



ngo group for the crc

STATE PARTY EXAMINATION OF MADAGASCAR'S 3RD AND 4TH PERIODIC REPORTS

59th SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
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Madagascar ratified the Convention on the Rights of the Child (the Convention) on 19 March 1991. On 20 January 2012, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic reports of Madagascar. It was last examined in September 2003.

Opening Comments

The delegation was led by Mr. Rakotomaharo Rajemison, Ambassador of Madagascar to the United Nations Office in Geneva. He was supported by a delegation consisting of representatives of the Inter-ministerial Committee of Human Rights Reports Drafting, the Ministry of Justice, the Ministry of Health, the Ministry of Population and Social Affairs and the Permanent Representation of Madagascar to the United Nations Office and other international Organisations in Geneva.

Mr. Rajemison expressed the hope that the present meeting be a constructive dialogue in order to find ways and means to improve children's rights in Madagascar through an interactive approach. He explained that the present State reports had been prepared by an inter-ministerial Committee in association with representatives of the civil society. He recognised that the reports had been submitted with delay but that Madagascar intended to continue its efforts and would draft the reports on the two optional protocols to the Convention in due course. He recalled that since the submission of the last report, Madagascar had undergone two significant crises, in 2002 and 2009, but assured the Committee that the organisation of free democratic elections would put an end to the crises and that the State remained committed to the fulfilment of children's rights.

Mr. Rajemison reported that while improvements had been achieved in areas such as health and education, some difficulties had been encountered. He reaffirmed the intention of the government to improve the implementation of the Convention. He also recalled that Madagascar

had ratified the Convention and its two protocols as well as the United Nations Convention against Transnational Organised Crime in order to prevent and prosecute trafficking offences. He indicated that the Malagasy Constitution enshrined the primacy of international conventions over domestic law and that the Convention could therefore be invoked in courts.

Mr. Rajemison reported that Madagascar had harmonised its domestic law with human rights standards and had taken a number of changes in its laws, especially in order to eradicate discrimination. He asserted that the law issued in 2007 on the Rights and Protection of Children enabled the implementation of the Convention. He also mentioned the 2005 law pertaining to adoption that criminalised trafficking of children for adoption purposes and the new law that raised the minimum age of marriage to 18 for both boys and girls. He indicated that the phenomenon of early marriage was still on-going and explained that the courts could authorise early marriages when necessary, for instance when a girl became pregnant. Furthermore, it was now a criminalised offence not only to perpetrate acts of sex tourism but also not to report cases. He added the infant mortality rate had decreased by half to reach the rate of 48 for every 1,000 live births. The prevalence of malaria had also decreased.

Mr. Rajemison mentioned the Education for All Plan and added that the budget allocated to education had increased to reach 20 per cent of the State's budget in 2009 but had been reduced to 18 per cent in 2011. He also reported that school enrolment rates had risen to 41 per cent. Mr. Rajemison indicated that the fight against child labour in partnership with the International Labour Organisation had resulted in the removal of 20,000 children from work places and that these children had been integrated into the education system. Concerning the issue of justice, cases of violations of children's rights could be brought before the courts and each jurisdiction had a section for children with specially trained judges and lawyers. Efforts had been made to increase the number of courts and an Office for Juvenile Judicial Assistance would be opened in 2012. Mr. Rajemison added that Madagascar had a National Human Rights Council, an Office for Mediation and legal clinics, which were accessible to children. He also indicated that the police and judicial system were only involved in cases as a last resort.

Mr. Rajemison recalled that the country was still facing many challenges, reinforced by the considerable needs induced by its large territory and population. He recognised that difficulties had arisen in the areas of juvenile justice, neo-natal mortality, trafficking and enrolment at school in rural areas and that there were not enough structures to take care of disabled children.. He also recognised that Madagascar received technical and financial support from the United Nations but that it had been suspended after the political crisis of 2009.

Mr. Rajemison affirmed that the country would use recommendations from treaty bodies as a basis for a plan of action but noted that Madagascar would need the help of external actors to implement these actions. Concerning the issue of violence, he indicated that the government had already established a judicial bureau for low-income individuals to bring their cases to justice and that a legal care service for women and children victims of violence had also been created. He mentioned that an awareness campaign using audio-visual support had been launched to encourage people to report their cases to the relevant structures. He added that the State was aware of the need to collect data and to improve the situation of juvenile justice and that the Ministry of Justice had invited all heads of police and judiciary schools to include the teaching of human rights in their curriculum.

Ms Al-Asmar, one of the Country Rapporteurs, thanked Mr. Rajemison for his speech. She indicated that the Committee was conscious of the political situation of the country, which affected its stability and the implementation of children's rights policies. She added that the condition of the population, which had already been a cause for concern before the crisis, had worsened since. She reported that the poverty rate had risen, affecting families and therefore children. She expressed her concerns about the absence of governance and respect for the rule of law since the collapse of the apparatus, about the lack of independent judicial system, and the profound lack of coordination of laws and policies targeting children between the different regions of the country. She also noted the lack of a comprehensive plan for the implementation of the Convention, the reduction of the education and health budgets and the rise of sexual violence, illegal labour and other forms of exploitation of children.

Mr. Gastaud, the second Country Rapporteur, recalled that the high number of children in Madagascar gave particular importance to the effective and proper implementation of the Convention and to the assessment of its implementation. He indicated that there was a significant difference between the information provided by the State and the recent information received. He also considered that the strategies detailed in the State report were too vague and did not include enough details. He recognised that the improvement of the situation of children before the crisis was a positive element, especially the increase in life expectancy, the rate of school enrolment and the fight against forced child labour. In addition, he indicated that the political crisis had weakened public authorities and structures. He added that most of the legislative development measures taken in 2005, 2007 and 2008 had not been implemented and that perpetrators of offences had not been punished. He considered that there were many problems in the legal sphere, particularly with regards to the right to life, violence against children, and data collection on birth registration and that the gap was significant between cities and rural areas concerning education and health.

General Measures of Implementation

Legislation

The delegation indicated that the Convention had been transposed into domestic law through the new Law on Rights and Protection of Children. The Committee noted that in the legal system of Madagascar, international conventions were superior to domestic law but observed that there was no concrete case where judges had directly invoked the Convention. It acknowledged that in a few cases, the Convention on the Elimination of All Forms of Discrimination against Women had been applied, but had not found any cases that had cited the Convention and asked for more detail on this issue. The delegation admitted that there was no case law applying the Convention but indicated that thanks to UNICEF, some training on the domestic application of international conventions had been provided to professionals involved in children's rights. It assured the Committee that Madagascar was developing a strategy and would try to apply international conventions directly in courts.

Monitoring

The Committee noted the existence of a National Human Rights Council and asked what steps would need to be taken for it to become operational. The delegation answered that this body consisted partly of members of Parliament which had not yet been elected due to the political

crisis. It assured the Committee that when the Parliament was elected, the National Human Rights Council would become operational. The Committee asked for more details about the composition of this Council, especially whether there would be a child-specific department within the structure. The delegation answered that the council was composed of various persons, including academics, journalists and members of the civil society, as well as some members of the Parliament. The delegation recognised that there was no independent body for child rights but that the government envisaged creating such a body. It indicated that the National Human Rights Council could receive complaints regarding children's rights violation.

The Committee asked about the mandate of the Ombudsman's Office. The delegation indicated that this body dealt mainly with complaints from adults concerning administrative problems. The Committee pointed out that children were also engaged with the administrative justice system and that a complaint mechanism should be accessible to them.

Dissemination and Training

The delegation indicated that the government was making efforts to inform the population about the existence and the content of the Convention. It stated that awareness-raising among the general public was necessary so that children could bring cases of violations of their rights before courts. The Committee explained that all professionals should receive clear information on the Convention so that the text would have a clear impact on the judiciary. It indicated that other professionals such as social workers, police officers and all professionals involved in children's rights issues should receive training, and that this training should also be included in the university basic level of education. The Committee also pointed out that the lack of cases of violations of children's right was not only due to the lack of awareness about legal texts but also to the fear of retaliation; it stated that the State should also target this issue.

The Committee emphasised the need for the principle of the best interest of the child to be well known and applied by the judiciary and asked what measures had been taken to train professionals on the Convention. The delegation explained that a mixed training of professionals had been organised and that judges, lawyers and police officers were trained together in accordance with the provisions of the Convention. It stressed that this training had been aimed at officers of all levels and not only senior officers.

The Committee stated that, to its knowledge, the Convention had not been actively promoted in society and that children were largely unaware of their rights and could therefore not access them as easily. It asked the delegation whether it had any plans to improve the situation. The delegation indicated that the Convention had been translated into the national languages, and the text had been disseminated to the relevant authorities. It added that 'open door' sessions had been organised to discuss the meaning of the provisions of the Convention. The Committee advised the State to ensure that all professionals involved in children's rights were informed about the Convention.

General Principles

Non-Discrimination

The Committee noted that despite its prohibition in the legislation, discrimination was still ongoing, for instance toward descendants of slaves or people belonging to the Indian minority, and asked the State what measures it intended to take to solve this issue. The delegation answered that there were some descendants of slaves in the country, since Madagascar had been a country of destination for slavery, and that slaves had been used in agriculture. It assured the Committee that there was no specific problem of discrimination toward them. The delegation indicated that the main problem was poverty which affected all ethnic groups. The delegation admitted that there had been some attacks against the members of the Indian community but that an operation had been conducted to put an end to such practices and that it was now no longer an issue. The Committee observed that the State had accepted a recent UPR Recommendation to put an end to racial discrimination and assumed therefore that this was still an issue within the country. The delegation admitted that the implementation of this recommendation was taking place to put an end to discrimination.

The Committee stated that discrimination against twins, girls and disabled children reportedly still occurred in practice and asked for details on this issue, recalling that twins were not accepted within some communities. The delegation recognised that there were instances of harmful discrimination towards twins. It indicated that measures had been taken to combat this practice in order to convince community leaders to put an end to this form of discrimination. It reported that some improvements had been observed since parents of twins were now allowed to keep them in the family. However, these families typically did not receive the blessing from the community leaders and would not benefit from the support of the community. In some communities, the word “twin” was not permitted to be spoken aloud. The delegation insisted on the fact it had been possible to discuss the issue with community leaders in the last few years, with the support of UNICEF.

The Committee asked what measures had been taken address de facto discrimination towards children born out of wedlock and disabled children. The delegation indicated that the government would raise awareness about the Convention and explain to the population that children born out of wedlock should be treated equally by the law. It explained that those children had the same rights as other children although in fact they did have a different status and did not have the same inheritance rights as children born to married parents. It concluded that the government would bear in mind the need to change the law and establish the equality of treatment.

Concerning the treatment of disabled children, the delegation stated that even though Madagascar had not ratified the Convention on the Rights of Persons with Disabilities, there was a national law against discrimination toward disabled people, who had the same rights to education, health and to be involved in public activities. He reported that a case about a teacher that had been denied a position because of his disability was under review by the administrative court (‘Conseil d’Etat’). However, it added that while such a decision could be removed, the act of discrimination was not criminalised.

Identity and Nationality

The Committee asked about the reform of the law on nationality since the current law established a difference between the ability of the father and of the mother to transmit nationality. For

example, the child born to a foreign father and a Malagasy mother did not have a right to Malagasy nationality. The delegation answered that a bill on nationality law had been drafted but that the process was taking a long time since an extended consultation was needed. Its adoption had been delayed since the Parliament had not yet been elected. The delegation affirmed that this law would remove obstacles for children to access nationality even when parents were not married or when the father was foreign.

The Committee observed that the birth registration process was very slow and asked about measures that would be taken to accelerate it. The delegation indicated that a plan for registration had started in 2004 but that some regions were still not covered by statistics. To accelerate the process, authorities had issued a text, authorising leaders of regions to substitute for magistrates. The delegation also stated that a database had been established in cooperation with the National Institute of Statistics to ensure that there was no discrimination or inequality within the system. The Committee insisted on the fact that, eight years after the beginning of the programme, many people were still not registered. The delegation admitted that a lot of communes were not covered yet by the system but that a strategy had been established, including the distribution of books to the persons in charge of the registration and that this formality had to take place within 12 days after the birth. It added that some collective and retroactive registration had taken place, especially when non-registered parents were coming to register their child; he said that sometimes, the officer carried out civil marriage to register the parents and then continued with the registration of the child. It indicated that these registrations were unfortunately only carried out in the capital of the country. The delegation also pointed out that culture could impede the registration process since very often, parents preferred to wait for more than a week to register the child, which resulted in a long period of time between the real date of birth and the registration. He added that children born in hospitals were registered systematically.

The Committee asked about the system used to estimate the age of a non-registered person or a child to issue a retroactive birth certificate or to ensure that children were not working under the legal age. The delegation recognised that this issue was difficult and informed the Committee that it proceeded by physical examination. The Committee observed that this was an expensive method and that it would be more cost-effective to implement a systematic birth registration system. The delegation recognised that it was an expensive system and that in some areas it was not possible to assess the age of working children. It also recognised that there was no use of advanced technology to determine the age of children but that registrars were rather relying on the parents' memories. It assured the Committee that the new measure of delegation of registration to local leaders would improve this issue.

Civil Rights and Freedoms

Child Abuse

The Committee asked about the situation of corporal punishment and abuse of children. The delegation stated that corporal punishment was prohibited in schools and added that some teachers had been taken to court and brought to trial for violations of that law. It admitted that the problem of corporal punishment at home was ongoing, since parents still believed that

physical punishment was the best way to educate children. The delegation indicated that parents showed a very strong resistance to stop corporal punishment towards their children.

The delegation also indicated that a National Committee for Coordination on Child Protection, consisting of a system of cooperation between the various actors in the field of child protection, coordinated activities between communes and districts. It added that hundreds of community networks worked to combat abuse of children. The delegation reported that measures were divided in two stages: the prevention stage, including awareness raising and promotion of rights; and the protection stage in cases of abuse. The delegation indicated that measures were taken to facilitate the care of child victims of abuse. It explained that social support was provided to parents, as well as steps to prosecute perpetrators for their acts. The delegation added that the implementation of these networks was progressive.

The delegation also mentioned that there was a free telephone assistance service, number 147, to report cases of abuse. It explained that the calls were received at the police station and were answered by specially trained police officers. It added that this line was dedicated to children and received around 5,000 calls every year.

The Committee asked for more information about the legal clinics. The delegation explained that legal clinics were places dedicated to the protection of human rights in low-income communities including children's rights, which could receive complaints and take action to reconcile the parties when the case did not require the opening of a court case. He indicated that those legal clinics were responsible to raise awareness about human rights and had the mandate to provide assistance to victims. The delegation added that the project of supporting those clinics by offering medical assistance to women and child victims of abuse was being considered. It informed the Committee that there were now nine legal clinics in the country and that their number and mandate would be extended not only to human rights violations but also to other sectors. The delegation also mentioned that these clinics were free of charge, confidential and were targeting friendly settlements. Giving an example, it explained that in the case of a mother abandoned by the father of the child, an agreement could be found with the family of the father to ensure the education and access to health of the child. The delegation concluded that these structures were a protection mechanism within the community, helping and guiding people to take their cases to the relevant structures.

The Committee asked the delegation whether perpetrators of abuse could be punished or whether there were instances where judges accepted bribes to avoid penalisation. The delegation answered that there was no corruption in the judicial system and that the implementation of laws had been successful. It admitted that there were cases where the decision taken by a judge were difficult to understand and conceded that this could be the result of corruption. It added that such cases received strong reactions from the media usually conveying a presumption of guilt, whereas the real content of the case might decide on the innocence of the suspect. It explained that when a suspect was released in those cases, the population would think that justice had not been served, even if the release could be legally justified.

Sexual Exploitation

The Committee asked about the particular case of a foreign national employed in a private international firm in Madagascar who had been accused of sexual exploitation of minors. The delegation indicated that the procedure against the individual was still at the initial stage of investigation and that it was therefore not possible to give more information about the case. It reasserted that the law of Madagascar applied to the members of foreign companies involved in sexual exploitation thanks to the territorial dimension of the law.

The Committee also asked whether there was a minimum age for consent to sexual relations in the legislation of Madagascar. The delegation stated that sexual activity under the age of 15 was dealt with as an aggravating circumstance considered in relation to another crime, but that the law did not provide a precise age for consent to sexual relationship.

The Committee expressed its concern about the high number of children between the age of 12 and 18 that had been subjected to child prostitution and asked about the measures taken to remedy this issue. The Committee also asked about the situation of sex tourism involving children and teenagers and measures taken by the government to put an end to this situation. The delegation answered that a law criminalising trafficking, sale of children and use of children in pornographic films had been issued. It added that it could not be denied that sex tourism and prostitution existed, especially in the north and the south of the country. It reported that there had been five or six cases of prosecution for sex tourism, mainly for paying for intercourse with minors, but admitted that most cases of child prostitution were not reported. The delegation indicated that legal clinics, the police, the “gendarmerie” and courts had been supported by UNICEF, the International Labour Organisation and the United Nations Population Fund to launch a campaign to fight prostitution and to raise awareness about the consequences of the silence of families on these issues. It hoped that it could encourage families to file complaints.

The Committee asked for some explanation about the functioning of the laws on trafficking. The delegation reported that the laws on trafficking and paedophilia had already been implemented and that perpetrators had been successfully prosecuted and sentenced. It recognised that it concerned only a few persons to date but that the system was operational.

Early Marriage

The Committee acknowledged the new legislation that raised the minimum age for marriage to 18 for both boys and girls, but raised the issue of traditional marriages and asked whether those marriages could take place between people younger than 18. It also asked for an explanation on the possibility for judges to authorise early marriages in necessary cases and the prevalence of such authorisations. The delegation recalled that tradition still had an important influence in Madagascar but that even traditional marriages had to respect the legal minimum age. It explained that traditional marriages also had to be registered and that registrar officers were trained to apply the law. The Committee took note of this institutionalisation of traditional marriages. Concerning court authorisations for early marriage, the delegation answered that there was a need to train judges for them to know when they could give an authorisation.

Child Labour

The Committee raised the issue of women and girls recruited to work in Middle Eastern countries as domestic workers and asked what measures were taken to ensure that there were no underage girls in those groups. The delegation answered that some women working in Lebanon had been subjected to physical and sexual abuse and that more than one hundred complaints had been filed, mostly from the parents of the girls. It added that, to ensure that the girls sent were not underage, the Ministry checked the labour contract and the birth certificate and that it had not been aware of any girls under the age of 18 being sent to Lebanon. The delegation also indicated that initiatives had been taken by the government to transfer the women back to Madagascar at the end of their contract. Moreover, it asserted that programmes through which young women were sent to Lebanon had been suspended because of several reported cases of abuse. The delegation nevertheless added that no generalisation should be made and that most of the women working in Lebanon were not abused or ill-treated and wished to stay there to benefit from a higher salary.

The Committee raised concerns about the prevalence of child labour in general, observing that, even though 20,000 children had been removed from work places, a study carried out in 2007 showed that most of the 5 million children in Madagascar were working. The delegation indicated that a National Plan of Action to Combat Child Labour had been established as well as a programme set up in partnership with the International Labour Organisation and the Ministry of Education in 2007 and that a survey had been conducted to obtain data on the issue. In addition, the delegation informed the Committee that a national committee had been set up to combat child labour, including regional committees. The delegation explained that these committees consisted of private and State actors, associations and non-governmental organisations and that it established a plan of action every year to coordinate activities in combating child labour.

The Committee observed that even though the legal age limit to work in Madagascar was 15, in accordance with the International Labour Organisation conventions, in practice, a considerable proportion of younger children were working. The Committee asked what measures had been taken to improve the education of children since children dropping -out of school were more likely to end up in child labour. The delegation admitted that 20 per cent of children from 5 to 17 years old were involved in economic activities. It reported that several programmes and activities to fight child labour had been set up to reintegrate them into schools.

The Committee observed that one of the problems was the lack of labour inspectors to monitor informal workplaces such as agriculture or domestic labour. It asked the delegation whether inspectors had the capacity and the means to inspect all workplaces. The delegation answered that there were labour inspectors mandated to carry out inspections and to sometimes visit domestic work places, for instance to verify information with a warrant; however, the State recognised that inspections were mainly carried out in official workplaces. It added that there had been cases of prosecution for employing children, but the delegation did not know whether these cases had resulted in sentencing. The Committee stated that these prosecutions without sentencing might not be a sufficient deterrent.

Family Environment and Alternative Care

Adoption

The Committee asked the delegation to clarify the information in the State report about the increase in international adoptions. It stated that this trend could open the door to illegal adoption especially as a result of the low birth registration rate. The delegation indicated that Madagascar had ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption in 2004, and had passed a law on adoption in 2005. Furthermore, it had created a central agency which would deal with all the adoption cases. It assured the Committee that there was no further risk of trafficking through adoption thanks to the new law and the central agency. The delegation admitted that the birth registration rate was low but did not consider it to be an incentive for illegal adoption since the central authority reviewed every case of adoption in a very detailed manner to ensure that there was no case of trafficking involved. The delegation added that the country was receiving complaints from foreign countries on the duration of the adoption procedure, but that authorities needed to investigate to ensure that the child would not be trafficked. The Committee recalled that there was the possibility of trafficking when the case was not submitted to the agency. The delegation answered that in that case, no certificate would be issued and that the new parents and the adopted child would not be able to leave the country or be recognised as parents in their country. The Committee indicated that the issue of trafficking within the country should be addressed.

Basic Health and Welfare

Children with disabilities

The Committee asked what the barriers preventing disabled children to access school were. The delegation asserted that the right to education of disabled children was guaranteed by law and that an inclusive education approach was preferred, depending on the severity of a child's disability. The delegation indicated that satisfying the needs of disabled children required considerable resources and the support of non-governmental partners. It added that these children might need to be placed in specialised education centres. It informed the Committee that 11 specialised centres for disabled children existed, including one public establishment and 10 private ones.

The delegation explained that measures had been taken to address discrimination towards children with a disability, at school, through the organisation of awareness-raising activities. The Committee asked for more information about the education of disabled children outside the two main cities of the country, recalling that no inclusive education was apparently taking place outside the capital. The delegation answered that measures had been taken to remedy the situation but that it was not able to provide to the Committee precise information on the situation in rural areas.

The Committee observed that there was information on the particular vulnerability of disabled children to sexual abuse and that families usually chose to deal with the problem within the family because of the fear of negative reprisals. The delegation stated that it was taking note of that fact.

Health services

The Committee noted the high infant and maternal rates, as well as the decrease in immunisation, the rise of malnutrition and maternal under-nutrition, the inequality in access to care and the budget cuts for the health sector. The delegation reported that the government had increased the number of community health workers and that the number of children with access to health care services had also increased. It added that various preventive health activities had been implemented, such as the Maternal and Child Week, which took place twice per year. The State had also actively promoted breastfeeding and conducted activities to combat HIV and AIDS, as well as planning for better nutrition.

The Committee stressed that the importance of implementing comprehensive health services for children. While the number of child deaths had been reduced, neo-natal mortality still amounted to half of the infant mortality rate. The delegation stated that the budget for the health sector had been reduced but indicated that activities had still continued despite the crisis and that the government was still working with UNICEF and the World Health Organisation to address health issues. It recognised that the vaccination objectives had not been reached but indicated that there was a high political commitment to have sustainable funds to deal with these issues and that a law on vaccination would be passed. It admitted that some health centres had been closed because of the financial crisis but recalled that the State was now recruiting health workers to solve this problem. It stated that, with the support of UNICEF and the United Nations Population Fund, some centres had been reopened and efforts had been made to provide access to health services for all people coming from rural areas to the cities, as well as for people leaving in remote areas. It added that strategies would be implemented to stop the rise of maternal mortality.

Sexual and reproductive health

The Committee asked about access to free and confidential sexual and reproductive health services for adolescents, and about measures taken to protect teenage mothers and their children. The delegation indicated that there were programmes to combat early pregnancy throughout the country and that a national policy for reproductive health and a national youth policy had been issued. It explained that there were 45 centres for young people that offered reproductive health services in the country. It added that awareness-raising programmes had been carried out in the capital and in rural areas, to promote this right of youth to access such health services. The delegation added that some regions were not yet involved in this process but that efforts had been made by the government and non-governmental organisations to share information with adolescents to prevent early pregnancies and to raise awareness about the consequences of early marriage.

The Committee asked about services available for teenage girls living in rural areas that needed advice on contraception. The delegation answered that all community health centres included free family planning services where girls could receive assistance. It added that even though this activity was well implemented, it was difficult to reach a perfect situation since customs were different according to the regions and admitted that a lot remained to be done in the area of awareness-raising. It assured the Committee that surveys were carried out by the National Statistics Institute to redirect strategies and elaborate new programmes.

Breastfeeding

The Committee asked about measures taken to encourage breastfeeding since its rate was still quite low and the level of children malnutrition significant. The delegation stated that the promotion of breastfeeding was an integral part of the activities of community health centres. It explained that the main obstacle to breastfeeding was the work commitments of mothers who could not always breastfeed for the recommended six months. The government had initiated some projects to create baby-friendly work centres where mothers could take care of their babies during work hours.

The Committee expressed its concerns about sponsorship of the Paediatric Association by breast milk substitute companies such as Nestlé. The Committee recalled that under the International Code on the Marketing of Breastmilk Substitutes, these companies should not be permitted to actively promote their products and asked the delegation whether it would ensure that these companies did not have contact with doctors or paediatricians. The delegation informed the Committee that a law regulating the marketing of breast milk substitutes had been issued in 2011 under which this type of sponsorship would be unlawful. It reasserted that the government encouraged breastfeeding for the first two years of the child's life and that it started training specialists involved in family health, to that end.

Education, Leisure and Cultural Activities

Education

The Committee, acknowledging that the legislation of Madagascar provided for mandatory and free primary education, asked about measures taken to remedy the high school drop-out rate, as well as the lack of qualification of teachers and quality facilities, together with access and transportations issues. The delegation reported that before the financial crisis of 2009, the State had almost reached the Millennium Development Goal on universal primary education, covering almost 90 per cent of the children in the country. It recalled that significant progress had been made, especially in the distribution of school kits, to motivate parents to send their children to school. Prior to the crisis, the government had drafted a policy to add two years of school for semi-professionals, in addition to the five compulsory years, to enable children to learn and work in the family unit and to have a minimum of knowledge to survive inside or outside the family. The delegation nevertheless recognised that the current education situation was an issue since one million children did not attend school and that most of the funding allocated to education had been removed during the crisis. It indicated that a Plan of Action targeting both primary and secondary schools had been issued to encourage children to reintegrate into the school system.

The Committee expressed its concern about the quality of education children were receiving, and in that regard inquired about the situation of teachers, who were often underpaid. The delegation informed the Committee that, while teachers were paid according to their status as civil servants, parents sometimes contributed to their salaries, mostly in kind. It added that this situation was accepted by teachers and by the State as long as it enabled children to go to school. The Committee observed that this situation was problematic since children with no money would not be able to attend school, which could explain why so many children were out of school. The Committee also asked whether some incentives for parents to send their children to school would be implemented. The delegation answered that these measures were about to be taken, including specific funds for children living in remote areas but recognised that the amount of teachers

available still did not cover the whole territory and that it was the reason why many parents were also involved in teaching in the schools.

The delegation also indicated that the school enrolment of girls, especially in rural areas, was encouraged and that a plan had been established to prepare for the full development of girls as citizens and mothers. It added that the government had been able to increase the number of girls attending school through this approach.

The Committee asked whether the government had set some priority budget sectors; that is, a minimum budget specifically allocated for health and education that the State had to respect. It considered that the cuts in those budgets were alarming and could present a significant real problem to access to healthcare and school services. The delegation admitted that some ministries were dealing with budget restriction but assured that health and education were two priority sectors.

Special Protection Measures

Juvenile Justice

The Committee asked whether the age of criminal responsibility had been raised from 13 to 18 years old. The delegation noted that a bill considering the increase of the minimum age of criminal responsibility had been rejected and that it remained at thirteen.

The Committee asked about whether children were separated from adults in detention facilities and particularly whether children could receive visitors. The delegation answered that in most penitentiary establishments, concerning both preventive custody or detention following sentencing, attempts had been made to separate children from adults. However, it admitted that while boys were separated from adults, this was not yet the case for girls. It added that children could receive visitors and that this was occurring regularly.

With regards child victims of ill treatment in detention, the delegation indicated that Madagascar had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and that the text was implemented by the police and the judiciary thanks to trainings on the provisions of the text. It added that when a child had been ill-treated or tortured during custody, an investigation would take place and perpetrators would be brought to justice.

The Committee also asked whether prison guards and other professionals working in child detention centres had received specific training on working with children, or whether these were the same persons that were also working with adult detainees. The delegation recognised that the prison staff was not specifically trained to guard children and were not trained on human rights either, but that they had received general training. The delegation added that girls in detention would receive classes and vocational training to be able to work once released from prison.

Concluding Remarks

Ms Al-Asmar thanked the delegation for its answers and acknowledged that the government had had to work under difficult circumstances such as financial and political crisis. She observed that

while awareness-raising about the Convention had been carried out, the government needed structured plans, based on reliable information and with adequate resources allocated, for implementation to occur in a timely manner.

Mr Gastaud thanked the delegation for the information provided. He stated that there were issues of concern, especially in the context of the political crisis and the suspension of the Parliament, given that legislation could thus not be revised and new laws could not be adopted. He admitted that this situation was an obstacle to the full implementation of the Convention. He indicated that the financial crisis was the other obstacle impeding allocation of resources to the main sectors, but that it was the responsibility of the State to provide funding to the key areas. He added that other areas of concern were the lack of authority of the rule of law, the predominance of situations of violence against children, forced marriages, the lack of access to health care for children, as well as the lack of a complaints procedure, discrimination, impunity and detention of children with adults in prisons. He nevertheless hoped that the Committee recommendations would ensure an improvement of the situation of children in Madagascar.

Mr. Rakotomaharo Rajemison thanked the two rapporteurs for their explanations of the difficulties of implementing the Convention. He recalled that each new law should go through the Parliament for adoption and that the transition Parliament could only deal with daily issues. He thanked the Committee for providing the delegation with comments and information and hoped that the participation of Madagascar to the session had demonstrated the desire of the State to promote and protect children's rights. He considered that efforts had been made but admitted that a lot still needed to be done, with the assistance of international organisations, to ensure the rights of children in Madagascar.