



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Eighteenth periodic reports of States parties due in 2002

Addendum

MADAGASCAR* **

[30 December 2003]

* This document contains the tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth and eighteenth periodic reports of Madagascar, submitted as a single document, which were due on 9 March 1988, 1990, 1992, 1994, 1996, 1998, 2000, 2002 and 2004, respectively. For the ninth periodic report of Madagascar and the summary records of the meetings at which the Committee considered it, see documents CERD/C/149/Add.19 and CERD/C/SR.1115 and 1154.

** The information submitted by Madagascar in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the core document HRI/CORE/1/Add.31/Rev.1.

CONTENTS

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 5	5
I. ARTICLE 2	6 - 22	5
A. Constitutional principles	6 - 7	5
B. Political principles	8	6
C. Economic principles	9 - 10	6
D. Cultural principles	11 - 12	6
E. Legislative developments	13 - 20	6
1. Political sphere	13 - 15	6
2. Social and cultural sphere	16 - 20	7
F. Judicial developments	21	7
G. Social and administrative developments	22	8
II. ARTICLE 3	23	8
III. ARTICLE 4	24 - 33	8
A. Constitutional principles	24 - 27	8
B. Measures taken within the legal and judicial system	28 - 33	9
1. Civil law	28 - 30	9
2. Criminal law	31	9
3. Information	32 - 33	9
IV. ARTICLE 5	34 - 45	10
A. Right to equal treatment before the tribunals and all other organs administering justice	37 - 38	10
B. Right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution	39	10

CONTENTS (*continued*)

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
C. Political rights	40 - 42	11
D. Other civil rights	43 - 45	11
E. Economic, social and cultural rights	46 - 96	12
1. Right to work	46 - 49	12
2. Right to form and join trade unions	50 - 51	13
3. Right to housing	52 - 55	13
4. Right to health, medical care, social security and social services	56 - 74	14
5. Right to education and vocational training	75 - 94	22
6. Right to equal participation in sports and cultural activities	95	31
7. Right of access to places intended for use by the general public	96	32
V. ARTICLE 6	97 - 125	32
A. Information on legislative, judicial, administrative or other measures	97 - 119	32
1. Legislative measures	97 - 112	32
2. Judicial measures	113 - 118	34
3. Administrative measures	119	35
B. Measures taken to assure to everyone the right to seek satisfaction or civil reparation	121 - 124	35
1. Civil reparation	122 - 123	35
2. Practice and decisions of the courts and other bodies	124	36
C. General recommendation XXVI on article 6 of the Convention (2000)	125	36

CONTENTS (*continued*)

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
VI. ARTICLE 7	126 - 144	36
A. Measures taken in the field of education	127 - 141	36
1. Legislative measures	127 - 131	36
2. Other additional measures	132 - 136	37
3. Positive law	137	38
4. Judicial measures	138	38
5. Administrative measures	139	38
6. Other measures	140	38
7. Human rights education	141	38
B. Culture	142	39
C. Information	143 - 144	39

Annexes*

- I. A. Interministerial order No. 18600/2003 setting up a committee to draft initial and periodic reports under international human rights instruments
- B. Methodology
- C. List of persons who participated in the drafting of the report submitted to the Committee on the Elimination of Racial Discrimination
- II. Constitution of the Republic of Madagascar of 18 September 1992
- III. United Nations activities in the field of human rights, August 1999-December 2003
- IV. Act No. 90-031 of 21 December 1990 (Communications Act)
- V. Convention of 31 October 1991

* The annexes may be consulted in the files of the Committee secretariat.

Introduction

1. Madagascar ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 7 February 1969. The most recent periodic report, the ninth, dates from 1986 (CERD/C/149/Add.19, 22 October 1986).
2. In an initiative taken in response to the many reminders from the Committee on the Elimination of Racial Discrimination, the current Malagasy Government, through the Ministry of Justice and the Ministry of Foreign Affairs, adopted interministerial order No. 18600 of 30 October 2003 setting up a committee to draft initial and periodic reports under international human rights instruments (see annex I.B).
3. This committee is made up of a governmental element, a non-governmental element and members of civil society. The governmental element comprises representatives of the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Population, the Ministry of Education, the Ministry of Public Security and the Ministry of the Economy, Finance and the Budget, represented by the National Institute of Statistics. The non-governmental element is composed of members of human rights non-governmental organizations from the six autonomous provinces.
4. A list of the persons who participated in the final drafting of this eighteenth report, combining in a single document the periodic reports due to be presented to the Committee (from the tenth to the seventeenth), may be found in annex I.C. Financial support from UNDP under the MAG 97/007 - DAP programme was used in the drafting of the report.
5. The committee responsible for drafting the reports also prepared in December 2003 the core document which constitutes the first part of the reports of the State party (HRI/CORE/1/Add.31/Rev.1).

I. ARTICLE 2

A. Constitutional principles

6. Since lodging its ninth periodic report in 1986 (CERD/C/149/Add.19), on the basis of the 1975 Constitution, Madagascar has moved forward in its commitment to ensuring respect for the provisions set out in human rights instruments.
7. The Constitution of 18 September 1992, as amended on 13 October 1995 and 8 April 1998 (see annex II), refers to and adopts in its preamble the International Bill of Human Rights, the African Charter on Human and Peoples' Rights and the conventions on the rights of women and children, as well as the struggle against injustice, inequality and discrimination in all its forms, and respect for and protection of fundamental freedoms, both collective and individual.

B. Political principles

8. In Madagascar the rights of such minorities as migrants, refugees and persons of different national origin enjoy the same protection as those of citizens. One phenomenon which deserves mention is the existence of a few members of parliament and elected officials of Malagasy nationality who represent communities of Indian/Pakistani, Chinese, Comorian or French origin.

C. Economic principles

9. Article 11 of Act No. 62-006 of 6 June 1962 on the organization and monitoring of immigration was amended in respect of the waiting period imposed on naturalized aliens before they can purchase real estate in Madagascar. This put an end to the discrimination whereby naturalized aliens could not enjoy the natural right to purchase real estate in the same way as citizens.

10. New legislation was enacted in 2003 relating to access to land ownership by aliens: it is designed to remove the waiting period imposed on naturalized aliens, who can now purchase real estate as soon as they are naturalized. Parliament has adopted a law under which aliens can purchase real estate provided that they submit a proposal for investment of at least US\$ 500,000 and strictly comply with the conditions attached to the investment authorization.

D. Cultural principles

11. The Government has set up an Office for Mass Education and Civics to strengthen the human rights education which already forms part of the curriculum by placing greater emphasis on efforts to combat racial and ethnic discrimination.

12. Legislation adopted in 1990 included Act No. 90-031 of 21 December 1990, which contains the Code of Communications and supplements the rules set out in article 115 of the Criminal Code (Act No. 82-013 of 11 June 1982).

E. Legislative developments

1. Political sphere

13. Article 8, paragraph 2, of Act No. 89-028 of 29 December 1989 provides that no political party or organization may continue to exist if its goals directly or indirectly tend to jeopardize the unity of the nation or stem from a segregationist platform of an ethnic, tribal or sectarian nature.

14. The 1992 Constitution provides that all freedoms are guaranteed to everyone, and may be restricted only for the sake of respect for the freedoms and rights of others and the imperative need to safeguard public order; that all individuals enjoy the right to information without any prior restraints, subject to the provisions of the law and codes of professional ethics; that everyone has the right to travel and to settle within the country, subject to respect for the rights of others and the provisions of the law; and that the principle of inviolability is guaranteed to everyone (arts. 10-13).

15. Specific measures have been taken since the enactment of the law which punish all forms of discrimination:

- Act No. 82-013 of 11 June 1982, article 115 of the Criminal Code;
- Act No. 89-028 of 29 December 1989, article 8 of the appendix to the Criminal Code relating to enjoyment of civic rights without discrimination;
- Act No. 90-031 of 21 December 1990, containing the Code of Communications (art. 75 in fine);
- Act No. 97-036 of 16 October 1997, and particularly measures relating to the rights of the defence, stipulating that everyone may benefit from assistance at all levels of procedure, including preliminary investigations by the criminal investigations department, without any discrimination whatsoever. All these measures demonstrate the practical application of the principle of equal rights for all before the law without discrimination.

2. Social and cultural sphere

16. Article 19 of the 1998 Constitution provides that everyone has the right to health protection starting from conception.

17. Regarding the right to information - a source of knowledge for all individuals and their advancement - a law on communications has been enacted: Act No. 90-031 of 21 December 1990, which provides (see annex IV) that any act of discrimination in any form is punishable under the criminal law by imprisonment and a fine (arts. 74 and 75 in fine).

18. Article 24 of the 1998 Constitution provides that the State organizes public education which is free and accessible to all, and that primary education is compulsory for all. Articles 26 and 28 prohibit discrimination based on age, religion, opinions, membership of a trade union organization or political considerations against persons seeking to exercise the right to participate in any cultural activity, or to exercise their profession or employment.

19. In July 2000, Madagascar participated in the Durban meeting held to discuss efforts to combat racism, xenophobia, exclusion and related intolerance.

20. Madagascar has endeavoured to put an end to discrimination against foreigners, who have hitherto been denied the right to acquire real estate, by undertaking a legislative reform.

F. Judicial developments

21. The reader is referred to section IV below (Implementation of article 5).

G. Social and administrative developments

22. Because of shortcomings in the registration of births, which is more difficult in areas remote from municipal offices, and in order to combat the exclusion of children who have no birth certificates, the Ministry of Justice and the Ministry of Population have launched the EKA (*Ezaka Kopia ho an'ny Ankizy*) project under which a court declaration can be issued as a substitute for such a certificate.

II. ARTICLE 3

23. Madagascar, which ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid on 16 May 1977, and the International Convention against Apartheid in Sports on 16 May 1986, firmly condemns all forms of racial segregation and the crime of apartheid.

III. ARTICLE 4

A. Constitutional principles

24. Articles 7 and 8 of the Constitution explicitly provide as follows:

Article 7. The law is the expression of the general will. It shall be the same for all, whether it protects, binds or punishes.

Article 8. Citizens are equal before the law and enjoy the same fundamental freedoms under the protection of the law without discrimination on the basis of sex, level of education, financial situation, origin, race, religious belief or opinion.

Article 6 guarantees political rights in the following terms: "Sovereignty belongs to the people, which is the source of all power, exercising it through representatives elected by direct or indirect universal suffrage or by means of a referendum." No sector of the population or individual may usurp the exercise of sovereignty. All citizens of both sexes who possess civil and political rights are electors on the conditions determined by law. The right to vote may be revoked only by final decision of a court. Malagasy citizens therefore enjoy all constitutional guarantees for the protection, defence and exercise of their rights.

25. Non-discrimination is reflected in the definition of the duties of the head of government, who "shall endeavour to promote the balanced development of all the autonomous provinces" (art. 63) and "shall establish, together with the authorities of the autonomous provinces, national programmes for economic and social development" (art. 64).

26. The free movement of persons, goods and services also demonstrates the implementation of the principle of non-discrimination (art. 128).

27. At the constitutional level, therefore, the problem of discrimination is being dealt with by the Malagasy Government, which is doing its utmost to promote republican and democratic values such as equality and justice.

B. Measures taken within the legal and judicial system

1. Civil law

28. Article 1 of the Code of Civil Procedure expressly recognizes the right of all persons to take legal action to protect their rights: “Every person may take legal action to obtain recognition or, if need be, the protection of his or her rights.”

(a) Equal access to employment in the public sector

29. Act No. 2003-011 of 3 September 2003 repealed Ordinance No. 93-019 of 30 April 1993 containing the general regulations for civil servants. The most important changes introduced in the new regulations are contained in articles 5 and 78:

Article 5. In the implementation of these regulations, no discrimination shall be practised on grounds of sex, religion, opinion, origin, kinship, financial situation, political beliefs or membership of a trade union.

Article 78. The regional or international conventions and treaties concerning the civil service to which Madagascar is a party shall all be considered an integral part of these regulations.

(b) Equal access to employment in the private sector

30. Work is under way on a revision of the Labour Code for the private sector, with the same aim of combating discriminatory practices in all their forms.

2. Criminal law

31. Malagasy criminal legislation has declared all acts of racial discrimination as defined in the Convention to be offences punishable by law.

3. Information

32. Act No. 90-031 of 21 December 1990 on communications (see annex IV) is the legislative embodiment of the constitutional principle of respect for freedom of expression, opinion and the press, the main restrictions being the prohibition of speeches or writings of a discriminatory nature in any form whatsoever, as well as respect for the dignity and freedom of others. In the light of the proliferation of private media, and given the dangerous similarities with the case of Rwanda, where the situation degenerated into genocide following the broadcasting of racist propaganda by the Mille Collines radio station (“the radio that kills”), training was provided for journalists from 99 radio and television stations and 13 newspapers, to encourage them to act responsibly and to practise self-censorship.

33. In addition, in order to avoid the dangers associated with racial and ethnic discrimination, the Ministry of Culture periodically organizes inter-ethnic social and cultural festivities.

IV. ARTICLE 5

34. There are no displaced persons in Madagascar. Madagascar has signed the Convention relating to the Status of Refugees but has not ratified it. However, it does not refuse to accept refugees in its territory.

35. The Office of the United Nations High Commissioner for Refugees has requested the United Nations Development Programme (UNDP) to deal with the cases of about 40 refugees from member States of the African Union. Upon their arrival in the country, these asylum-seekers went to the local authorities, who referred them to UNDP. UNDP issued them with temporary refugee cards to be presented to the ministries concerned, namely, the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Labour and Social Legislation.

36. The refugees are not subjected to any ill-treatment related to discrimination. Four of them are now being held in the central prison in Antanimora for forging Malagasy banknotes, but they have not been discriminated against because of their African origin. They have the right to a defence and to legal assistance during the criminal proceedings and, at the request of the Ministry of Justice, have the help of an interpreter. One of the four forgers was tried recently in Antananarivo and was released.

A. Right to equal treatment before the tribunals and all other organs administering justice

37. In reply to the question in the guidelines about the training given to law enforcement officials and judicial officers, the following information is provided: the Government of Madagascar, in close cooperation with UNDP, organized, as part of the “National capacity-building in the field of human rights” project (MAG 97/AH/10) (see annex III), a series of courses lasting on average five days for law enforcement officials, that is, judges, lawyers, prison service officials and members of the administrative and criminal investigation police, together with representatives of non-governmental organizations (NGOs) and civil society, designed to prevent any discrimination, exclusion, restriction or preference based on race, colour, ancestry or ethnic origin. Likewise, continuous training has been organized for judges by the National School of the Judiciary and Court Officers.

38. As far as measures for the investigation of complaints are concerned, the Government, in line with United Nations recommendations on national human rights institutions, established the Office of the Ombudsman (or “Médiateur”) in 1992 (Ordinance No. 92.012 of 29 April 1992), the National Human Rights Commission in 1996 (Decree No. 96-1282 of 18 December 1996) and the High Council to Combat Corruption in 2003. These bodies are authorized to hear complaints, but have no investigative powers.

B. Right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution

39. Under Malagasy legislation, any of the physical or psychological abuse referred to in article 114 of the Criminal Code is a criminal offence punishable by law:

Article 114. Any civil servant or government agent or official who orders or commits an arbitrary act or one that infringes on a person's liberty or the civic rights of one or more citizens or on the Constitution shall be stripped of his or her civic rights.

If, however, the person can prove that he or she acted on the orders of a superior for purposes within the remit of the latter, in respect of which the principle of due obedience applied, he or she shall be exempted from punishment, which in this case shall be applied solely to the superior who gave the order.

C. Political rights

40. Article 6 of the Constitution establishes universal suffrage for all Malagasy citizens without discrimination; the article stipulates that all citizens, of both sexes, who possess civil and political rights are electors on the conditions determined by law. All Malagasy citizens who possess civil and political rights are eligible to stand for election.

41. There are in Madagascar mayors and elected municipal and parliamentary representatives who originally held different nationalities but now hold Malagasy nationality. The question of representativeness is resolved by the electoral system of universal suffrage.

42. Participation in government and in running public affairs at all levels, as well as the right of equal access to public positions, is a reality in Madagascar.

D. Other civil rights

43. Article 10 of the Constitution, on constitutional protection, stipulates the following:

The freedoms of opinion and expression, communication, the press, association, assembly, movement, conscience and religion shall be guaranteed to all and may be restricted only for the sake of respect for the freedoms and rights of others and the imperative need to safeguard public order.

This provision applies without restrictions to all communities living in Madagascar whether or not they have formed community associations.

44. There were around 60,000 to 80,000 people living in foreign communities in Madagascar in 2003, distributed as shown in table 1.

Table 1

Distribution of foreign communities

Nationality	Percentage
French	40
Chinese	20
Comorian	12
Indian/Pakistani	18
Other (British, African, Arab, Mauritian, Italian, Norwegian, Greek, German, Korean)	10

Source: Ministry of the Interior and Administrative Reform (November 2003).

45. So far, there has been no record of any complaint submitted by these communities on account of discrimination. The only problem encountered so far in implementing this provision concerns the refusal to allow one ethnic group to set up an association for its members in their home province (by decision of the Ministry of the Interior in 1994).

E. Economic, social and cultural rights

1. Right to work

46. Articles 27, 28 and 29 of the Constitution are devoted to the right to work. Article 28 in particular deals explicitly with non-discrimination in the workplace, as follows:

No one may be denied work or employment on the basis of sex, age, religion, opinions, origin, membership of a trade union or political beliefs.

47. Title I (General Provisions), article 1, of the Labour Code, established by Act No. 94-029 of 25 August 1995, provides as follows:

This law is applicable to all workers whose employment contract, of whatever kind, is enforceable in Madagascar. Accordingly, the provisions of this law apply to all employees, irrespective of their sex or nationality, and all persons who have agreed to perform their professional activities, in return for remuneration, under the supervision of another public or private, natural or artificial person. In defining a person as a worker, no account is taken of the legal status of the employer.

Also considered as workers within the meaning of this law are persons paid per task or per item who habitually perform work for an enterprise, regardless of whether there is a legal relationship that subordinates them to their employer or whether they work under the immediate and constant supervision of the employer or of a representative of the employer or whether the premises, materials or tools they use belong to them ...

48. As regards the question of whether particular ethnic groups perform certain types of work, mention might be made of migrations by the Betsileo ethnic group to carry out seasonal work in the rice fields, by ethnic groups from the south-east to draw rickshaws and those from the south to work as caretakers, and by the Merina and Betsileo ethnic groups to work as itinerant traders. Other ethnic groups may now be seen gradually taking up work in the kinds of trade traditionally engaged in by these groups, showing that there is no inter-ethnic rivalry in the field of employment. Occupation and the exercise of these trades has no effect on racial discrimination in any of the forms envisaged in article 1 of the Convention.

49. Table 2 below illustrates the distribution of employment in Madagascar.

Table 2
Employment distribution by place of residence

Branch of activity	Capital	Major urban centres	Secondary urban centres	Rural areas	Madagascar	
					2001	1999
Agriculture	6.0	23.4	56.1	83.8	75.6	76.5
Food industry	3.3	3.8	3.0	0.5	1.0	n.a.
Textiles	15.1	5.3	1.8	1.7	2.4	n.a.
Construction and public works	4.0	5.0	1.7	0.6	1.0	0.6
Other industries	9.1	8.7	3.5	2.0	2.7	4.9
Trade	15.7	18.8	12.6	4.0	5.9	5.9
Transport	5.9	7.2	2.7	1.1	1.7	1.1
Private health care	1.1	0.6	0.3	0.1	0.2	0.1
Private education	2.9	1.6	1.3	0.7	0.9	0.4
Civil service	9.6	8.3	6.9	1.5	2.6	2.6
Other services	27.2	17.5	10.1	4.2	6.2	7.7
Total	100.0	100.0	100.0	100.0	100.0	

Source: National Statistical Institute (INSTAT)/Department of Household Statistics (DSM), Continuous/Priority Household Survey (EPM) 2001.

2. Right to form and join trade unions

50. The replies to questions 2 (b) and (c) are implicit in the implementation of International Labour Organization (ILO) Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize and ILO Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively.

51. Under article 17 of Act No. 2003-011 containing the general regulations for civil servants, the first requirement for recruitment to the civil service is to be of Malagasy nationality. In this respect, article 5 specifies that there is to be no discrimination on grounds of sex, religion, opinion, kinship, financial situation, political beliefs or membership of a trade union.

3. Right to housing

(a) Housing market

52. There are no discriminatory measures within the meaning of the Convention in the public or private housing market. However, there is a natural tendency for people of the same ethnic origin to congregate in the same place.

Table 3
Occupancy of housing and types of housing (percentages)

Type of housing	Owner/occupier	Tenant	Tied accommodation	Free accommodation	Temporary occupancy	Total
Flat	63.3	28.3	3.8	3.7	0.9	100.0
Studio apartment	54.7	35.7	0.0	7.4	2.2	100.0
Room	37.0	49.8	1.1	10.5	1.5	100.0
Traditional detached house	87.7	7.2	0.5	3.1	1.5	100.0
Modern house	73.4	9.6	12.1	4.6	0.3	100.0
Other	70.7	18.1	6.4	0.9	3.9	100.0
Total	79.9	13.5	1.2	3.9	1.5	100.0

Source: INSTAT/DSM, EPM 2001.

53. Today, a majority of households own their house (49.8 per cent). Housing has been a problem in urban centres because of high tenancy rates (37.7 per cent in 2000; 39 per cent in 2001). The highest tenancy rates are found in the capital and in the administrative centres of the *faritany* (provinces). In rural areas, more than four households out of five own their home, although living conditions are not up to decent standards. Access to decent housing depends on improving the standard of living of the population.

54. The Government has begun to organize internal migration programmes (e.g. to Amboanjobe, Ankazobe and Mahitsy) for the poor in the major urban centres, all of whom are homeless (2,020 in 1995; 1,695 in 1996). Social and humanitarian NGOs such as Father Pedro's "Akamasoa" organization support the Government in implementing these programmes.

(b) Measures taken to prevent discrimination

55. Rentals and sales are regulated by law and governed by supply and demand without any reference to racial or ethnic discrimination.

4. Right to health, medical care, social security and social services

56. Madagascar is a member of the World Health Organization (WHO), the World Food Programme (WFP) and the United Nations Children's Fund (UNICEF).

57. The basic constitutional principle is contained in article 19 of the Constitution, which stipulates that "the State recognizes the right of every person to health protection from the moment of conception".

(a) National health policy

58. Madagascar has adopted a national health policy based on a strategy of primary health care. The principles underlying this policy are the right to health for all citizens and an approach to health problems based on prevention and cure within the framework of economic and social development. Under this new policy, priority is being given to the following objectives: (i) to improve the quality of health care; (ii) to set up a central agency to purchase generic medicines at lower prices; and (iii) to ensure that patients pay informally less often following the changes in health policies.

Table 4
Budgetary expenditure allocated to the health sector, and gross domestic product (GDP) (in billions of Malagasy francs)

	1995	1996	1997	1998	1999	2000
Total expenditure	2 373.8	2 883.4	3 137.9	3 819.5	3 790.9	5 067.6
Total GDP	13 479	16 224	18 051	20 343	23 390	26 820
Health expenditure	80.4	113.8	178.4	199.0	287.9	495.0
Health sector						
Current expenditure excluding salaries	38.2	49.2	61.2	69.7	78.8	120.4
Current expenditure on salaries	36.6	45.9	55.4	52.2	79.5	111.8
Investment expenditure	5.6	18.7	61.7	77.2	129.6	262.8
As a percentage of total expenditure	3.4	3.9	5.7	5.2	7.6	9.8
As a percentage of GDP	0.6	0.7	1.0	1.0	1.2	1.8

Source: Ministry of Finance and the Economy, as cited in Madagascar's Poverty Reduction Strategy Paper (PRSP) in 2001.

(i) Differences observed

59. Demand for health care in Madagascar is rather uneven, depending on geographic location. Consequently, there are no specific inequalities of an ethnic nature.

60. The inadequate coverage of vaccination programmes for children illustrates the inequality of access to health services. It should be noted that the main obstacle to such access is the remoteness of some populations as a result of the distance to the nearest roads and health centres. For this reason, the Government has made a particular effort to improve existing roads and build new ones.

Table 5
Incidence of diseases by *faritany* (province) and by disease

<i>Faritany</i>	Acute respiratory infections	Malaria	Diarrhoeal diseases	Skin infections	Oral infections	Sexually transmitted diseases ^b	Accidents	Eye infection	High blood pressure	Cough lasting more than three weeks	Other	Not stated	Total
Antananarivo	12.3	43.7	8.4	2.1	8.1	0.0	3.8	1.2	4.0	8.4	1.5	6.4	100.0
Fianarantsoa	7.1	52.8	12.5	2.9	3.8	0.1	6.7	0.8	4.0	3.8	0.9	4.7	100.0
Toamasina	5.6	49.6	13.1	4.9	5.2	0.5	3.7	1.8	2.5	8.1	1.0	3.9	100.0
Mahajanga	3.6	51.8	15.8	4.8	3.7	4.7	2.9	2.3	0.9	9.6	0.0	0.0	100.0
Toliara	4.4	61.5	11.1	1.3	3.2	0.9	3.9	0.0	1.1	5.6	0.5	6.8	100.0
Antsiranana	1.5	42.5	18.8	4.1	4.6	1.6	6.2	1.7	2.7	6.2	3.8	6.4	100.0
Madagascar	6.9	50.0	12.2	3.2	5.2	0.9	4.5	1.2	2.8	7.0	1.2	4.9	100.0

Source: INSTAT/DSM, EPM 2001.

Overview of the AIDS situation

61. Although there is no racial or ethnic discrimination in Madagascar, certain individuals or social groups are still stigmatized because of superstitions or ignorance of the pathology of diseases such as acquired immunodeficiency syndrome (AIDS).

62. The following priority measures are being taken by the Government to combat the pandemic:

- Establishment of the National Committee against AIDS, chaired by the President of the Republic;
- Implementation of a multisectoral project to prevent AIDS, which will be responsible for raising awareness and combating the pandemic and which will involve churches and State funding;
- Raising awareness at all levels (media, teachers, medical and paramedical staff, NGOs, civil society, etc.);
- General mobilization of the country's resources, including the army and churches;
- Inclusion of the subject of AIDS in school curricula;

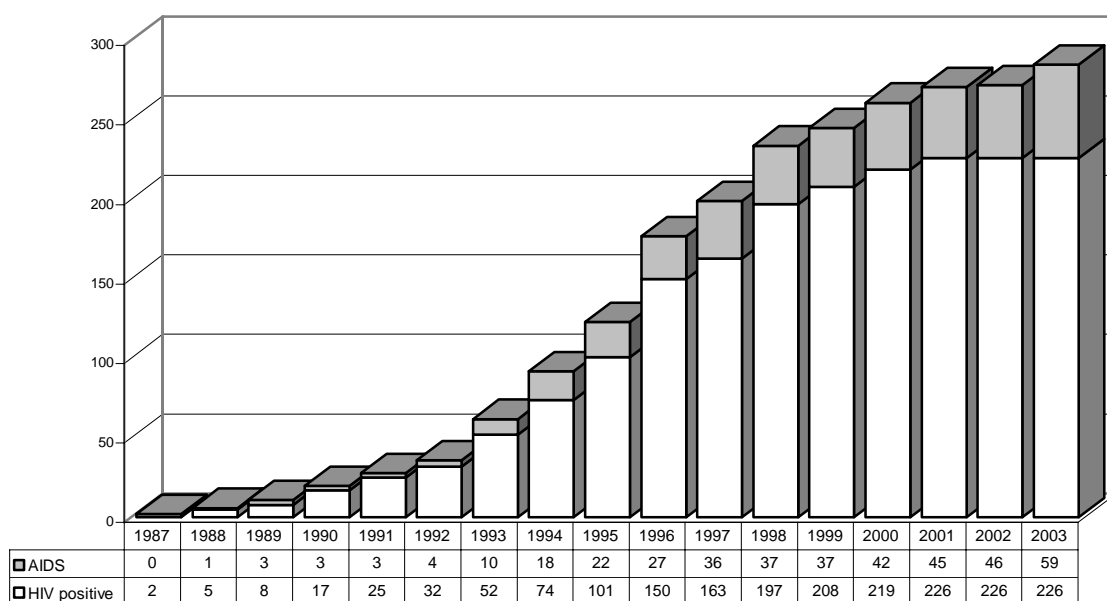
- Free screening with confidentiality assured;
- More screening centres;
- Promotion and over-the-counter sales of condoms;
- Raising awareness of the importance of not excluding persons living with the human immunodeficiency virus (HIV).

63. The figures for the AIDS prevalence rate are as follows: 1985 - 0.02 per cent; 1990 - 0.05 per cent; 1995 - 0.07 per cent; 2000 - 0.16 per cent; 2003 - 1.1 per cent. The worst-affected areas are Antsiranana, Antsirabe and Fianarantsoa. There has been a slight decline in the figures for Morondava.

Figure 1

Number of persons living with HIV/AIDS

Cumulative number of cases notified from 1987 to May 2003*



No. of persons tested = 218 310

* By date of notification

LNR - June 2003

Source: Ministry of Health.

64. Despite the Government's efforts in the field of health, it has to be admitted that much remains to be done, particularly if one takes into account, on the one hand, how poor the people are and, on the other, how rapidly diseases like HIV/AIDS can spread. According to the latest national survey on seroprevalence, carried out in May 2003 on pregnant women, Madagascar is now in the "generalized epidemic" phase, with a seroprevalence of 1.1 per cent (Ministry of Health).

65. Responsibility for dealing with AIDS issues lies with the Office of the President, which set up the National Committee against AIDS chaired by the head of State himself.

(ii) Measures taken to remedy inequalities

66. In the public sector, decentralization has led to the establishment of provincial health departments at the provincial level, district health offices at the sub-prefecture level and basic health-care centres at the local authority level (communes and *fokontany*, or villages).

Table 6

Operational budget, by level of health care (in millions of Malagasy francs)

	Office of the Secretary-General, central departments and services	CHU ^a	CHR ^b	EEMS ^c	DIRDS ^d	CHD2 ^e	SSD ^f	Total
1995	24 017	2 798	1 657	143	375	1 721	8 453	39 164
1996	23 167	2 963	2 038	76	809	2 276	19 747	51 076
1997	30 147	4 117	2 325	158	1 032	3 315	20 953	62 047
1998	30 787	4 542	2 562	367	3 441	3 802	26 503	72 004
1999	51 077		9 555			28 350		88 982

Source: Ministry of Health.

^a Centre hospitalier universitaire - university hospital.

^b Centre hospitalier régional - regional hospital.

^c Etablissement d'enseignement médico-social - medical-social teaching establishment.

^d Direction interrégionale des districts sanitaires - Interregional Department of Health.

^e Centre hospitalier de district 2 - district hospital, category 2.

^f Service de santé de district - district health service.

Table 7
Number of basic health-care centres

Province	1998		1999	
	Public	Private	Public	Private
Antananarivo	400	169	406	68
Antsiranana	192	23	186	29
Fianarantsoa	446	75	454	58
Mahajanga	356	52	339	37
Toamasina	412	40	410	41
Toliara	327	62	343	46
Madagascar	2 133	421	2 138	279

Source: Ministry of Health.

Table 8
Number of district hospitals

Province	1998				1999			
	CHD1		CHD2		CHD1		CHD2	
	Public	Private	Public	Private	Public	Private	Public	Private
Antananarivo	16	4	3	5	14	0	2	1
Antsiranana	3	1	3	4	3	0	3	3
Fianarantsoa	16	0	6	1	10	1	7	3
Mahajanga	13	0	3	3	15	2	2	3
Toamasina	12	0	4	1	9	1	6	0
Toliara	16	3	4	3	16	0	4	5
Total	76	8	23	17	67	4	24	15

Source: Ministry of Health.

Table 9
Operational budget allocations, according to level
(in thousands of Malagasy francs)

Level	1997 financial year	Percentage	1998 financial year	Percentage	1999 financial year	Percentage
Central ^a	34 265 030	55.2	34 915 710	48.5	41 077 032	57.4
Intermediate ^b	3 516 426	5.7	7 123 311	9.9	9 555 066	10.7
Peripheral ^c	24 268 572	39.1	29 966 807	41.6	38 350 467	31.9
Total	62 050 028	100	72 005 828	100	88 982 565	100

Source: Ministry of Health.

^a Central: Central services + CHU + specialized institutions + Public Health Workers College.

^b Intermediate: DIRDS + CHR + EEMS + deputy officials overseeing expenditure.

^c Peripheral: SSD + CHD2.

Table 10**Progress in selected aspects of access to health services**

	Population Group		Area		Total
	Poorest	Richest	Rural	Urban	
Vaccination rate: children aged 12-23 months who have had at least one vaccination (per cent)					
1993	61.8	66.8	63.5	78.8	65.5
1999	69.2	86.1	72.2	86.4	74.8
Change	7.4	19.2	8.8	7.6	9.3
Formal antenatal consultations by women aged 15-49 who have given birth in the last 12 months (per cent)					
1993	57.7	74.8	69.6	84.6	71.8
1999	66.4	73.3	64.8	76.1	66.8
Change	8.7	-1.6	-4.7	-8.5	-5.0
General consultations in public health establishments (clinics, hospitals) (per capita)*					
1993	0.041	0.063	0.047	0.071	0.051
1999	0.030	0.041	0.040	0.050	0.042
Change	-0.011	-0.022	-0.007	-0.021	-0.009
General consultations in private health establishments (private doctors, clinics and pharmacies) (per capita)*					
1993	0.006	0.040	0.014	0.043	0.020
1999	0.009	0.034	0.016	0.022	0.018
Change	0.002	-0.006	0.002	-0.021	-0.002

Source: INSTAT 2001.

* Per capita rates based on total population, not patient population only.

Table 11
Establishments attended for treatment, 1999
(percentages)

Type of establishment	Total	Antananarivo	Fianarantsoa	Toamasina	Mahajanga	Toliara	Antsiranana
University or regional hospital	7	10.1	4.3	7.8	3.3	7.3	8.4
District hospital, category 2	7.2	5.3	9.6	8.4	5.5	7.3	7.8
District hospital, category 1	6.4	3.6	9.6	4.7	5.4	9.3	4.4
Basic health centre, category 2 or category 1, or mother-child care	38.4	25.4	51.3	42.6	34.4	38.7	45.6
Private clinic or private doctor	26.3	31.7	20.6	19.2	32.9	27.2	24.3
Inter-company health service or NGO	4.4	11.1	1.8	1.7	5.3	0	7.8
Pharmacy or dispensary	3.2	1.9	1.2	8.5	0	4.8	0
Informal/other	7.2	10.8	1.5	7.3	13.2	5.4	1.7
Total	100	100	100	100	100	100	100

Source: Ministry of Health.

67. Under the poverty reduction strategy paper (PSRP), the Government has cut the amount of the financial contribution made by the poor to medical care through a system of equalization based on the cost-sharing system known as *fanome*. The principle is that the better-off pay more, the disadvantaged pay less and the indigent are covered by the system. The cost-sharing system has been implemented in line with the Alma-Ata and Bamako declarations, under the aegis of WHO.

(b) Social services

68. Madagascar is a member of the International Labour Organization (ILO) and host to the ILO Area Office; more than 35 ILO conventions have been ratified.

69. The Ministry of Labour and Social Legislation comprises:

- The Department of Labour, Working Relations and Economic Growth;
- The Department of Welfare;
- Provincial labour and social legislation offices; and
- Inspectorates of labour and social legislation.

70. The infrastructure is made up of the following bodies:

- The National Social Insurance Fund, with provincial and regional offices;
- Inter-company health services;
- The National Welfare Board;
- The National Employment Board;
- Regional labour boards.

71. As regards occupational health, the private sector has a network of inter-company health services and independent health services for large companies. Two parties are involved in such services - management and employees. The services are regulated by the Ministry of Labour and Social Legislation, and the services, the medicines and the operating budget are financed jointly by management's and employees' premiums.

72. Some discrimination has been noted in respect of the quality of services offered, which varies by occupational group, though not by racial or ethnic origin. Hence the significance of the recent establishment of the National Welfare Board. Every commune in urban areas has a public health office, which is responsible in the first instance for assisting the indigent. The office is also responsible for health measures in urban areas (extermination of vermin and insects and fumigation of homes).

73. NGOs work in tandem with the Government in providing help to the very poor. One such organization, Akamasoa, run by Father Pedro, is currently assisting with the occupational and social reintegration of more than 17,000 families throughout Madagascar.

74. In the area of social security, Madagascar has an institution responsible for the family allowance and social insurance system, the National Social Insurance Fund, which is a parastatal body constituted along the ILO's tripartite lines - i.e., a State-management-employee partnership - with the aim of putting an end to exclusion. The Fund is responsible for family allowances, the pension fund and compensation for workplace accidents, and it operates throughout the country.

5. Right to education and vocational training

75. Education in Madagascar was for a long time in a state of considerable flux. There was a sharp rise in enrolment figures between the 1960s and the early 1980s, but with the decline in the quality of education and the economic depression of the 1980s, numbers then fell steadily until the middle of that decade.

76. Article 22 of the 1992 Constitution notes that the basic educational needs of children, adolescents and adults differ and that a variety of forms of education are required if those needs are to be met. Education and training are therefore organized as follows:

(a) The basic level comprises basic education I, i.e., primary schools, and basic education II, i.e., general and technical lower secondary schools (*collèges*);

(b) The secondary and vocational level comprises general secondary education and technical and vocational training.

The system covers the entire country, in line with the aim of expanding education. The State prioritizes education for all.

(a) Inequalities

77. The inequalities to be found in education and vocational training in Madagascar have to do with access for urban and rural populations; there is no inequality between racial groups.

Table 12

Literacy rates by *faritany* (province)

Province	Area	Rate
Antananarivo	Urban	77.1
	Rural	67.1
Fianarantsoa	Urban	69.5
	Rural	51.2
Toamasina	Urban	70.4
	Rural	45.0
Mahajanga	Urban	74.7
	Rural	41.4
Toliara	Urban	56.1
	Rural	19.1
Antsiranana	Urban	62.7
	Rural	45.8
Madagascar	Total	53.5

Source: INSTAT/DSM.

(b) Technical and vocational training

78. The foregoing also applies to technical and vocational training (FTP), which is the least well-developed area of education. FTP institutions exist only in the major urban centres. In 2002/03, enrolments in FTP accounted for only 3.17 per cent of total enrolments of lower and upper secondary school students. Given the high proportion of rural inhabitants of Madagascar (more than 70 per cent), it is clear that there are insufficient agricultural training facilities to meet the need for skills.

Table 13**Students in vocational training centres, by province and sector, 1997/98 school year**

Province	Civil engineering		Industrial		Tertiary		Agricultural		Total	
	Total	Girls	Total	Girls	Total	Girls	Total	Girls	Total	Girls
Antananarivo	174	2	255	193	130	97			559	292
Antsiranana	113	0	88	88					201	88
Fianarantsoa	28	5	155	128					183	133
Mahajanga	78	11	23	0					101	11
Toamasina	128	9	115	99					243	108
Toliara	93	28							93	28
Madagascar	614	55	636	508	130	97	0	0	1 380	660

Table 14**Students in vocational training centres, by province and sector, 1998/99 school year**

Province	Civil engineering		Industrial		Tertiary		Agricultural		Total	
	Total	Girls	Total	Girls	Total	Girls	Total	Girls	Total	Girls
Antananarivo	377	13	466	375	91	51			934	439
Antsiranana	171	0	116	116					287	116
Fianarantsoa	78	12	300	246					378	258
Mahajanga	17	0	32	0					49	0
Toamasina	212	14	174	166					386	180
Toliara	183	44							183	44
Madagascar	1 038	83	1 088	903	91	51			2 217	1 037

(c) Measures taken

79. The following measures have been taken to correct the inequalities observed between the urban and rural populations - and which cut across all ethnic groups - with regard to access to education and standard of education.

80. Beginning in the early 1990s, the State has increased the education component of the budget.

Table 15

**Educational expenditure: operations and investment
(thousands of Malagasy francs)**

Item	2000	2001	2002	2003
Current expenditure on salaries	325 561 708	375 147 753	513 683 000	667 866 531
Current expenditure excluding salaries	100 052 205	104 117 000	137 635 000	141 676 841
Investment	219 407 578	221 248 029	292 471 957	147 956 321
Total	645 021 491	700 512 782	943 789 957	957 499 693

Source: Ministry of Secondary and Basic Education/DAF: Budget Acts.

Note: The 2003 budget includes the budgets for general education and for technical education.

Table 16

State expenditure on education as a percentage of GDP

Expenditure	1990	1995	2000
Current	2.6	1.7	2.2
Total (current + capital)	3	1.8	1.3

Source: World Bank, 2000: *Education in Madagascar*.

81. These measures have had a positive impact on enrolment figures at all levels.

Table 17

Students and teachers in basic education I (primary) schools, 1998-2003

Indicators	1998/99	1999/00	2000/01	2001/02	2002/03
Pupils	2 018 707	2 208 321	2 307 314	2 409 082	2 856 480
State	1 571 282	1 708 835	1 808 428	1 892 801	2 274 443
Private	447 425	499 486	498 886	516 281	582 037
Schools in operation	14 438	15 655	16 262	18 295	18 977
State	11 154	11 946	12 730	14 436	14 637
Private	3 284	3 709	3 532	3 859	4 340
Teaching staff	42 678	46 051	49 411	50 736	55 309
State	29 658	31 679	33 868	36 181	38 509
Private	13 020	14 372	15 543	14 555	16 800
Non-teaching staff	3 657	4 708	4 280	4 798	4 465
State	2 034	2 662	2 103	2 543	2 280
Private	1 623	2 046	2 177	2 255	2 185

Source: Statistical yearbooks.

Table 18**Students and teachers in basic education II schools (*collèges*), 1998-2003**

Indicators	1998/99	1999/00	2000/01	2001/02	2002/03
Pupils	273 613	287 873	316 390	343 937	356 973
State	151 296	159 504	175 069	193 091	201 357
Private	122 317	128 369	141 321	150 846	155 616
Schools in operation	1 322	1 403	1 426	1 519	1 596
State	715	732	752	780	801
Private	607	671	674	739	795
Teaching staff	13 528	13 697	14 755	14 070	14 661
State	7 838	7 781	8 086	8 055	8 390
Private	5 690	5 916	6 669	6 015	6 271
Non-teaching staff	4 032	3 918	4 258	3 744	3 980
State	3 125	2 969	3 197	3 063	3 084
Private	907	949	1 061	681	896

Source: Statistical yearbooks.

Table 19**Students and teachers in upper secondary schools (*lycées*), 1998-2003**

Indicators	1998/99	1999/00	2000/01	2001/02	2002/03
Pupils	60 597	66 381	66 021	77 655	79 238
State	31 571	35 243	33 716	41 702	42 386
Private	29 026	31 138	32 305	35 953	36 852
Schools in operation	308	318	331	359	336
State	101	104	108	108	108
Private	207	214	223	251	228
Teaching staff	5 459	5 549	6 102	4 725	4 810
State	2 470	2 454	2 774	2 639	2 684
Private	2 989	3 095	3 328	2 086	2 126
Non-teaching staff	1 877	1 949	2 025	1 742	1 700
State	1 302	1 335	1 384	1 297	1 303
Private	575	614	641	445	397

Source: Statistical yearbooks.

82. The colonial practice of requiring students to indicate their ethnicity upon enrolment has been abolished. Consequently, it is not possible to relate inequities in students' education to their ethnic origin. That having been said, inequities can be observed between students in the capital and those in the provinces. There are also differences in educational standards between students in State institutions and those in prestigious private institutions.

83. Madagascar now has six independent universities in the provincial capitals, a national distance learning centre, and a number of State and private advanced vocational training institutions.

(d) Legislative measures

84. In instituting free compulsory nursery and primary education for all, the Government established the legal framework in Act No. 94-033 of 13 March 1995, which set forth general guidelines for Madagascar's education and training system. This Act covers all areas of education and training, from pre-school up to university level. State education is free of charge and accessible without discrimination:

In accordance with the economic, social and cultural rights and obligations established in the Constitution, and in fulfilment of the international obligations of the Malagasy people, the Republic of Madagascar recognizes the right of every person - child, adolescent or adult - to education and training.

Article 4 - Education and training shall be protected against all possibility of abuse, including appropriation by any social, political, religious or other group.

Article 5 - Subject to the conditions laid down by law, the State guarantees to all the respect and enjoyment of these rights to education and training.

85. The Malagasy education system also offers an education to those who are unable to attend school or are obliged to leave school early. The joint Education for All programme, under the aegis of the Ministry of Population, is centred around a literacy and basic technical and vocational training campaign that aims to help young people and adults improve their opportunities in society.

(e) Enrolment trends

86. Data on trends in enrolments at the primary and secondary levels are given in tables 20 to 23.

Table 20

Primary education, 1993-1998

Indicators	1993/94	1994/95	1995/96	1996/97	1997/98
Pupils (total)	1 504 668	1 511 863	1 638 187	1 731 813	1 892 943
Private	318 593	337 812	337 154	371 415	424 732
Private as a percentage of total	21.20%	22.30%	20.60%	21.40%	22.40%
Pupils in first grade (total)	554 362	568 447	644 655	686 206	751 237
Girls	268 210	290 337	311 812	332 938	364 718
Girls as a percentage of total	48.40%	51.10%	48.40%	48.50%	48.50%

Table 20 (continued)

Indicators	1993/94	1994/95	1995/96	1996/97	1997/98
Schools (total)	13 624	13 486	10 817	13 377	13 638
Private	2 463	2 674	2 508	2 834	3 028
Private as a percentage of total	18.10%	19.80%	23.20%	21.20%	22.20%
Teaching staff (total)	37 676	38 536	37 552	39 785	40 591
Private	8 091	9 880	9 203	11 375	12 054
Private as a percentage of total	21.50%	25.60%	24.50%	28.60%	29.70%
Non-teaching staff	4 047	5 543	6 560	4 821	3 706
State	3 675	4 052	5 164	3 197	2 216
Private	372	1 491	1 396	1 624	1 490

Source: Department of Primary Education, Schools Service, “Examen du Certificat d’études primaires élémentaires de 1996/97 à 1998/99” (An analysis of the Primary School Certificate, 1996/97-1998/99), in *Statistiques relatives aux résultats de l’examen du CEPE* (Statistics on Primary School Certificate results).

Table 21**Lower secondary education (collège), 1993-1998**

Indicators	1993/94	1994/95	1995/96	1996/97	1997/98
Pupils (total)	237 909	235 766	241 249	250 858	264 185
Private	103 181	105 672	102 086	114 337	118 533
Private as a percentage of total	43.40%	44.80%	42.30%	45.60%	44.90%
Pupils in sixth grade (total)	69 102	69 762	72 433	83 555	83 465
Girls	34 440	34 583	36 017	41 445	40 331
Girls as a percentage of total	49.80%	49.60%	49.70%	49.60%	48.30%
Schools (total)	1 153	1 204	1 204	1 272	1 292
Private	492	533	549	574	588
Private as a percentage of total	42.70%	44.30%	45.60%	45.10%	45.50%
Teaching staff (total)	11 161	11 387	11 692	12 326	12 937
Private	3 473	3 699	3 165	4 720	5 290
Private as a percentage of total	31.10%	32.50%	27.10%	38.30%	40.90%
Non-teaching staff	3 023	4 636	3 253	3 835	3 844
Private	225	1 405	904	670	804
BEPC entries (total)	65 494	69 213	68 326	66 788	66 834
BEPC passes	16 158	17 226	17 577	22 016	17 460
Passes as a percentage of total	24.70%	24.90%	25.70%	33.00%	26.10%

Source: Department of Secondary Education, Schools Service, “Examen du brevet d’études du premier cycle” (An analysis of the Lower Secondary School Certificate).

Note: BEPC = Brevet d’études du premier cycle (Lower Secondary School Certificate).

Table 22
Upper secondary education (*lycée*), 1993-1998

Indicators	1993/94	1994/95	1995/96	1996/97	1997/98
Pupils (total)	60 332	57 683	54 686	56 419	61 192
Private	29 991	29 262	27 431	27 406	29 767
Private as a percentage of total	49.70%	50.70%	50.20%	48.60%	48.60%
Students in tenth grade (total)	21 026	19 132	18 378	19 098	22 334
Girls as a percentage of total	50.20%	50.10%	50.20%	50.00%	49.50%
Schools (total)	281	316	302	302	310
Private	193	225	208	206	212
Private as a percentage of total	68.70%	71.20%	68.90%	68.20%	68.40%
Teaching staff (total)	3 957	4 274	4 803	5 151	5 320
Private	1 402	1 700	2 164	2 572	2 763
Private as a percentage of total	35.40%	39.80%	45.10%	49.90%	51.90%
Non-teaching staff	1 878	1 673	2 145	1 831	1 874
Private	399	513	584	473	530
Baccalauréat entries (total)	30 978	28 904	27 357	28 945	28 988
Baccalauréat passes	8 047	8 054	6 107	8 963	8 593
Passes as a percentage of total	26.00%	27.90%	22.30%	31.00%	29.64%

Source: Department of Higher Education, “Examen du baccalauréat” (An analysis of the Baccalauréat), in *Statistique Baccalauréat 1993-1997* and *Baccalauréat 1998/99*.

Table 23
**Unadjusted rates of admission to primary and secondary education,
1996/97 and 1997/98**

	Primary		Lower secondary		Upper secondary	
	1996/97 %	1997/98 %	1996/97 %	1997/98 %	1996/97 %	1997/98 %
Boys	98.30	106.20	19.80	20.00	5.80	6.00
Girls	97.30	103.90	20.20	19.40	5.80	6.90
Total	97.80	105.30	20.00	19.70	5.80	6.90

(f) Educational expenditure: operations and investment

87. In view of the importance attached to education, the education budget has been increasing since the mid-1990s. The downward trend in public expenditure on education was reversed in 1995, and resources are now back up to the levels seen in the early 1990s (see above, tables 15 and 16).

88. The rise in public expenditure, together with the economic recovery, has boosted pupil enrolments in primary schools. The recovery in primary enrolment rates has been particularly marked in rural areas and among poor households. The State considers education a priority target in the fight against poverty.

Table 24

**Educational expenditure: operations and investment
(thousands of Malagasy francs)**

Item	2000	2001	2002	2003
Operating expenditure on salaries	325 561 708	375 147 753	513 683 000	667 866 531
Operating expenditure excluding salaries	100 052 205	104 117 000	137 635 000	141 676 841
Investment	219 407 578	221 248 029	292 471 957	147 956 321
Total	645 021 491	700 512 782	943 789 957	957 499 693

Source: Ministry of Secondary and Basic Education/DAF: Budget Acts.

Note: The 2003 budget includes the budgets for general education and for technical education.

(g) Higher education

89. Chapter IV, on general principles, of Act No. 94-033, protects the independence of universities from appropriation by any political or ideological interests. The fundamental features of higher education are autonomy, openness and the freedoms and privileges of universities. University education is provided in all six provinces, but the capital, Antananarivo, enjoys the particular advantage of also having private institutions of higher education, some of them religious foundations, others secular.

Table 25

Students enrolled in higher education, 2000

Institution	Male	Female	Total
University	11 738	10 428	22 166
Higher technical institutes	279	120	399
Madagascar National Distance Learning Centre	3 912	3 054	6 966
Private	1 365	1 260	2 625
Total	17 294	14 862	32 156

Source: Ministry of Higher Education

(h) Other measures

90. The Education for All programme, launched in the spirit of the Jomtien World Conference on Education for All, aims to eliminate discrimination, as required by the Convention. Emphasis is therefore placed on male-female equality in all activities in this regard, in order to make up the ground lost by women in relation to men. Statistical data from the Ministry of Secondary and Basic Education show that the situation has improved.

91. The State is now making special efforts to increase school enrolment rates among Malagasy children, with a target of 100 per cent by 2015. To that end, the Government paid the enrolment fees for all children in basic education I in both State and private schools at the start of the 2003/04 school year, in order to ensure better access to education for children from poor families and isolated areas. An annual subsidy is available for private and State schools, which puts them on an equal footing.

92. The State also makes a contribution to the salaries of teachers supported by parents' associations (schedule of State contributions published October 2003). These measures are taken in cooperation with the Partnership for School Development (Fiaraha-miombon' Antoka ho amin'ny Fampanandrosoana - FAF). The Ministry of Secondary and Basic Education has also recruited 1,658 new teachers and is planning to renovate schools and to build 774 new classrooms.

93. As part of efforts to combat discrimination, it has been decided that school and higher education curricula shall include courses in human rights focusing particularly on the fight against racism and other forms of discrimination.

94. Teaching and education are fundamental components of the poverty reduction strategy. The main priorities are:

(a) To improve school enrolment figures by increasing access to school, particularly for girls, primary school coverage and educational attainment;

(b) To promote cultural identity by publishing and reprinting books in the Malagasy language and establishing a modern communications infrastructure;

(c) To incorporate Malagasy moral and cultural values in the drafting and implementation of educational curricula at all levels; and

(d) To reinforce partnerships with educational NGOs.

6. Right to equal participation in sports and cultural activities

95. Madagascar has no problem of discrimination with regard to the practice of sports or participation in artistic and cultural activities. Madagascar's national teams in all international and regional sporting competitions are made up of people from various ethnic backgrounds. The Ministry of Culture regularly organizes inter-ethnic sociocultural events.

7. Right of access to places intended for use by the general public

96. Madagascar has no problem of discrimination with regard to the right of access to any place or service intended for use by the general public. There is no racial discrimination restricting the right of access to places or services intended for use by the general public, such as transport, hotels or restaurants.

V. ARTICLE 6

A. Information on legislative, judicial, administrative or other measures

1. Legislative measures

97. In conformity with article 6 of the Convention, Madagascar assures protection to everyone within its jurisdiction by incorporating measures into its Constitution and positive law to make such protection effective.

(a) The Constitution

98. In its preamble, the 1992 Constitution describes the struggle against injustice, inequality and all forms of discrimination as a factor in ensuring integrated, harmonious and sustainable development. Article 8 furthermore states that: "Citizens are equal before the law and enjoy the same fundamental freedoms under the protection of the law without discrimination on the basis of sex, level of education, financial situation, origin, race, religious belief or opinion."

99. Reference might also be made to article 10 of the Constitution, which reads:

The freedoms of opinion and expression, communication, the press, association, assembly, movement, conscience and religion shall be guaranteed to all and may be restricted only for the sake of respect for the freedoms and rights of others and the imperative need to safeguard public order.

In the same vein, article 14 of the Constitution prohibits associations or political parties that preach totalitarianism or segregation based on ethnic, tribal or sectarian grounds.

(b) Positive law

100. Article 115 of the Criminal Code and article 75, paragraph 5, of the Communications Act No. 90-031 of 21 December 1990 designate as punishable offences the denial of a person's rights on grounds of race, colour, ethnic identity or origin and incitement to discrimination, hatred or violence against a person on account of that person's origin, colour, sex, family situation or membership or non-membership in a given national, racial or religious grouping.

101. For such offences, article 115 of the Criminal Code prescribes a penalty of one month to one year in prison and/or a fine of 50,000 to 250,000 Malagasy francs, while article 75 of the Communications Act prescribes a penalty of one month to one year in prison and a fine of between 100,000 and 3 million francs.

102. Although the term “racial discrimination” is not explicitly mentioned in article 115 of the Criminal Code or article 75 of the Communications Act, the spirit of those articles is consistent with the definition given in article 1 of the Convention.

103. In Madagascar, persons of different national, racial or ethnic origins live in perfect and positive social harmony, despite some discriminatory rhetoric occasionally advanced by certain groups for political or economic motives. Racist or tribalist rhetoric has been heard at times of political unrest, notably in 1972 with the development of anti-French xenophobic propaganda and the protests against the way power had been transferred to General Gabriel Ramanantsoa, who is of Merina origin, and again in 2001, when barricades were erected to lay siege to the capital.

104. In the economic domain, some members of the Indian community have been subjected to acts of vandalism, but the representatives of the Indian/Pakistani community say that they have not been subjected to discrimination as defined in the Convention.

105. During periods of political unrest, there are often reports of acts of vandalism in the form of organized and orchestrated robberies that have nothing whatever to do with racist motives or ethnic discrimination.

106. Tribalist slogans are heard in public speeches or appear in graffiti.

107. In such cases, before taking any repressive measures, the authorities react by issuing warnings and drawing attention to the laws prohibiting all discriminatory propaganda based on race and ethnic origin, thereby applying the principle of *fihavanana* (the parentalization of human relations), a traditional value recognized throughout the country which encompasses, at the same time, tolerance, social harmony, mutual respect and solidarity, and which is one of the foundations of human relations in Madagascar.

(c) Plans for improving the situation

108. In the future, in order to prevent practices of racial discrimination, a cultural framework will be created to foster communication, dialogue, understanding and mutual respect between the diverse communities in the country and the Malagasy population. In practical terms, this will take the form of cultural activities and events with an educational purpose: colloquiums, lectures and competitions organized under a coherent plan of action.

109. Although Malagasy legislation is in keeping with the spirit of article 1 of the Convention, it should adopt the term “racial discrimination” for the sake of terminological consistency and, above all, to better reflect its determination to combat any risk of conflict based on racial discrimination.

(d) The right to a defence

110. Title IV of the rules governing the judiciary and judicial procedure (entitled “Defence of the parties”) defines the rights of suspects and accused persons to a defence during the preliminary investigation and examination stages and those of defendants and persons claiming criminal indemnification before trial courts.

(e) Efforts planned

111. There are plans to bring domestic legislation into line with article 6 of the Convention.

(f) Conclusion

112. Through its legislation, Madagascar as a State party to the Convention assures protection to everyone who claims to be the victim of racial or ethnic discrimination or of other violations, provides full remedies to parties in proceedings who are dissatisfied with the judgements delivered by the courts and recognizes the right of those parties to reparation for harm suffered.

2. Judicial measures

(a) Before domestic courts

113. In the event of a dispute relating to racial discrimination, as defined in article 115 of the Criminal Code and article 75 of the Communications Act, the competent court is the Correctional Court. The procedure is the same as that followed for other types of offences. This applies both to nationals and to foreigners staying or residing in Madagascar.

114. Few complaints about racial or ethnic discrimination are brought before the Court or other bodies such as the Office of the Ombudsman (Médiateur) or the National Human Rights Commission. Complaints are often complicated by other motives: for example, unlawful dismissals essentially decided on the basis of national or ethnic identity. Compensation awards tend to penalize both the unlawful dismissal and the injustice inflicted by reason of the victim's membership in a different ethnic group. Failure on the part of victims of racial discrimination to refer these matters to the competent court are due either to ignorance of the existence of the relevant laws or failure to grasp the underlying problem (an inability to identify the problem as one that may have something to do with racial or ethnic discrimination).

(b) Before international bodies

115. Once the remedies before the domestic courts have been exhausted, there is always the option of referring the matter to an international body. However, Madagascar has not yet made a declaration recognizing the competence of such bodies.

(c) Action taken by the Office of the Ombudsman

116. Although the Office of the Ombudsman, a mediation body, acknowledges that it has received some complaints about racial discrimination, there was not enough evidence for the complaints to be declared admissible. If a complaint is admissible, the Office can proceed with mediation. Should that fail, the Office will assist the victim in filing before the competent court and in the subsequent proceedings.

117. In practice, disputes involving ethnic discrimination are resolved under customary rules by traditional chiefs. The resolution of the conflict between the Zafisoro and Antefasy ethnic groups in 1990 may be cited as a case in point. In the event of non-compliance with the terms of the mediation, the offender is liable to prosecution. The Tamatave Court of First Instance tried a

case involving the offence of incitement to ethnic hatred, which resulted in the imposition of a non-suspended sentence of three months' imprisonment (Case No. 180 CO/03, Toamasina Court of First Instance). That decision is being appealed.

(d) Action to be taken

118. Dissemination of the law, education, awareness-raising and information, through the organization of sketches, playlets, puppet shows and through the radio and other media.

3. Administrative measures

119. The Malagasy authorities have used quota systems when recruiting civil servants. This practice of positive discrimination has been adopted to redress the imbalance in the numbers of persons from the provinces employed in civil service posts.

120. **Oral agreements:** very few complaints are brought before the courts because the offences involved are not well defined. Such cases are solved through conciliation initiated by the traditional authorities. A meeting held for that purpose is presided over by traditional chiefs, i.e. village elders, who hear each of the parties to the dispute. The traditional chiefs then deliberate and render their decision, which essentially involves compensation, where applicable, in the form of the gift of an ox for the injured party. This form of oral agreement, known as "Ziva", is an expression of tolerance among rival ethnic groups. It is worth noting that all kinds of offences of an average level of importance can be resolved through these kinds of meetings, except for any offence against moral codes (e.g. the offence of adultery).

B. Measures taken to assure to everyone the right to seek satisfaction or civil reparation

121. Any victim of a violation of the law may apply to the competent court for reparation for harm suffered. Reparation may be provided in the form of damages, the amount of which is left for the court to decide in accordance with the degree of harm sustained.

1. Civil reparation

122. With regard to civil reparation before the criminal courts, articles 1 and 6 of the Code of Criminal Procedure allow for two different types of proceedings: a public prosecution seeking the infliction of penalties, in other words, an action taken to punish the guilty, or, alternatively, a civil action, i.e. an action for reparation of the damage caused by the commission of the offence.

123. If reparation is sought before the State courts, the two-tier principle is applied. If no satisfaction is obtain at the appeal stage, an application may be made for judicial review (articles 398-399 and 433 of the rules governing the judiciary). Article 398 of the rules governing the judiciary and judicial procedure indicates that a case under appeal will be decided by a higher court in fact and in law. Article 399 stipulates that the time limit for filing an appeal is one month. Article 433 provides for the possibility of judicial review. According to article 434, a party not present and not represented at a trial always has the option of challenging a judgement which is prejudicial to that party's rights.

2. Practice and decisions of the courts and other bodies

124. The courts take few decisions on cases involving racial discrimination, an exception was the above-mentioned case No. 180 CO/03, which was heard by the Toamasina Court of First Instance. The scarcity of complaints is due to insufficient awareness of the law in this field, hence the importance of the popularization and large-scale education initiative currently being spearheaded by the Ministry of Justice.

C. General recommendation XXVI on article 6 of the Convention (2000)

125. Thanks to an initiative taken by the National Human Rights Commission, a law has been enacted to guarantee legal assistance to anyone involved in a criminal case. Act No. 97-036 of 30 October 1997 enables anyone subject to criminal proceedings to be assisted by a person of his or her own choosing from the beginning of the investigation. In the case of offences for which heavier legal penalties are imposed, the accused is entitled to the services of a court-appointed lawyer paid for by the State.

VI. ARTICLE 7

126. Madagascar is a member of the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the International Telecommunication Union and the Universal Postal Union.

A. Measures taken in the field of education

1. Legislative measures

(a) The Constitution

127. The Malagasy State recognizes the right of every citizen to intellectual development. Article 22 of the Constitution provides that: "The State shall take the necessary measures to guarantee the intellectual development of every individual, subject only to that individual's abilities." Article 23 stipulates that: "Every child has the right to education under the responsibility of the parents and on the basis of respect for their freedom of choice. Every adolescent is entitled to vocational training."

(i) Combating racial prejudices

128. Article 8 of the Constitution provides that: "Citizens are equal before the law and enjoy the same fundamental freedoms under the protection of the law without discrimination on the basis of sex, level of education, financial situation, origin, race, religious belief or opinion." However, in some regions, girls are still regarded as having no other purpose than that of looking after the home. Such prejudices are particularly common in the south and south-west of the country. To combat them, the State has made primary education compulsory and has instituted the principle of free public primary education.

129. Article 23 of the Constitution recognizes the right of every adolescent to vocational training, a provision aimed at eliminating prejudices that lead to racial or ethnic discrimination. Article 24 spells out the meaning of the preceding articles in the following terms: “The State organizes public education which is free and accessible to all. Primary education is compulsory for all.”

(ii) Promoting understanding, tolerance and friendship among nations and racial or ethnic groups

130. Article 2, paragraph 4, of Act No. 94-033 of 13 March 1995, concerning the general policy for the system of education and training in Madagascar, stipulates that the members of Malagasy society shall favour tolerance.

(iii) Promoting United Nations principles on the elimination of racial discrimination

131. With a view to promoting the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and the International Convention on the Elimination of All Forms of Discrimination, article 4 of Act No. 94-033 provides that: “Education and training must be protected against all possibility of abuse, including appropriation by any social, political, religious or any other group.”

2. Other additional measures

132. The creation of an Office for Mass Education and Civics within the Ministry of Secondary and Basic Education in 2002 will strengthen the civic spirit of young persons in accordance with United Nations recommendations on education for democratic citizenship.

133. A series of incentives have been introduced in pursuance of the policy of education for all:

(a) This year, a school kit (one backpack, one pencil case, one pen, one lead pencil, one eraser, one box of six coloured pencils, one compass and one set square) and school textbooks (for French, arithmetic and reading) were distributed to every primary school student;

(b) Since October 2003, the State has also paid part of the salaries that the School Parents’ Association pays to teachers who are not State employees;

(c) The State has waived enrolment fees for parents. It has also given every institution a subsidy of 10,000 Malagasy francs per pupil, which is handled by the Partnership for the Development of Academic Institutions;

(d) In order to guarantee children from poor families and isolated areas better access to education, annual subsidies are made available for private and public schools, thereby according such children equality of treatment;

134. It has to be acknowledged that the effectiveness of this measure depends on improving the standard of living of the population as a whole, hence the importance of ensuring the success of the poverty eradication programme outlined in the Poverty Reduction Strategy Paper.

135. More residential facilities should be constructed in major towns and cities to enable girls from rural areas to continue their studies.

136. One solution that has been proposed is to promote cultural identity through the publication and reprinting of books in the Malagasy language and the development of the communications infrastructure.

3. Positive law

137. The absence of a specific law on discrimination in the field of education and instruction is an obstacle to the full success of the struggle against discrimination. The Government has taken steps to remedy these shortcomings through the Department of Instruction and Education.

4. Judicial measures

138. To date, Malagasy courts have received no complaints about access to education being denied on the basis of racial discrimination as defined in article 1 of the Convention. Difficulties in gaining access to education are mainly due, rather, to a shortage of funds among individual households to pay for education.

5. Administrative measures

139. In keeping with the wish expressed in article 26 of the Universal Declaration of Human Rights, Madagascar has abolished the colonial practice of requiring the student's ethnic origin to be indicated in each school file and has implemented a policy of education for all, encouraging girls to attend school and to advance as far as their abilities allow.

6. Other measures

140. In order to combat racial and ethnic discrimination effectively, Malagasy, the official language, regional dialects and the French language are used as the languages of instruction, while English is used for communication with the rest of the world. This helps the struggle against discrimination on ethnic grounds. It also fosters communication and mutual understanding among Malagasy people from different parts of the island, thereby consolidating national unity.

7. Human rights education

141. With a view to securing tangible results from the struggle against discrimination, and in conformity with United Nations recommendations on the Decade for Human Rights Education (1995-2004) as it relates to schools, a programme has been devised for the inclusion of human rights education in basic education, with an emphasis on combating racism and other forms of discrimination, beginning in the third and fourth grades in primary school and continuing throughout the stages of secondary and further education.

B. Culture

142. The information on this subject is set out in the answers to questionnaires 2-4 on article 4 of the Convention (see paragraphs 24-33 above).

C. Information

143. The requested answers are found in the replies to questionnaires 2-4 on article 4 of the Convention (see paragraphs 24-33 above).

144. The measures undertaken are encouraging, but they are insufficient without an improvement in the standard of living of the population as a whole. The State accords particular importance to the success of poverty eradication efforts, in accordance with the Millennium Development Goals.
