



MADAGASCAR

Status of implementation of the UPR recommendations 2014

2014-2019 Report

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Presentation of GTT International (Malagasy Patriots)

A collective was born spontaneously in Europe after the coup d'Etat of March 2009 in order to defend the country and its inhabitants against the excesses of totalitarian power in all its aspects namely, the violations of human rights, human security and seizure of all powers in our country, including public goods.

Since 2009, institutions including justice have been deconstructed. Elected officials are under physical pressure and during the period, many of them lost their lives.

GTT International is organized to gather several associations of the Malagasy diaspora, in Paris, Geneva, Poitiers, Reunion and the United States.

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1.1. Introduction

In addition to the presidential elections of December 20th 2018, the general situation prevailing in Madagascar has hardly changed. We want to show, through this presentation, that effects did not follow the recommendations issued during the last evaluation in 2014. Point by point, we strive to report the significant facts, supported respectively by justifying references.

1.2. Main recommendations

We, at GTT International, ask to the State members to take coercive measures against the Malagasy government in order to :

- To set up an survey commission that would be independent and credible in order to highlight the extra-judiciary executions and the plundering of natural resources that are crimes against humanity for International Criminal Court..
- To guarantee freedom of expression under every aspect, including freedom of press, without being afraid of the arbitrary arrest, in order to regain democracy in the country.
- On one hand, put an end to the large traffic of weapons, the main source of insecurity in the whole territory, and on the other hand to protect the people and the goods.

1.3. Extrajudicial executions

Recommendations from the last UPR

See Annex 3: Recommendations A - 108.115

Situation

In 2019, the gendarmerie said it had conducted several operations, which led to, in five years' time, the execution of 3000 alleged bandits in several regions of Madagascar. (1)

Since 2012, several thousand people, allegedly "bandits" are victims of extrajudicial executions.

See Annex 1: Non-exhaustive list of abuses from 2014 to 2019

Proposal of recommendations

Implementation of the following recommendations:

Open a credible and independent inquiry into the events of gendarmerie operations against suspected bandits ("dahalo") and burnt villages. Recommend the visit of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

1.4. Freedom of expression and media

Recommendations from the last UPR

See Annex 3: Recommendations A - 109.5; A-109.8: A-109.6

Situation

In application of the law on cybercrime (imprisonment provided for in Article 20 of Law No. 2014-006 of 17 July 2014 on the fight against cybercrime), several users of social networks have been arrested by successive governments from 2014 to date (22).

According to Reporters Without Borders, "the inability of the law to define what is meant by "insult" or "defamation" gives way to a very broad interpretation and major abuses." The law provides for a sentence of two to five years.

Several journalists, environmental activists, "facebookers" have been arrested.

See Annex 1: Non-exhaustive list of abuses from 2014 to 2019

Proposal of recommendations

Implementation of the following recommendations:

- *Immediately lift restrictions on freedom of expression, association and peaceful assembly and allow journalists to freely comment and criticize Government policy without fear of repression (Canada);*
- *Take concrete steps to enable journalists to freely exercise their profession and report on the political crisis without harassment or intimidation (United Kingdom of Great Britain and Northern Ireland);*
- *Do not impose restrictions on the media to enable them to operate independently (Norway);*
- *Investigate and effectively prosecute crimes and violations against human rights defenders and journalists and bring to justice the perpetrators (Norway);*

1.5. Arbitrary arrests

Recommendations from the last UPR

See Annex 3: Recommendations A -108.46; A - 108.115

Situation

The 2009 coup has sparked a wave of arbitrary arrests condemned by the international community.

Nonetheless, arbitrary arrests continued between 2014 and 2019 and for the most part they served to intimidate opponents of the Hery Rajaonarimampianina regime and since Andry Rajoelina's return to power, a real witch-hunt has begun.

Laws forbid arrests without a prior warrant. However, the authorities did not always respect this provision and arrested individuals on simple charges. They are then often held for long periods without trial.

In addition, temporary detention often does not respect the maximum allowed period of 8 months (for crimes).

See Annex 1: Non-exhaustive list of abuses from 2014 to 2019

Motion for a recommendation

Implementation of the following recommendations:

Immediately take the necessary measures to put an end to all arbitrary or politically motivated searches, arrests, detentions, prosecutions and convictions and to develop without delay the necessary reforms to ensure the integrity of the administration of justice (Canada) ;

1.6. Freedom to demonstrate peacefully

UPR recommendations

See Annex 3: Recommendations A - 108.119; A - 109.6

Situation

Madagascar's constitution and laws provide for freedom of peaceful assembly, but the authorities have often restricted this right. For all public events, the government requires the official authorization of the municipalities and local police prefectures. These rarely gave permission to the opposition parties. Law enforcement routinely blocked opposition rallies across the country and used excessive force to disperse protesters. Since 2009 to date, law enforcement officials have regularly used tear gas to disperse demonstrations of university students, supporters of political opponents and other groups and have often made arrests.

See Annex 1: Non-exhaustive list of abuses from 2014 to 2019

Proposal of recommendations

Implementation of the following recommendations:

- *Take immediate steps to ensure that the Malagasy people have the right to assemble and to express their views peacefully (United Kingdom of Great Britain and Northern Ireland);*
- *Ensure that no one is arrested for exercising their right to freedom of expression, association and peaceful assembly (Netherlands);*

1.7. Human insecurity

Situation

Proliferation of weapons

Since the political crisis of 2009, many weapons circulate illegally in the country, dangerously feeding the climate of generalized insecurity that reigns there. The weapons come mainly from 2 origins :

- National trafficking : First, the number of weapons in circulation has soared since the mutinies of the two military bases (FIGN in May 2010 and BANI in November 2010)(46). Some "crooked soldiers" and some "felonious officials" rent their service weapons to organized gangs. (47)
- Well-organized international traffic. mainly from Europe. EU reports a massive export of weapons of war to Madagascar in 2011 - 2012, including from the UK, Italy and Germany (3174 weapons all categories from UK for € 1.120.613) and Belgium (48) Recall that Madagascar was at this time under international sanctions. (49)

In this context, Malagasy no longer feel safe day and night. They lose all confidence in the police who find themselves powerless in the face of the importance of the means deployed by criminals. We are therefore witnessing a very dangerous situation that has all the ingredients of the beginnings of a civil war.

Proposal of recommendations

- *Implementation of recommendations for the safety of property and people*
- *Immediate suspensions of arms exports to Madagascar*
- *Measures to recover outstanding military weapons:*

1.8. Democracy and civil and political rights

Recommendations from the last UPR

See Annex 3: Recommendations A -108.46

Situation 2014-2019

Elections in 2014 and 2019 have been the subject of several civil society complaints, including for frauds and for repeated violations of civil and political rights. (51)

Several Malagasy citizens were prevented from voting (undistributed electoral cards)

Massive fraud has been denounced but is not voluntarily treated by the competent authorities (CENI, the High Constitutional Court) during the 2018 presidential elections (50)

There is no ceiling on expenses. During the election campaign, Andry Rajoelina reportedly spent about \$ 182 million. (101) The source of these financings has never been publicly disclosed, in accordance with the 2012 Law on Political Parties. (52) (53)

The current Constitution, voted in dubious circumstances, which was not recognized by the international community, was used as a support during the 2014 and 2018 elections. The Constitution confers the three powers to the President of the Republic. (54)

Madagascar remains a totalitarian regime.

1.9. Trafficking in human beings

Recommendations from the last UPR

See Annex 3: Recommendations A - 108.107; A -108.46

Situation 2014-2019

The Government has not allocated any budget to the National Bureau for Combating Trafficking of Human Beings. So no effort has been made at the national level to raise public

awareness, and implement the national plan of action. As a result, Madagascar remained on the Category 2 Watchlist for the second year in a row. (55) (56) (99)

From 2012 to 2019, dozens of young women workers were killed after being placed by employment agencies in Lebanon, Kuwait and Saudi Arabia. (57)

Young women are also sent by the same agencies in China. (58)

1.10. Justice and corruption

Recommendations from the last UPR

See Annex 3: Recommendations A-108.114; A - 108.116

Situation 2014-2019

Corruption is a real plague that gangrenes the country while being "institutionalized". Among the sectors most concerned, we cite the administration in general: the army, the estate sector and especially the judicial system. (60)

The latest IPC index published by Transparency International ranks Madagascar 152 out of 180 countries in 2018. (59) As a reminder, before the coup of 2009, Madagascar was 85th.

A corrupt, inefficient and non-independent justice system undeniably loses credibility with citizens. They no longer have the confidence in a justice system that is synonymous with laxity and impunity. Popular vindicts are multiplying. (61)

It should be noted that none of the presumptive partners in the precious rosewood trade has been the subject of any legal proceedings to date, which is incomprehensible given the importance and media coverage of the case. The same precision also applies to the perpetrators of the massacres in the south. (63)

This crisis of confidence in the institutions, combined with a climate of growing insecurity, favors the popular vindictiveness. Cases of lynching are spreading throughout the country. (61)

See Annex 1: Non-exhaustive list of abuses from 2014 to 2019

Proposal of recommendations

Implementation of 2014 and 2010 recommendations

- *Art.50 Complete the reform of the judiciary and the penitentiary system (Norway)*

1.11. Economic Social Law, Right to Health and Education

Recommendations from the last UPR

See Annex 3: Recommendations

A - 108.121; A - 108.123; A - 108.124; A-108.125); A - 108.127; A - 108,128 A - 108,129; A - 108.130; A - 108.131; A - 108.132; A - 108.133; A - 108.134; A - 108.135; A - 108.136

A - 108.137; A - 108.138

A-108.50; A - 108.84

A - 108.100

Art 59

A - 109.3; A-109.11; A-109.12

Situation 2014 - 2019

Fight against poverty

There is a rampant impoverishment of the population, even though the country has, according to the World Bank, "regained growth" which should be around 5% in 2018. (67)

Financial profits generated by the 3 flagship sectors (vanilla, nickel and textiles) do not benefit the entire population. (69) For proof:

- in 2018, the poverty rate remained at 76.2%, ranking the country 4th among the poorest in the world (66).
- According to the World Bank, 9 out of 10 Malagasy people continue to live in poverty; the poorest are becoming poorer, especially in rural areas. (68)
- 13% of the population have access to electricity, 5% in rural areas. (67)
- Nearly 12 million people do not have access to safe drinking water. (70)

Education

Since 2009, serious school wastage has been reported. The reason is related to the financial difficulty of parents, especially in rural areas. Madagascar is the fifth largest country in the world with the highest number of out-of-school children. (67)

All indicators show the absence of a truly positive and pro-active policy for education. (77) (78)

- Regular drop in the school enrollment rate from 73.4% (2009) to 67% (2016).
- Constant decrease in the share of GDP devoted to education from 2.14% (2013) to 1.52% (2018)

Health

"Malagasy health facilities do not meet European standards. There is no operational infrastructure on site".

This information from the French Ministry of Foreign Affairs for tourists alone is sufficient to understand the deplorable state of the current health system in Madagascar, which has been steadily deteriorating since 2009. (71)

Public hospitals are paradoxically selective, making the health system highly unequal for the benefit of those with sufficient financial means. So much so that many Malagasy, not only the very poor, give up the care. (72)

Since 2009, 214 basic health centers (CSBs) have been closed further compromising access to health care in remote areas. (73 UNFPA)

Child protection

A child trafficking network was uncovered between Madagascar and Mayotte. A boat loaded with young children commutes between the 2 islands without knowing their real destination. (74)

Proposal of recommendations

Implementation of 2014 recommendations

1.12. Pillage of natural resources and land grabbing

Recommendations from the last UPR

See Annex 3: Recommendations A - 108.139

Situation 2014-2019

Land and sea grabbing

Since 2016, Madagascar has ranked first in Africa according to the Thinking Africa classification for the transfer of more than 3.7 million hectares of agricultural land to foreign companies. (75)

The current Constitution, passed in 2010 during the transitional regime, stipulates in Article 1: "The terms and conditions for the sale of land and the long-term rental of foreigners are determined by law." This article opens the door to the legalization of the sale of ancestral lands and the expulsion of local communities from lands that bring them food and sources of income. (76)

Since 2014, for foreign investors, the State allocated to investors several areas dispossessing the population of its resources:

- the creation of ZESs (special economic zone) is likely to provoke massive expulsions and expropriations in all regions, under cover of the declaration of public utility. The law on "special economic zone", voted on April 3, 2018 allows the State to give away land to foreign companies without consultation of the villagers. (82) (84)
- The Exclusive Economic Zone (ZEE): several agreements were signed with Chinese leaders at the end of March 2017 in Beijing for the exploitation of the sea by China in Madagascar. Knowing that the Malagasy EEZ covers about 1.4 million or even 4 million km², this situation will increase the difficulties of the coastal populations of fishermen. (83)

Wild logging of primary forest

All national natural resources are more or less concerned by looting. But the most emblematic is that of precious woods, including rosewood which represents a real national scourge.

Containerized logs follow a well-rounded circuit (coastal Madagascar - Mozambique - Tanzania - Kenya [or Mauritius] - Singapore) before reaching China where they will be used to make luxury furniture for Chinese, European or American markets.

From 2014 to 2017, the Singapore authorities seized a shipment of rosewood with nearly 30,000 logs of rosewood. This trafficking represents a violation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). (92)

Mining

The mineral wealth of the Malagasy subsoil is not spared. They are generally under the control of national and / or foreign mafia organizations in front of which the state authority remains powerless and sometimes complicit. Le Figaro magazine, in its report, draws a non-exhaustive list of these abusively exploited riches: "... diamond, emerald, platinum, nickel, cobalt, mercury, crystal, marble, granite, uranium, rosewood, ebony, rosewood, but also fresh water, ilmenite and rare earths; these strategic minerals that all the powers are fighting over. Madagascar is a treasure coveted by all predators." (97)

Several transnational companies (TNCs) obtained their operating licenses during the transition period after the 2009 coup. (98)

These TNCs are the main source of expulsion of several thousand villages and land grabbing. (98)

Proposal of recommendations

Renew Recommendations on Governance of Natural Resources A - 108.139

An independent investigation must be carried out into the plundering of resources and put punitive measures in place for the squandering of natural resources and land grabbing. The latter being considered a crime against humanity (80) (81)

1.13. Crime investigations

Recommendations from the last UPR

UPR 2010

Art. 58 Investigate and effectively prosecute crimes and violations against human rights defenders and journalists and bring those responsible to justice (Norway);

Situation 2010-2014

No investigation has been initiated into the murders of the following RTA journalists:

- Ando Ratovonirina shot dead during the events of February 7, 2009 in Antananarivo
- Rakotondrajao Razafindraibe, murdered on April 20, 2009 in Majunga

Proposal of recommendations

Renew the recommendations