take all necessary measures to combat violence and abuse of women and children, including through:

- (a) **Implementing existing legislation and ensuring investigation and prosecution;**
- (b) **Establishing a minimum age for sexual consent;**
- (c) **Strengthening the capacities of relevant government institutions ensuring the law enforcement officers are trained in working with child victims of violence and abuse;**
- (d) **Expanding the phone helpline services to all regions;**
- (e) **Strengthening community-based mutual help groups to address psychosocial and economic challenges (for example parenting and micro-credit groups);**
- (f) **Strengthen welfare programmes to support families' standard of living including direct allowances to children at a certain age; counselling support to caregivers having difficulties with employment, housing and/or childrearing; therapeutic programmes to assist caregivers with domestic violence, addictions to alcohol or drugs or with other mental health needs (including mutual help groups);**
- (g) **Raising public awareness through the media and education programmes on violence against women and children;**
- (h) **Strengthening availability and access to social and educational treatment and restorative approaches, in addition to purely punitive judicial involvement, in particular in cases of violence where perpetrators are primary caregivers; and**
- (i) **Ensuring that effective remedies are available, including compensation to victims and access to redress mechanisms and appeal or independent complaint mechanisms.**

F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)

Children with disabilities

47. The Committee is concerned about widespread discrimination against and social exclusion of children with disabilities in the State party. The Committee is particularly concerned about the situation of children with disabilities who are isolated in the home and about their particular vulnerability to abuse, including sexual abuse, and their reduced access to appropriate health care services. While welcoming efforts by the State party to facilitate access to education for children with disabilities, the Committee remains seriously concerned about the very low rate of access for education, where only 4 per cent of children with disabilities attend school.

48. The Committee recommends that the State party urgently address the high level of discrimination against children with disabilities and take all available measures to ensure that the rights of such children are realised, in line with the

Committee's general comment No. 9 (2006) on the rights of children with disabilities. In particular, the Committee recommends the State party to:

- (a) **Eradicate impunity for abuse of children with disabilities, through ensuring investigation, prosecution and appropriate sentencing of perpetrators of such abuse;**
- (b) **Expand and strengthen awareness raising activities for the community at large, aimed at combating prejudice and discrimination against children with disabilities;**
- (c) **Strengthening the monitoring of situations of children with disabilities in the home, including training social workers on detecting signs of sexual abuse, in particular in children with mental disabilities;**
- (d) **Take all available measures to improve the access to education for children with disabilities;**
- (e) **Strengthen implementation of programs and policies on inclusive education to improve the numbers of children with disabilities who have access to education;**
- (f) **Increase access to appropriate health care for children with disabilities, including providing training in relevant skills to health care workers and encouraging families to access health care services to children with disabilities; and**
- (g) **Ratify the Convention on the Rights of Persons with Disabilities.**

Health and health services

49. The Committee notes the progress in some key areas of the health sector in 2008-2009, including a decrease in child mortality and increased vaccination coverage. The Committee is however seriously concerned about the significant reduction in the national budget allocated to health services in 2009 and 2010, the closure of a number of basic health care centres, the reduction in the number of trained health care professionals employed and the limited availability of essential medicines, including antibiotics. The Committee is also particularly concerned about:

- (a) High level of maternal mortality and under-five mortality rates;
- (b) Widespread and chronic malnutrition, with 50 per cent of children under the age of 5 suffering from stunted growth, of which 24 per cent of children are under six months;
- (c) High rates of malaria among children and low rates of protection of children against malaria, including through use of insecticide treated mosquito nets;
- (d) While noting the overall low prevalence of HIV/AIDS, reports of an increase in HIV prevalence in young persons with high-risk sexual behaviour and inadequacy of mother-to-child transmission prevention; and
- (e) The decline in rates of exclusive breastfeeding within the first six months, reported as 51 per cent in 2008 as well as reports of violations of the National Code of Marketing Breast milk Substitutes through promotional activities of private companies which has implications on the incidence and prevalence of nutrition in infants.

50. **In the light of the current financial constraints, the Committee urges the State party to conduct a rapid assessment of the health system, in particular at the community level, to urgently review its functioning and ensure that priority areas, including maternal and infant mortality reduction activities, have secure and**

consistent funding. In this respect, the Committee reiterates the obligation of Article 4 of the Convention requiring the State party to ensure the allocation of funds to the maximum extent of available resources. The Committee also urges the State party to:

(a) Strengthen social and financial support to children at risk of malnutrition and improve the systems to monitor child growth at community level and undertake relevant nutrition interventions through basic health centres in order to detect and address acute and chronic malnutrition;

(b) Expand and strengthen preventive programs against malaria with a particular focus on protecting mothers and children;

(c) Strengthen programs to prevent and treat HIV/AIDS with a particular focus on adolescents and prevention of mother-to-child transmission;

(d) Ensure access to adequate maternity health-care services and access to emergency obstetric care to all pregnant women, particularly those living in rural and remote areas and ensure that such centres are provided with adequate human, technical and financial resources; and

(e) Take all efforts to increase the rates of exclusive breastfeeding in the first six months and ensure enforcement and monitoring of violations of the National Code of Marketing Breast milk Substitutes.

Adolescent health

51. The Committee notes with concern reports that the current political crisis and subsequent weakening of societal and institutional frameworks have led to an increase in the use of drugs and alcohol as well as high-risk sexual activities among adolescents. The Committee is further concerned about high level of teenage pregnancies and low level of contraceptive use. The Committee notes the lack of information on a comprehensive protective system, including social and educational measures, for adolescents who find themselves in such difficult circumstances.

52. **The Committee recommends that the State party conduct an assessment of high risk behaviours in adolescents and take appropriate measures to address such problems. The Committee further recommends that the State party continue and strengthen efforts to ensure access to family planning and sexual and reproductive health services and improve sexual and reproductive health education in all schools. The Committee recommends that the State party consider establishing a comprehensive protective system for adolescents, including social and educational measures such as after-school care programs; child and youth groups and clubs on sport, cultural, artistic, recreational, leisure including volunteer activity available for children and counselling support to children experiencing difficulties (including self-harm).**

Harmful practices

53. The Committee notes with deep concern the continuing prevalence of harmful practices including discrimination and abandonment of twins and forced marriage (moletry). While welcoming that the State party has increased the minimum age of marriage to 18 years, and facilitated registration of traditional marriages into the formal legal system, the Committee is concerned that early traditional marriages still occur. The Committee also notes with concern that a number of traditional festivities seem to result in an increase in children that have been subjected to rape and sexual abuse.

54. **The Committee recommends that the State party strengthen all measures to address harmful practices, including through working with traditional leaders and**

community based organisations to raise awareness of the harmful effects of these practises as well as pursue investigation and prosecutions of persons responsible for violations of children's rights through such practises.

Adequate standard of living

55. The Committee notes with deep concern that 84.5 per cent of children under the age of five years are in a situation of poverty and 9 per cent of children under five years live in extreme poverty, as highlighted in the report of the Special Rapporteur on the Right to Food's mission to Madagascar in July 2011 (A/HRC/19/59/Add.4, para. 3). The Committee is also concerned that about 50 per cent of the population of the State party has no access to clean drinking water and adequate sanitation facilities, especially in rural areas.

56. The Committee urges the State party to take immediate and effective measures to ensure the right to an adequate standard of living for children and to provide parents and families, especially in rural areas, material assistance and support programmes, particularly with regard to nutrition, clothing, housing and access to clean drinking water. In this regard, the Committee encourages the State party to consider the recommendations by the Special Rapporteur on the Right to Food (A/HRC/19/59/Add.4). The Committee encourages the State party to seek the technical and financial assistance of, amongst others, the United Nations offices, agencies and programs.

G. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

57. The Committee notes that an extensive program of educational reform was adopted in 2006 but was interrupted due to the crisis. The Committee is concerned about low level of attendance, high rates of drop-out, in particular of girls, resulting in a 66 per cent completion rate of primary school. The Committee is further concerned about the limited availability of early childhood education. The Committee is also concerned about recent reduction in budgetary provisions for education, and that schools have been forced to request parents for fees which led to a significant drop-out of students, in particular those living in vulnerable situations.

58. The Committee recommends that the State party allocate sufficient financial resources to the school system, including early childhood education, to enable all children, in particular the most vulnerable, to have access to education. The Committee urges the State party to revive the educational reform and intensify such programs as a matter of priority.

H. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)

Economic exploitation, including child labour

59. The Committee notes with concern that a high level of children, including children as young as five years, are economically active, particularly in domestic service, agriculture and mining industry. While noting that programs and policies have been adopted by the State party to combat child labour, the Committee notes with concern the lack of information on any investigation or prosecution of persons responsible for child labour.

60. The Committee recommends that the State party continue and intensify programs to address child labour, in particular through efficient inspection, investigation and prosecution of persons responsible and through preventative measures such as improving socio-economic conditions for children and ensuring access to education. The Committee encourages the State party to take into consideration the recommendations of the Committee on Economic, Social and Cultural Rights (E/C.12/MDG/CO/2., para. 21) as well as observations and requests by the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Office (ILO). The Committee requests the State party to include in its next periodic report information on such efforts.

Sexual exploitation

61. While recognizing that the State party has adopted relevant legislation to prevent and prohibit sexual exploitation, the Committee notes with serious concern that child prostitution and sex-tourism are on the rise in the State party, orphans being particularly vulnerable in this regard. As recognised in the State party report (CRC/C/MDG/3-4, para 787), a quarter of children aged 6 to 17 who were working in Antsiranana in 2006 were victims of sexual exploitation. The Committee notes with concern the low number of investigations and prosecutions on child prostitution. The Committee is further concerned about reports that child sexual exploitation are widely accepted by parents, friends and communities and that this is related to the financial gains for poor families.

62. The Committee recommends that the State party:

(a) **Enforce existing legislation and policies on sexual exploitation, in particular Law No 2007-038 (2008) amending and supplementing certain provisions of the Penal Code combatting trafficking in persons and sex tourism;**

(b) **Intensify efforts to investigate and prosecute cases of sexual exploitation, including child prostitution;**

(c) **Strengthen its programs to create awareness of the prohibition of sexual exploitation, including prostitution, of children, in particular amongst children in vulnerable situations and professionals, including teachers, working with such children;**

(d) **Ensure that victims of sexual exploitation are provided with special protective measures to prevent victimization and re-victimization, particularly in the justice system;**

(e) **Intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, essential to prepare a comprehensive response to combat the problems concerned;**

(f) **Submit its initial report under the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography due since 2006; and**

(g) **Ensure that programmes and policies for the prevention, recovery and reintegration of child victims are in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congress against Commercial Sexual Exploitation of Children held in Stockholm, Yokohama and Rio de Janeiro.**

Trafficking of children

63. The Committee is greatly concerned at high level of trafficking in persons, including children, from Madagascar to the neighbouring countries and the Middle East for purposes of domestic servitude and sexual exploitation. The Committee is concerned at

trafficking for sexual exploitation and illegal adoption. While the Committee notes that a Law on Anti-trafficking was adopted in 2008, it is concerned that the law is not sufficiently implemented and in particular that the law has not resulted in any known convictions to date.

64. **The Committee urges the State party to:**

(a) **Ensure the effective implementation of relevant legislation, policy and programmes to combat trafficking in children, including timely prosecution and punishment of traffickers and the provisions of protection and support to victims;**

(b) **Adopt a comprehensive action plan to address trafficking and ensure the allocation of sufficient human and financial resources for its effective implementation, including collection of disaggregated data;**

(c) **Ensure that the judiciary, prosecutors, law enforcement, social workers and other relevant professionals receive specialised training in combatting trafficking in children;**

(d) **Strengthen awareness raising campaigns on trafficking, in particular targeting vulnerable communities where children are most at risk, including rural areas and areas of poverty;**

(e) **Ensure rehabilitation and social integration of children who have been victims of trafficking;**

(f) **Address the root cause of trafficking and exploitation by increasing its efforts to improve education for children and create employment-generating activities, in particular for women in rural and remote areas;**

(g) **Include in its next reports specific information on follow-up to these recommendations;**

(h) **Consider these recommendations together with the recommendations on trafficking of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW/C/MDG/CO/5, para. 20) and the Committee on Economic, Social and Cultural Rights (E/C.12/MDG/CO/2, para. 24).**

Administration of juvenile justice

65. The Committee notes with concern that the juvenile justice reform has not been finalised and that a draft law on the administration of juvenile justice awaits consideration by Parliament, once appointed. In particular, the Committee is concerned that:

(a) No separate jurisdiction for children has been established and that the same legal procedures are often used for adults and children;

(b) Children, in particular girls, and adults are not separated in detention facilities and prison;

(c) Judges and prosecutors lack specialized training in juvenile justice;

(d) Children are not always provided with legal assistance; and

(e) Children from age 14 are held in prisons in substandard and overcrowding conditions, without adequate food and health care being provided to them.

66. **The Committee recommends that the State party bring its juvenile justice system fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the**

Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's General comment No. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10). In particular, the Committee urges the State party to:

- (a) To establish special jurisdiction for children, including child-friendly courts and other procedures;
- (b) Ensure that children and adults are separated in prison;
- (c) Ensure that the judiciary apply child-friendly procedures to protect and respect the best interest of the child;
- (d) Ensure that judiciary, prosecutors and other relevant professionals received systematic and specialised training in juvenile justice; and
- (e) Ensure that children in prison are provided with appropriate nutrition, health services and access to education; and
- (f) To establish a programme of reintegration of children after release from prison or institutions.

Protection of witnesses and victims of crimes

67. The Committee notes with serious concern reports of high level of corruption in the judiciary, with a negative effect on legal accountability for crimes against children. The Committee is further concerned that witnesses and victims of crimes are deterred from seeking access to justice and non-judicial complaints mechanisms due to a fear of repercussions and a limited confidence in the system.

68. The Committee recommends that the State party take urgent action to prevent, investigate and punish corruption or any other undue influence in the justice system and in non-judicial complaints processes. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, including those perpetrated by State and non-State actors, are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005). The Committee further recommends that children who are victims of crimes should have effective access to redress and reparation.

I. Ratification of international human rights instruments

69. The Committee encourages the State party to accede to all core human rights instruments, including the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, Optional Protocol to the Convention on the Elimination of Discrimination against Women, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of Persons with Disabilities, Optional Protocol to the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

70. **The Committee urges the State party to fulfil its reporting obligations under the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography, the reports of which are both overdue as of 22 October 2006.**

J. Cooperation with regional and international bodies

71. The Committee recommends that the State party cooperate with the African Committee of Experts on the Rights and Welfare of Children of the African Union towards the implementation of the Convention and other human rights instruments, both in the State party and in other African Union member States.

K. Follow-up and dissemination

72. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Head of State, Parliament, relevant ministries, the Supreme Court, and to local authorities for appropriate consideration and further action.

73. The Committee further recommends that the third and fourth periodic report and written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and its Optional Protocols and of their implementation and monitoring.

L. Next report

74. The Committee invites the State party to submit its next fifth and sixth combined periodic report by 17 April 2018 and to include in it information on the implementation of the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the reporting guidelines. In the event a report exceeding the page limitations is submitted, the State party will be asked to review and eventually resubmit the report in accordance with the abovementioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination of the treaty body cannot be guaranteed.

75. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).
