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**STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF MADAGASCAR  
FOR THE 48<sup>TH</sup> SESSION OF THE  
UNIVERSAL PERIODIC REVIEW**

## Status of Human Rights in Madagascar for the 48<sup>th</sup> Session of the Universal Periodic Review

### Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Madagascar (Madagascar) for the 48th session of the Universal Periodic Review (UPR).

### Background

2. Madagascar is an island country located off the southeastern coast of Africa with a population of approximately 30.8 million people.<sup>1</sup> Approximately 42% of the population adheres to traditional religious beliefs, 27% identify as Protestant, 20% as Roman Catholic, 9% belong to other religions, and 2% are Sunni Muslim.<sup>2</sup>

3. Madagascar's last review was held on November 11, 2019.<sup>3</sup> As a result of the review, Madagascar received 203 recommendations, 174 of which it supported.<sup>4</sup> It was recommended by Iceland, but noted by Madagascar, that the government “[d]ecriminalize abortion in all circumstances and remove legal, administrative and practical barriers to accessing safe and legal abortion services.”<sup>5</sup> On the issue of human trafficking, it was recommended by Israel, and supported by Madagascar, that the government “[f]urther develop international outreach in the context of the fight against human trafficking and forced labour.”<sup>6</sup>

### Legal Framework

#### *Abortion*

4. Under Article 8 of the Constitution of Madagascar, “[t]he right of all persons to life is protected by the Law. No one may be arbitrarily deprived of life.”<sup>7</sup> Additionally, Under Article 19:

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<sup>1</sup> *Madagascar*, BRITANNICA (June 13, 2014), <https://www.britannica.com/place/Madagascar>.

<sup>2</sup> *Id.*

<sup>3</sup> *Universal Periodic Review – Madagascar*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/mg-index> (last visited June 17, 2024).

<sup>4</sup> *Madagascar Infographic*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/MG/Madagascar\\_Infographic.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/MG/Madagascar_Infographic.pdf) (last visited June 17, 2024).

<sup>5</sup> *UPR of Madagascar (3<sup>rd</sup> Cycle – 34<sup>th</sup> Session): Thematic List of Recommendations*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/MG/UPR34\\_Madagascar\\_Thematic\\_list\\_of\\_Recommendations.docx](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session34/MG/UPR34_Madagascar_Thematic_list_of_Recommendations.docx).

<sup>6</sup> *Id.*

<sup>7</sup> CONSTITUTION OF MADAGASCAR art. 8, [https://www.constituteproject.org/constitution/Madagascar\\_2010](https://www.constituteproject.org/constitution/Madagascar_2010).

The State recognizes and organizes for all individuals the right to the protection of health from their conception through the organization of free public health care, which gratuitousness results from the capacity of the national solidarity.<sup>8</sup>

5. In Madagascar, abortion is illegal in all cases. Article 317 of the Penal Code of Madagascar prohibits anyone from carrying out or attempting to carry out an abortion.<sup>9</sup>

6. Madagascar is also a party to the International Covenant on Civil and Political Rights (ICCPR).<sup>10</sup> Under Article 6 of the ICCPR, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>11</sup> In addition, Madagascar has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, the Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

### *Human Trafficking*

7. Under Article 6 of Law No. 2014-040 on the Fight Against Human Trafficking:

The recruitment, transportation, transfer, harbouring or receipt of a person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person or of a person having control over another person, for the purpose of exploiting the domestic labour of others shall be punishable by imprisonment for a term of 2 to 5 years and a fine of 1,000,000 Ar to 10,000,000 Ar.<sup>12</sup>

8. Moreover, under Article 44 of the same law:

The State guarantees the victim of trafficking the right of recourse to obtain compensation. The victim is fairly and adequately compensated, including medical care and the means necessary for their social rehabilitation.

The child victim of the offenses provided for by this law may, at any time, report, refer the acts committed against him or her to the Public Prosecutor's Office and the competent authorities, and claim compensation for the damage suffered.<sup>13</sup>

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<sup>8</sup> *Id.* art. 19.

<sup>9</sup> MADAGASCAR CODE PÉNAL du 17 art. 317, <https://abortion-policies.srhr.org/documents/countries/01-Madagascar-Penal-Code-1998.pdf#page=42> (unofficial internal translation).

<sup>10</sup> *Status for Madagascar*, OHCHR, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=103&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=103&Lang=EN) (last visited June 17, 2024).

<sup>11</sup> International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

<sup>12</sup> Law No. 2014-040 On the Fight Against Human Trafficking art. 6, <https://antislaverylaw.ac.uk/country/madagascar/>.

<sup>13</sup> *Id.* art. 44.

9. Additionally, the Penal Code of Madagascar prohibits prostitution,<sup>14</sup> engaging in sex tourism,<sup>15</sup> and operating brothels.<sup>16</sup>

10. Moreover, under the ICCPR, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”<sup>17</sup>

11. Madagascar is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>18</sup> Under Article 6 of the CEDAW, “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”<sup>19</sup>

12. Madagascar is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>20</sup> Under Article 9 sec. 1 of this Protocol:

States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.<sup>21</sup>

## Abortion

13. In May 2022, the president of the Permanent Commission of the National Assembly declined to advance a law expanding access to abortion, saying this law was “incompatible with Malagasy culture and values.”<sup>22</sup> Madagascar recognizes that all human life deserves protection from conception to death. As mentioned above, this right is not only enshrined in Madagascar’s constitution but also in international human rights instruments. For example, since the 1994 Cairo Conference on Population and Development, U.N. Member States have

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<sup>14</sup> Madagascar Code Pénal art. 334, <https://antislaverylaw.ac.uk/country/madagascar/>.

<sup>15</sup> *Id.* art. 333C.

<sup>16</sup> *Id.* art. 335.

<sup>17</sup> ICCPR art. 8, *supra* note 11.

<sup>18</sup> *Status for Madagascar*, *supra* note 10.

<sup>19</sup> Convention on the Elimination of All Forms of Discrimination Against Women art. 6, sec. 2, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>20</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg\\_no=xviii-12-a&chapter=18](https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18).

<sup>21</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9 § 1, *adopted* Nov. 15, 2000, 2237 U.N.T.S. 319, [https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch\\_XVIII\\_12\\_ap.pdf](https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf).

<sup>22</sup> *Solidarity in Action: Movement Building and Well-Being for Abortion Rights in Madagascar*, AMPLIFY CHANGE (Nov. 11, 2023), <https://amplifychange.org/grantee-stories/prioritising-solidarity-to-further-abortion-rights-advocacy/>.

had an affirmative commitment to “reduce the recourse to abortion”<sup>23</sup> and “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”<sup>24</sup> Additionally, the UDHR requires “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world.”<sup>25</sup> It also provides that “[e]veryone has the right to life.”<sup>26</sup> Likewise, the U.N. Charter recognizes and affirms the “dignity and worth of the human person.”<sup>27</sup> The ICCPR also states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>28</sup> Madagascar’s laws on abortion fulfill its obligations under these international documents as its laws and constitution recognize the dignity of the human life from conception.

14. As is clear under the above human rights instruments, all acknowledging the fundamental right to life, there is no such thing as an international right to abortion, and Madagascar is not obligated to support recommendations that call for expanding this harmful practice. In fact, out of the 193 Member States of the U.N., an overwhelming majority (108) of them have strict limits on abortions.<sup>29</sup> And even among the Member States that legalize abortion, nearly all of them have gestational limits.<sup>30</sup>

15. In addition to protecting the lives of preborn babies, Madagascar also has an interest in protecting the lives of women. While Madagascar has not legalized abortion, we only have to look to other African countries to see the harm that abortion can cause to women. A 2023 study examined data from two different African countries, Nigeria and the Central African Republic, and documented the complications caused by abortion.<sup>31</sup> The study took data from 520 women in Nigerian hospitals and 548 women in Central African Republic hospitals and found that 19.8% of the women studied in Nigeria and 6.2% of the women studied in the Central African Republic were classified as having “severe maternal outcomes” as defined as near-miss cases and deaths.<sup>32</sup> Further, a staggering 47.1% of the women studied in Nigeria and 44.5% of the women studied in the Central African Republic faced potentially life-threatening complications.<sup>33</sup> The study also found that the most common abortion-related complications

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<sup>23</sup> International Conference on Population and Development, *Report of the International Conference on Population and Development*, ¶ 8.25, U.N. Doc. A/CONF/F.171/13/Rev. 1, [https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/a\\_conf.171\\_13\\_rev.1.pdf](https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/a_conf.171_13_rev.1.pdf)

<sup>24</sup> *Id.* ¶ 7.24 (emphasis added).

<sup>25</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights, pmbl. (Dec. 10, 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>26</sup> *Id.* art. 3 (emphasis added).

<sup>27</sup> U.N. Charter pmbl., <https://www.un.org/en/about-us/un-charter/full-text>.

<sup>28</sup> ICCPR art. 6, *supra* note 11.

<sup>29</sup> *The World’s Abortion Laws*, CTR. FOR REPROD. RTS., [https://reproductiverights.org/wp-content/uploads/2023/07/CRR\\_WALM\\_2023\\_FINAL-1.pdf](https://reproductiverights.org/wp-content/uploads/2023/07/CRR_WALM_2023_FINAL-1.pdf)

<sup>30</sup> *Id.*

<sup>31</sup> Estelle Pasquier et. al, *High Severity of Abortion Complications in Fragile and Conflicted-Affected Settings: A Cross-Sectional Study in Two Referral Hospitals in Sub-Saharan Africa (AMoCo Study)*, BMC PREGNANCY & CHILDBIRTH (Mar. 4, 2023), <https://bmcpregnancychildbirth.biomedcentral.com/articles/10.1186/s12884-023-05427-6>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

were bleeding and hemorrhaging.<sup>34</sup> Abortion can also result in harmful psychological side effects and women have reported to experience drug abuse and suicidal thoughts.<sup>35</sup>

16. All of the reasons demonstrated above show why Madagascar is justified in continuing to protect the lives of preborn babies and women.

## Human Trafficking

17. Madagascar exists as both a source and destination country for human trafficking.<sup>36</sup> Women and children are primarily exploited for sex trafficking.<sup>37</sup> Human traffickers are known to operate “ghost agencies,” which are used to recruit and traffic victims.<sup>38</sup> In 2020, there were 4,342 human trafficking victims identified.<sup>39</sup> The following year, the number of identified victims jumped to 5,149.<sup>40</sup> However, despite these high numbers of identified victims, the government only investigated twenty-four cases of human trafficking in 2021 and only sixteen cases in 2020.<sup>41</sup> Further, between 2020 and 2021, only eight individuals were convicted of human trafficking.<sup>42</sup> More recently, Madagascar has failed to prosecute or convict any human trafficker.<sup>43</sup>

18. Sex trafficking, particularly of children between the ages of twelve and seventeen, has increased over recent years in Madagascar.<sup>44</sup> Children are targeted because they are easier to manipulate and are viewed as a sign of prestige by foreigners traveling to Madagascar to engage in sex tourism.<sup>45</sup> To trick young girls and women into being trafficked, they are promised lucrative jobs, which is appealing given the high poverty rate in the country.<sup>46</sup> Even though it is illegal in the country, one civil society group shared that child prostitution “has become trivialized in Madagascar and is conducted openly in bars, nightclubs, massage salons and hotel establishments.”<sup>47</sup> Between 2020 and 2021, child protection networks assisted 2,542 children who were potential victims of human trafficking.<sup>48</sup>

19. However, victims of human trafficking are not just trafficked within Madagascar. Human traffickers also traffic individuals to other countries such as Croatia, Seychelles, Kenya,

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<sup>34</sup> *Id.*

<sup>35</sup> Priscilla K. Coleman et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, 22 J. OF AM. PHYSICIANS & SURGEONS 113, 116-17 (2017), <https://www.jpands.org/vol22no4/coleman.pdf>.

<sup>36</sup> *Madagascar*, ORGANIZED CRIME INDEX, <https://ocindex.net/2021/country/madagascar> (last visited June 18, 2024).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Madagascar*, UNODC, <https://dataunodc.un.org/content/country-list> (last visited June 18, 2024).

<sup>40</sup> *Id.*

<sup>41</sup> *Country Profiles Madagascar*, INTEGRAL HUM. DEV., <https://migrants-refugees.va/country-profile/madagascar/>.

<sup>42</sup> *Id.*

<sup>43</sup> Madagascar, *supra* note 36.

<sup>44</sup> Andra Focuca, *Human Trafficking in Madagascar*, THE BORGAN PROJECT (Aug. 10, 2024), <https://borgenproject.org/human-trafficking-in-madagascar/>.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Child Sex Abuse in Madagascar “Widespread and Tolerated,”* GLOB. ISSUES (Feb. 17, 2022), <https://www.globalissues.org/news/2022/02/17/30101>.

<sup>48</sup> Focuca, *supra* note 44.

and Comoros.<sup>49</sup> For example, in 2024, a man was arrested for trafficking two Madagascan women to Croatia.<sup>50</sup> The man was arrested as he attempted to board a flight to Croatia with the two victims who were discovered to have fraudulent passports.<sup>51</sup> According to authorities, the man recruited the two women using a dating website and promised them lucrative jobs in Croatia.<sup>52</sup>

20. Madagascar has been ineffective in combatting human trafficking in part due to a lack of resources and educational initiatives.<sup>53</sup> Additionally, corrupt government officials work with traffickers to provide false identification cards and birth certificates.<sup>54</sup> Further, there is a lack of standard operating procedures to properly identify victims of human trafficking.<sup>55</sup> This means that the actual number of human trafficking victims in Madagascar is likely much higher than what is reported, because many go unidentified every year.<sup>56</sup>

21. Additionally, the government has failed to follow its own law in providing compensation to victims of human trafficking.<sup>57</sup> In fact, some courts have denied providing compensation to children who were victims of sex trafficking simply because they did not have a birth certificate or national identification cards.<sup>58</sup>

## Recommendations

22. We want to commend Madagascar for its strong stance in recognizing and protecting life from conception, as well as protecting the life of the mother. We want to encourage Madagascar that its prolife position is in line with numerous international human rights documents and is reflected in the laws of numerous U.N. Member States. Further, we want to encourage Madagascar to continue to reject calls to expand access to abortion in the country.

23. Although Madagascar has a stellar record in protecting the life of mothers and preborn babies, it is unfortunately failing to live up to its obligations to prevent human trafficking and protect the victims. Madagascar must prioritize the prevention of human trafficking and provide resources and training to law enforcement personnel so that they are equipped to investigate and prosecute all cases of human trafficking. Further, Madagascar must adopt standard operating procedures for identifying victims of trafficking so that the victims can be rescued and receive the aid they desperately need. Additionally, because corruption plays a major role, authorities must aggressively investigate and prosecute complicit officials.

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<sup>49</sup> *Madagascar*, *supra* note 36.

<sup>50</sup> *A German National, Joachim Will, Aged 56, Appeared Before the Kempton Park Magistrate's Court on Friday, Facing Charges of Trafficking in Persons and Fraud*, IOL (May 4, 2024), <https://www.iol.co.za/news/crime-and-courts/german-man-arrested-as-saps-foils-trafficking-of-madagascan-women-to-croatia-via-or-tambo-international-airport-1a369ae3-d462-420e-bb54-5663bd3566da>.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Madagascar*, *supra* note 36.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*