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Summary record of the 40th meeting

Held at the Palais Wilson, Geneva, on Monday, 9 November 2009, at 3 p.m.

Chairperson: Mr. Marchán Romero

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The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Second periodic report of Madagascar (E/C.12/MDG/2; list of issues (E/C.12/MDG/Q/2); replies of the Government of Madagascar to the list of issues (E/C.12/MDG/Q/2/Add.1)) (continued)

1. *At the invitation of the Chairperson, the delegation of Madagascar resumed places at the Committee table.*

Articles 6 to 9 of the Covenant

2. **Ms. Andrianaivo** (Madagascar) said that, given the ethnic diversity of Malagasy society, the State encouraged the holding of inter-ethnic cultural events. The public media ensured the promotion of traditional ritual festivals, and local initiatives of that kind were encouraged.

3. **Mr. Andriamaholy** (Madagascar) said that, while Madagascar did not expect a philanthropic attitude on the part of the international community, it did want to benefit as much as other countries from its status as a full member of international organizations, with regard to receiving help to overcome its problems and support its efforts. Madagascar needed programmes to help it implement the provisions of the Covenant, as well as technical assistance to set up structures and to train instructors.

4. With regard to the United Nations system and the Office of the High Commissioner for Human Rights in particular, Madagascar planned to send a standing invitation very soon to the special procedure mandate holders. An invitation to visit Madagascar had been accepted by the Special Rapporteur on the right to food, but the mission had had to be postponed due to the difficulties the country was experiencing.

5. Cooperation programmes, which were currently being negotiated with bilateral partners, were generally set up in consultation with the latter and in strict conformity with agreed rules (with respect to reporting, evaluations, etc.).

6. **Ms. Bras Gomes** said that she had not received a reply to her request for information on a possible draft amendment to Act No. 2007-036 on agricultural investments.

7. **Mr. Rakotoniaina** (Madagascar) explained that the law on foreign investors' access to land ownership had not changed and did not permit the sale of land to foreigners. The only way in which a foreign investor could invest in land was by means of an emphyteutic lease. The transfer of land to foreigners was thus strictly controlled by law.

8. **Mr. Zhan** said he wished to know why unemployment had doubled among women from 1993 to 2001 while it had remained stable for men.

9. **Ms. Bras Gomes** endorsed Mr. Zhan's question and regretted the lack of information concerning the effects of Act No. 004/2005 on national employment policy mentioned in the State party's replies to the list of issues. Noting that the unemployment rates given were for the period 2001 to 2004, she asked the delegation to provide more up-to-date data. She also wished to know what measures had been taken to combat unemployment among young people aged 15 to 24.

10. According to the State party's periodic report, 78 per cent of the active urban population worked in the informal sector, where it was widely known that workers were

poorly protected. She wished to know what measures the State party had adopted not only with respect to labour legislation but also concerning social security.

11. Regarding the implementation of the principle of equal pay and recourse to the courts in cases where that principle was not respected, she asked the delegation to provide examples of cases where workers had taken legal action.

12. In the export processing zones, workers enjoyed less rights and faced numerous problems arising from working conditions, trade union rights, sexual harassment, etc. It seemed that the Government was preparing a bill in their favour, which took into account the views of the social partners. She asked the delegation if it could provide further information in that regard.

13. Madagascar had not ratified the International Labour Organization Convention concerning Minimum Standards of Social Security (No. 102), on the grounds in particular that ratification would entail financial costs which the country was not yet in a position to bear. She asked what financial costs were being referred to, because at least where social security was concerned contributions were paid by employees and employers.

14. Regarding the National Risk Management and Social Protection Strategy that Madagascar had adopted in 2007, she asked the delegation to explain what the strategy covered exactly and what it added in terms of coverage or benefits.

15. With regard to the National Programme for the Rehabilitation of Civil Status, which had made it possible to issue 219,000 birth certificates to children below the age of 6 through late registration procedures, it would be interesting to know what results had been achieved and whether those children and their families had become entitled to any particular benefits.

16. **Mr. Kedzia** pointed out that sexual harassment was apparently very widespread within the export processing zones: according to a study by the United Nations Population Fund (UNFPA), it affected 50 per cent of female workers in those zones. Although the Government was taking practical steps to help them, it had apparently left it to victims to bring criminal proceedings, and efforts to create awareness in the workplace ran up against the employers' refusal to cooperate. Did that mean that the State was taking no action in that regard?

17. **Mr. Schrijver** said that he would like to know how recent political events had affected trade union rights, particularly the right of trade unions to function freely and the right to strike.

18. **Mr. Abdul-Moneim**, after congratulating Madagascar on its remarkably high level of activity for a developing country, referred to the poor working conditions in the export processing zones and pointed out that, according to several reports on the new law of January 2008, workers in those zones enjoyed less rights than workers covered by the Labour Code. Moreover, the procedures for adopting and approving the law in question were contrary to article 184 of the ILO Convention concerning Tripartite Consultations to Promote the Implementation of International Labour Standards (No. 144), which Madagascar had ratified. He asked the delegation to comment.

19. **Ms. Barahona Riera** asked what programmes had been provided for women in rural areas, where the poverty rate was very high. She would also like to know more about the regulation of domestic work and what the State party was doing to combat child domestic labour. She asked about the number of labour inspectors in Madagascar and whether that number had increased. Finally, she would like more information on the current status of the new draft Labour Code.

20. **Mr. Rakotoniaina** (Madagascar), in response to the question on sexual harassment, which he said was related to the problem of labour inspection, explained that if cases were not reported the authorities were powerless to act. With more labour inspectors, the Government would be able to obtain more precise information in that respect.

21. The Act of January 2008 on export processing zones had been criticized by the social partners, and, as it considered their complaints justified, the State had not adopted an implementing decree. The law would be revised in the light of the social partners' views. Businesses in the export processing zones were, however, required to apply the rules governing the Guaranteed Minimum Inter-Occupational Wage (SMIG). Current discussions focused rather on the two controversial aspects of the law, namely women's employment and overtime.

22. A number of programmes had been set up for people in rural areas and especially for women. The programmes, which were currently in the course of implementation, aimed to encourage income-generating activities by facilitating women's access to microcredit. Some women had already seen their situation improve thanks to new handicraft work.

23. Domestic labour was regulated by the Labour Code just like other types of employment. The minimum recruitment age was 15 years, and any violation of that rule was subject to prosecution. Nevertheless, many domestic workers were unregistered and consequently did not receive any protection. The Government was aware of the problem and planned to address it.

24. Many proceedings were brought to obtain salary readjustments for work performance, and case law on the subject was abundant.

25. **Ms. Razanamahaso** (Madagascar) said that trade union rights were not fully developed in the country, but that the right to strike was recognized in the legislation. During recent political events, a widespread social movement had emerged in which workers had exercised their right to participate in strikes and to express labour claims.

26. The number of labour inspectors in Madagascar remained inadequate, even though a competitive examination had recently been organized to recruit 25 new inspectors, which would bring the total to 77. Labour inspectors played an important role, nevertheless, especially in large towns where they were in high demand and gave advice to employers as well as to social workers and employees.

27. **Ms. Andrianaivo** (Madagascar) said that, although the State party had not yet ratified ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), there was a social security system managed by the National Social-Contingency Fund (CNAPS) that covered all the usual benefits (such as sickness, job loss, disability, death or old age). That body was placed under the authority of the Ministry of Civil Service, Labour and Social Laws and the Ministry of the Economy, Finance and the Budget.

28. Sexual harassment was a criminal offence, but few cases were brought before the courts because women were generally afraid that they would suffer reprisals or lose their jobs. Regarding measures taken to help rural women, a national rural women's day was celebrated each year on 19 October with the assistance of the Food and Agriculture Organization of the United Nations (FAO), in conjunction with World Food Day. The funds collected on that occasion were allocated to rural women to help them start productive activities that contributed to their food security.

29. **Mr. Andriamaholy** (Madagascar) said that Madagascar's economy was still dominated by the informal sector, which accounted for 88.9 per cent of workers, and that one of the challenges the State currently faced was to bring that sector into the structured economy. The high unemployment among young people could be explained in part by the inappropriateness of study programmes, which were currently being adapted to ensure

compatibility with the labour market. A particular effort was being made to improve the employment situation among women, who were the primary beneficiaries of microcredit.

30. **Mr. Rakotoniaina** (Madagascar) said that issuing birth certificates to children entitled them to family benefits, education and the payment of other benefits by employers. Without a birth certificate, a child was deprived of a number of rights.

31. **Mr. Randrianandrasana** (Madagascar) said that the State party forbade the employment for domestic work of anyone under the age of 18, given that it had ratified the ILO Convention concerning Minimum Age for Admission to Employment (No. 138) and the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182). A large number of children were currently working in Madagascar – 1,873,000 according to a recent study. Of those, 1,534,000 children were engaged in harmful work. A plan of action against child labour had been in place since 2004 in collaboration with NGOs and the International Labour Office (ILO). Apart from the current prevention strategy, nearly 15,000 children had been removed from harmful employment since 2001.

32. **Ms. Barahona Riera** asked whether the new Labour Code was still in draft form or whether it had been enacted.

33. **Ms. Bras Gomes** asked how the National Risk Management and Social Protection Strategy was connected to the social security system and whether that link could be strengthened in the years to come. She also wanted to know what social security system existed for rural men and women, particularly when they were elderly, and what type of social protection was provided for domestic workers in the event of illness, unemployment, etc.

34. **The Chairperson**, speaking in his capacity as a member of the Committee, asked how social assistance programmes were provided for unregistered workers, given that the informal sector comprised a very high percentage of the population (nearly 90 per cent). Could only formal job holders claim social benefits?

35. **Ms. Razanamahaso** (Madagascar) said that Madagascar had acquired a new Labour Code in 2005, which was the one currently in force.

36. **Mr. Rakotoniaina** (Madagascar) said that the State party, given its level of economic development, did not yet have the means to extend social coverage to workers in the informal sector. Efforts had been made, however, to incorporate those workers in the formal sector, which would entitle them to benefits.

37. Currently, there were no specific social benefits for rural women. However, in Malagasy culture children had a moral obligation to support their parents in case of need. Regarding domestic workers, there were two types of situations: those who were registered benefited from social security and health insurance and were entitled to paid leave. For unregistered workers, the employer could pay for medical expenses, but that was not regulated.

Articles 10 to 12 of the Covenant

38. **Mr. Riedel** asked whether the action taken by the Directorate for the Promotion of Drinking Water, created within the Ministry of Energy and Mines, had improved the population's access to safe drinking water. Regarding sanitation, he requested information on the results of the programme set up in 2000 to improve the population's access to adequate facilities for the disposal of excrements, as well as the campaign for a change of attitudes among civil servants. What was the current situation in rural areas, where access to sanitation was still very inadequate for a high percentage of the population?

39. Regarding prisons, where there was a serious overcrowding problem and where at times up to two thirds of detainees suffered from malnutrition, he asked for information on the results of steps taken to improve the situation, for example by revitalizing certain camps where detainees were involved in agricultural work. He would also like to know more about the results of the plan of action to improve living conditions in prisons, particularly where access to health care was concerned.

40. Regarding the right to health, the State party had indicated that from 1998 to 2005, 41 per cent of children under 1 year old had not been vaccinated against measles, and 28 per cent against tuberculosis. He requested updated information in that respect. Had the situation improved, and if so, to what extent? Had the State party requested international aid, and if so, had aid been given? According to a United Nations Development Programme report, 70 per cent of the rural population did not have access to a doctor. He asked for clarification on that situation and on the measures taken by the State party to address the problem. Lastly, he asked how much of the national budget was currently allocated to health care, as the most recent figures in the State party's report dated back to 2003.

41. **Mr. Pillay** observed that, despite the plan Madagascar had adopted to combat poverty, the proportion of people living below the poverty line was still close to 70 per cent. Since there appeared to be no social aid system, he wondered how the State party assisted the poorest segments of the population and how much of the budget was allocated to combating poverty. The delegation might also indicate whether economic, social and cultural rights were included in the poverty reduction strategy, in accordance with the statement on poverty and the International Covenant on Economic, Social and Cultural Rights adopted by the Committee in 2003. Given the gaps remaining in the State party's replies to the list of issues, particularly regarding forced evictions and the effect of programmes and measures to combat poverty, he asked the State party to provide the requested information in its next periodic report.

42. **Mr. Atangana**, referring to the extension of the family by *fatidra*, which established a virtual family relationship between two otherwise unrelated persons by means of a blood bond, asked what kind of obligations that bond entailed between members of a family. He also wished to know whether any steps had been taken to strengthen criminal prosecution of acts of violence against women and domestic violence in general. If so, he would like to have data on the relevant court cases and sentences passed. Finally, regarding ill-treatment of children employed as domestic workers, the State party's reply to question 23 of the list of issues showed that there were many delays in proceedings. He asked why such delays occurred and what judgements had been pronounced in the cases mentioned by the State party.

43. **Mr. Dasgupta** noted that child labour was still very widespread in the State party, even though the law set the minimum age for employment at 15. The majority of working children (62 per cent) were younger than 15, and some were as young as 6. He asked what measures had been taken to enforce the law, how many cases had been brought to court, and what the penalties were for that type of offence. The State party's report indicated that 15,000 children had been "prevented" from working, but it did not provide specific information on the subject. Furthermore, vocational training centres for young children had been set up, but since 2002 only 190 children had benefited from such training. In view of the situation, he asked to what extent the State party was meeting its obligation to protect vulnerable children.

44. **Mr. Kedzia** congratulated the State party on the measures it had taken to solve the problem of children without birth certificates and to issue certificates to 296,000 children. The proportion of unregistered children remained very high, however, and those children were denied access to education. He asked the delegation to provide further information and to indicate whether the measures taken would be sufficient to resolve the problem.

Regarding child labour, the Government's capacity to oversee and implement the relevant provisions seemed inadequate, and he would like to know whether the Government intended to strengthen its capacity in that regard and if so how. Concerning forced marriages, he welcomed the fact that the age of marriage had been raised to 18 for girls as well as for boys, and he requested further details regarding the implementation of that provision, particularly in relation to the opening of family counselling centres in 2009.

45. According to information available to the Committee, 43 per cent of marital unions registered in Madagascar were traditional types of marriage, in which the woman could not claim any rights whatever and the couple often lived below the poverty line. He would like to know the Government's opinion on that issue and to receive further information on the fate of abandoned children.

46. Finally, he asked for clarification on some of the State party's replies to the list of issues, according to which in 2008, 1,144 budgetary posts were allocated to the Health Ministry, including 862 professional staff, and in 2009, 1,060 of those 1,360 budgetary posts would go to professional staff.

47. **Mr. Tirado Mejia** asked what measures had been taken to improve prison conditions in the State party, particularly with regard to food, health and security. Concerning domestic violence, which appeared to be widespread in Madagascar, he wished to know what policies were being implemented and what types of penalties were applied. He also asked what penalties were enforced for human trafficking, particularly of women and children, for labour or sexual exploitation, and whether those penalties were criminal sanctions.

48. Noting that in certain communities the birth of twins was perceived as a curse, and that there was a tendency in such cases to do away with one of the children, he asked whether any steps had been taken to combat such beliefs. Thousands of women died in the State party from abortions carried out illegally or in dangerous conditions, and he wished to know whether Madagascar had a law on abortion. The commission set up by the Government to study that issue had recommended making abortion an offence punishable by fine. He requested further information in that regard.

49. **Mr. Sadi**, recalling that the Government had launched a national survey on child labour in May 2007, including domestic work, asked what conclusions had been reached. Regarding forced marriage, he said it would be interesting to know whether cases had already been brought to court, and if possible, to have examples. The State party had indicated that it was working to eliminate traditional practices involving forced marriage and that the Government had planned to hold consultations on the subject at the local, regional and national levels. He wished to know the results of those consultations.

50. In August 2007, the Government had adopted a law to provide adequate protection for ill-treated women and children. Various measures had been taken, including setting up a helpline service. He wished to know the concrete results of those actions and the provisions adopted concerning the rights of children, child trafficking and sex tourism. He would like to know whether enough cases had been prosecuted under the programme to combat human trafficking.

51. The State party had indicated that, following a series of workshops and seminars on problems related to abortion, it had been decided to reduce the penalties for abortion to the level of fines. That was not enough; a more enlightened approach could be adopted. He asked the delegation for further comments on the subject.

52. **Mr. Abdul-Moneim** said that the information the State party had provided on its economic situation was contradictory, and he noted that in 2004, 72 per cent of the population lived below the poverty line. He asked what exactly the economic growth

mentioned in the State party's report consisted of, and whether infrastructure works had created many jobs. He would also like to know what criteria the State party used to determine what constituted an adequate standard of living. The inflation rate had been mentioned, but it would also be useful to consider the consumer price index and the average tax burden in relation to the minimum wage. He asked the delegation to provide further details in that regard.

53. **Ms. Barahona Riera** said that the State party should attach more importance to the right to education, since more than half the children there were not in school. That situation had very serious consequences, particularly in terms of child labour. She asked what percentage of the national budget was devoted to education and, given that primary education was compulsory and free of charge, whether there were any incentives to encourage children to attend school. She also wanted to know how the health system worked in the State party, whether it was public or private and whether certain basic services were provided free of charge, such as maternal and reproductive health care. She also asked for details of services to provide drinking water, whether they were public or private and whether any public investment projects were planned in that sector.

54. She noted that the protection of women and equality between men and women were covered by legislation, but she said that such legislation was inadequate because it did not give enough importance to combating discrimination against women. Cultural practices that were harmful to women still persisted, and some offences, such as forced marriage, were not sufficiently penalized. Equality in inheritance was provided for by law but did not seem to be enforced in practice. Lastly, she asked whether domestic violence constituted an offence on a par with other types of violence, and if so, how many cases had recently been brought to court.

The meeting was suspended at 5 p.m. and resumed at 17.15 p.m.

55. **Ms. Razanamahaso** (Madagascar) said that the replies to the questions concerning the poverty reduction policy and the expulsion of people without land title would be given to the Committee in writing.

56. **Mr. Rakotoniaina** (Madagascar), in response to the question concerning delays in domestic violence proceedings, cited examples of cases where judgements had been pronounced within less than a year. He did not have data on the number of cases of domestic violence against women that had been brought to court, but he said that the judgements in such cases applied the penalties established by law, which were severe. Marital rape did not constitute a separate offence according to the Criminal Code. The scarcity of cases brought to court could be explained by the hesitance of victims to make their situation known, and there was much work to be done in terms of awareness-raising. The national authorities were aware that the severity of the penalties against abortion had resulted in women having clandestine abortions and had consequently led to a high maternal mortality rate. They had therefore launched a debate with representatives of all religious faiths and political persuasions and with traditional chiefs, in order to come up with a proposal to submit to Parliament. The proposal was to replace the penalty of one year of imprisonment with a fine, but the issue was still undecided because there was strong resistance from certain sectors of society, including the Catholic church.

57. In practice, and in certain localities in particular, it was true that women did not enjoy the right to inheritance, despite the current legislation, which was not disadvantageous to them. Awareness-raising efforts were also needed in that area. As with all traditional customs, that of abandoning twins was difficult to eradicate. Nevertheless, for some time the followers of that tradition had softened their position; while they did not approve of twins being taken into the family, they no longer undertook reprisals against the family. Regarding the extended concept of the family, the new bonds created by *fatidra*

related only to solidarity and mutual aid and did not have any legal implications, for example, for inheritance rights.

58. **Ms. Rabemananjara** (Madagascar) said that, thanks to the WASH project (Water Sanitation Hygiene), many rural communities had acquired infrastructure that provided access to drinking water, such as wells or standpipes. The national campaign on sanitation education launched in 2007 as part of that project would continue until 2012, with the aim of covering the whole of the country.

59. **Ms. Andrianaivo** (Madagascar) said that the Government, aware that water was a strategic resource for the country for the purposes of combating poverty and protecting the environment, had established the National Water and Sanitation Authority in 2003, which brought together several ministries and had been placed in charge of the comprehensive management of water resources. Following the visit from the Executive Director of the United Nations Children's Fund in 2008, a project called "Friends of WASH" had been launched with the aim of improving hygiene infrastructure in schools and hospitals.

60. **Mr. Andriamaholy** (Madagascar) said that his country had made great efforts to improve prison conditions, particularly with regard to food for detainees, by raising the calorific content of the daily ration to 2,500 calories and diversifying nutritional content in order to bring it up to minimum standards. Prison overcrowding mainly affected the capital and two provincial detention centres; at the national level the situation was improving, thanks especially to faster processing of the pretrial detention cases aimed at reducing the number of pending cases.

61. **Mr. Rakotoniaina** (Madagascar) said that, to relieve prison overcrowding, the authorities had arranged to transfer prisoners showing good behaviour to penal camps. That measure also increased agricultural output, which in turn improved the food supply to detention centres. Currently, some prisoners were eligible to be released on parole, which would further help to reduce the prison population.

62. **Ms. Andrianaivo** (Madagascar), replying to questions on human trafficking, said that Madagascar had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. In Madagascar, women and children were trafficked for forced labour and sexual exploitation, including forced marriage. That was due in particular to the tourism expansion policy and the increasing numbers of international adoptions. The authorities had launched an awareness campaign on human trafficking; a law against human trafficking had been adopted in 2008, and article 262 of the Labour Code criminalized human trafficking for forced labour. There were networks to protect the rights of children run under the aegis of the Ministry of Health, which, besides identifying cases of abuse, also provided support to victims, as well as criminal analysis centres responsible for collecting information on human trafficking and notifying the relevant authorities where necessary. The Government was, however, limited in what it could do, due to insufficient institutional and financial capacities.

63. **Mr. Randrianandrasana** (Madagascar) said that the Constitution, along with successive framework laws, had established the principle of free, compulsory education, which obliged the State to set up the infrastructure necessary to exercise that right. In 2002 the Government had adopted the Education for All Plan, and in 2008 it had launched a reform of the education system. The proportion of the State budget dedicated to education had steadily increased, rising from 15.9 per cent in 2003 to 17.6 per cent in 2007, or from 3 to 3.1 per cent of the gross domestic product. Various measures had been introduced to ease the burden on parents with regard to their children's education. Those included financing registration fees, granting subsidies to pay the salaries of private schoolteachers, and providing school kits and smocks. As child labour was a major obstacle to the attainment of

the goals of the Education for All Plan, the Government had established a national programme of action to combat child labour, which included legislative reforms to combat the scourge. That action, however, needed significant funding, as the practice was closely related to poverty.

64. **Ms. Rahantanirina** (Madagascar), regarding the unequal distribution of doctors which affected rural areas in particular, explained that the Ministry of Health, with the support of the World Bank and other partners, had set up a project in 2008 to encourage more health personnel to work in those areas. Based on the needs expressed by the local health authorities, the State had also recruited 250 doctors in 2008 and planned to recruit 400 more in 2009. To address the inadequate vaccination coverage for children, the authorities had launched a campaign in 2006 on maternal and child health care, which included various activities such as vaccination, nutrition and reproductive health programmes. Concerning improved financial support for disadvantaged groups, the Ministry of Health had established an equity fund to pay for health care for the poorest members of society. The health budget currently accounted for 5.7 per cent of the State budget, which was far from the set goal of 15 per cent. Madagascar's health system was made up of public and private, voluntary and free-market sectors, which allowed people to join whichever system they preferred.

Articles 13 to 15 of the Covenant

65. **Mr. Kerdoun**, noting that, according to the State party's report, the distance between schools and students' homes was a problem, asked what the authorities planned to do to address the issue and whether it was simply a question of transport, in which case the Government could provide school buses as in other countries, if necessary by asking for donations of vehicles. The State party had also listed a number of difficulties limiting the exercise of the right to education but had not indicated what solutions it proposed. He would like to know how the State party explained the relatively high drop-out rate in the literacy programme and the high repetition and drop-out rates in schools.

The meeting rose at 6 p.m.