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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Reports submitted in accordance with Council resolution 1988 (LX)
by States parties to the Covenant concerning rights covered by
articles 6 to 9

MADAGASCAR

[12 November 1980]

ARTICLE 6. THE RIGHT TO WORK

The Charter of the Malagasy Socialist Revolution states that: "We must devise effective social legislation which places individuals on a footing of equal opportunity, equal rights (right to work, right to education) and equal duties."

Articles 19 to 24 and 26 of the Malagasy Constitution provide that:

"The right to work is assured by the transformation and socialist organization of the national economy, the liberation of productive forces and the development of vocational training."

"The State shall encourage the exercise by every citizen of an activity suited to his qualifications in the economic, administrative, social and cultural fields."

"Access to public office, the professions, and other employment shall be open to every citizen without any conditions other than those of capacity and aptitude."

Article 2 of the Labour Code contains provisions prohibiting forced or compulsory labour, except for labour or services required in the event of accidents or disasters, work of collective interest in implementation of a contract freely awarded by the public authorities, work of public interest required under the legal provisions relating to the organization of defence and creation of the national service, and any other work or service required of an individual as a consequence of a conviction pronounced by virtue of a judicial decision.

Policies and techniques to ensure constant development and
full productive employment

In accordance with Act No. 77-002 of 22 December 1977 concerning the orientation and organization of socialist planning: "The Democratic Republic of Madagascar adopts the path of planned development leading towards socialism."

The global strategy for development, which takes agriculture as its basis and industry as its driving force, has set the following objectives to be attained by the year 2000:

Full socialization of major sectors and strategic activities;

Full employment;

The doubling at least of per capita income, in real terms;

The satisfaction of fundamental economic, social and cultural needs.

In the first medium-term plan (1978-1980), employment is regarded as the determining factor in the improvement of the living conditions of the population, and the satisfaction of this fundamental need is one of the priority objectives of development.

Industrialization is regarded as the essential means of finding eventual employment for the whole active population. Meanwhile, the employment policy has two main objectives:

Settlement of the rural population through improvement of their living conditions (electrification, provision of drinking water, strengthening of collective facilities in the field of health education and so on), multiplication of job opportunities through the launching of large-scale land development projects (irrigation, drainage) and intensification of work on the maintenance of existing infrastructures;

Mass creation of employment opportunities in urban areas, particularly in the sector of building and projects (maintenance of urban infrastructures and construction) and in the so-called informal sector (artisanal processing and assembling activities), whose thrust must be directed towards the progressive establishment of a true industrial structure.

The table below shows estimates for the employment situation in 1975 and projections for 1980.

Category	(thousands)	
	1975	1980
1. Total population	8,161	9,375
2. Population of active age	4,265	4,773
3. Active population	4,177	4,687
4. Total employment opportunities	3,956	4,501
Breakdown:		
Agricultural economy	3,500	3,925
Non-agricultural economy	456	576
Breakdown:		
Secondary sector	75	105
Tertiary sector	281	351
Other activities	90	120

Measures taken to ensure the best possible organization
 of the employment market

(a) Planning procedures

The planning of human resources is integrated in the development planning process, which is based on the principle of democratic centralism.

On the basis of the Charter of the Malagasy Socialist Revolution, the State prepares an initial draft plan which specifies: the duration of the plan, the objectives to be achieved during this period and the financial, human and institutional resources and the projects necessary for achieving them for the whole of the nation and by "Faritany" (region).

This first draft is transmitted for comments and proposals to the Faritany and the planning committees of the various economic sectors, which consult their base organizations.

The draft thus amended is returned to the State, which prepares the final plan and submits it for adoption by the People's National Assembly.

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The institutions entrusted with the implementation of the above process are, at the national level, the Higher Planning Council and the Sectoral Planning Committees and, at the level of the decentralized authorities, the regional and local planning committees.

(b) Compilation and analysis of employment statistics

The employment statistics are compiled and analysed by a specialized service of the Employment and Manpower Directorate attached to the Ministry of Labour. The statistics cover the employment situation and the labour market and are published annually.

These statistics will be supplemented by an employment survey which will clarify the situation in the so-called informal sector.

(c) Organization of an Employment Service

Established in 1964, the Employment Service became the Directorate of Labour and Manpower in 1976 and now has 11 regional and subregional branch offices. The extension of subregional branches to areas with a large concentration of labour is envisaged in the plan. The main tasks assigned to these branches will be to collect basic information on employment and to maintain a balance between labour supply and demand.

(d) Technical and vocational guidance and training programme

The reorganization of the educational system was carried out under Act No. 78-040 of 17 July 1978 concerning the general framework of the education and training systems.

This system provides for four levels (basic education, secondary basic education, specialized secondary training, university training in specialized higher education establishments), any training after the first level being designed to prepare the individual for engaging in an occupation contributing to the implementation of the plan.

The objective of training in general is, as stated in article 37 of the same Act, to "promote a constant deepening of knowledge and the enhancement of practical experience at all levels for each individual".

Currently, the National Institute for the Promotion of Training is responsible for on-the-job education of workers; its purpose is to improve the qualifications of managerial and executive staff of private or semi-public enterprises in nine areas:

Administration and finance;
Management of human resources;
Financial and accounting management;
Commercial management and marketing;
Small and medium-sized enterprises;
Organization and management of production;
Motors and engines;
Industrial electricity;
General engineering and maintenance.

Protection against arbitrary dismissal

Article 31 et seq. of the Labour Code contain provisions concerning breach of the labour contract in general and arbitrary dismissal in particular (art. 37).

In addition, an employer contemplating a reduction in staff must first request the authorization of the provincial committee provided for by Decision No. 2084 of 9 June 1975.

Lastly, any proposal to dismiss a staff delegate is subject to the decision of the Labour Inspector.

These measures are in general applied effectively, and the Labour Inspectors, assisted by the Labour Supervisors, are responsible for their implementation. However, the systematic supervision necessary for the application of labour laws and regulations is impeded by lack of staff.

Similarly, the General Statute of Civil Servants provides for measures to prevent arbitrary dismissal (arts. 38 and 40) and for recourse procedures (art. 46).

Protection against unemployment

The Charter of the Malagasy Socialist Revolution states that "strenuous efforts must be made to combat unemployment because it wastes productive forces, causes social destitution and boosts the crime rate".

A national employment office has been established; its task is to centralize employment demand and supply and to fill posts.

Madagascar has ratified International Labour Organisation Convention No. 122 concerning employment policy.

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ARTICLE 7. RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

(a) Remuneration

It is stated in the Charter of the Malgasy Socialist Revolution: "from each according to his capacity, to each according to his work".

"The strategic objective assigned in the long term to our new society is the development, well-being and happiness of every man and every man as a whole ... this means that work should be the sole source of incomes and that incomes should be brought closer together as quickly as possible (abolition of the salary scale, establishment of a single salary zone) so as to achieve equality, without which socialism loses its meaning and its raison d'être."

Article 12 of the Constitution provides that "the State shall ensure the equality of all citizens" by:

Guaranteeing the unity of the social order and of the socialist legal system, and the unity of the economic system with regard to laws and regulations;

Undertaking to remove economic and social obstacles which restrict equality between citizens, impede the development of the individual and hinder the effective participation of all workers in the political, economic and social organization;

Prohibiting any discrimination based on race or origin, religious belief, degree of education, wealth or sex.

Title IV, (art. 61 et seq.) of the Labour Code lays down the procedure for wage fixing.

Decree No. 80-148 of 18 June 1980 fixes minimum wages for newly recruited staff and senior staff by professional category.

Collective contracts and establishment agreements fix wages and the various benefits (output, seniority, management and other bonuses) in several enterprises, in accordance with article 34 of the Labour Code.

In addition to the wage properly speaking, an employer is obliged to provide a worker who has been transferred with adequate housing and with essential food-stuffs for himself and his family on the terms laid down by a decision adopted following a recommendation by the National Labour Council (art. 61 of the Labour Code).

In accordance with article 26 of the General Statute of Civil Servants, the remuneration of civil servants consists of a salary and family benefits and, where appropriate, allowances for supplementary expenses or work or special constraints inherent in the work.

(b) Safety and hygiene

Article 100 of the Labour Code provides that hygiene and safety in the place of work shall be regulated by a decision adopted following a recommendation by the Technical Advisory Committee. These decisions specify the cases and conditions in which the Labour Inspector shall have recourse to the summons procedure.

Thus, Decision No. 891 of 20 May 1960 provides for special hygiene and safety measures in work places.

Decisions taken by the Ministry of Labour lay down the types of work prohibited for children, women and pregnant women (art. 80 of the Labour Code).

The Technical Advisory Committee is composed of representatives of the various ministerial departments and the various service branches concerned with the matter (Ministries of Labour, Public Health, Public Works, Mines, Medical and Labour Service, Social Welfare), three employers' representatives and three workers' representatives (Decision No. 3482-MT of 25 November 1975).

It should, however, be pointed out that the supervisory personnel is inadequate. Madagascar has ratified Convention No. 14 of the International Labour Organisation.

(c) Equality of opportunities for promotion

"We must devise effective social legislation which places individuals on a footing of equal opportunity, equal rights and equal duties", states the Charter of the Malagasy Socialist Revolution.

Article 3 of Decree No. 74-088 of 8 March 1974, concerning the establishment of the National Institute for the Promotion of Training (INPF), defines the aim of this Institute, which is to contribute to the achievement of full employment, to improve the qualifications of workers at all levels and to participate in the promotion of better management.

On the one hand, various decisions lay down the professional classification of workers in the private sector holding posts in the various branches of activity.

On the other hand, Decrees No. 79-365, 79-366 and 79-367 of 22 December 1979 provide for the integration of contractual agents and those holding long-term or short-term posts in the public sector under State control.

(d) Rest, leisure, limitation of working hours and paid holidays

In accordance with article 85 of the Labour Code, a weekly rest period of a minimum of 24 consecutive hours per week is mandatory.

Every worker, whether in the public or private sector, has the right to special leave and a paid annual holiday (art. 50 of the General Statute of Civil Servants and art. 87 of the Labour Code).

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The legal duration of the working week is limited to 44 hours for the public sector and 40 hours for the private sector; it may, however, vary according to the activities of certain enterprises (teamwork, rotating rest periods). Hours worked in excess of the legal maximum entitle a worker to overtime pay (arts. 77 to 85 of the Labour Code).

Decree No. 72-226 of 6 July 1972 regulates overtime and fixes the amount of additional pay for night, Sunday and holiday work.

With regard to women workers in particular:

In the private sector, under articles 81 and 82, pregnant women workers and nursing mothers benefit from special provisions concerning rest and maternity leave;

In the public sector, article 50 of the General Statute of Civil Servants provides that working women civil servants are entitled to maternity leave. They are also allowed special additional leave without loss of benefits.

Madagascar has ratified Conventions No. 4 to 19 and 95 of the International Labour Organisation.

ARTICLE 8. TRADE-UNION RIGHTS

Title II of the Labour Code is devoted to the various trade-union rights.

Every worker freely enjoys the right to join a union of his choice, and it is prohibited for the employer to exercise any form of pressure for or against any trade union organization. In this connexion, we should mention the Labour Code, which ensures trade-union freedom and protection of trade-union rights, and the Decree concerning the making available of premises to professional trade unions for their meetings.

Trade unions may form an association of whatever structure. These associations enjoy all the rights conferred upon professional trade unions and are subject to the same obligations.

They may carry on their activities freely and have the right to go to law and to acquire movable property without authorization, free of charge or against payment and, subject to the legislation in force, immovable property; to buy, lend or distribute among their members anything which is necessary for the exercise of their occupation, to allocate a part of their resources to social projects or to act without payment as an intermediary for the sale of products resulting from the personal work of trade-union members.

The right to strike is granted after exhaustion of conciliation and arbitration procedures, and in this case the strike does not entail a breach of the labour contract.

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The trade-union rights of civil servants are also recognized in article 4 of Ordinance No. 76-008 of 20 March 1976. These trade-union organizations may go to court to defend the material, moral and professional interests of their members.

Article 9 of this Ordinance provides that trade-union activities during working hours or in the place of work are subject to special authorization.

ARTICLE 9. RIGHT TO SOCIAL SECURITY

Article 27 of the General Statute of Civil Servants provides that medical and hospitalization expenses of civil servants treated in public or State-approved health facilities are assumed by the administration with the participation of those concerned.

Civil servants belong to a retirement scheme (Retirement Fund for Civilian and Military Personnel).

If they are discharged on grounds of physical disability attributable to their service, they are entitled to a disability pension paid in addition to the retirement pension, whatever their seniority (art. 29 of the General Statute of Civil Servants).

With regard to workers in the private sector, article 103 of the Labour Code lays down that the employer is responsible for medical measures, meaning examination upon recruitment, periodic medical examinations, the provision of such care and treatment as are required by the state of health of the workers and their families and of free food for workers hospitalized in the medical service of the enterprise, and the transfer of the sick or victims of accidents to the nearest medical facility.

A National Social Welfare Fund has been established and operates for the benefit of workers. Its task is to administer schemes for compensation, family benefits, industrial accidents and occupational diseases.
