

# Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Shadow Report on Madagascar 2015

Submitted by

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**The Madagascar Coalition of Civil Society Organisations is composed of:**

- Action des Chrétiens pour l'Abolition de la Torture (*Christians Action for the Abolition of Torture*)
- Activité des Femmes pour le Développement Fondamental de la Population dans la Région Vatovavy Fitovinagny (*Women's Activity for Fundamental Development of the Population of Vatovavy Fitovinagny Region*)
- Alliance pour le Protocole de la Communauté de développement d'Afrique australe (SADC) sur le Genre et le Développement - Madagascar (*Alliance for the Protocol of the South Africa Development Community on Gender and Development – Madagascar*)
- Association pour la Défense des Droits Humains (*Association for Human Rights Defence*)
- Association pour le Développement Agricole et du Paysannat Sambirano-Ambanja (*Association for Agricultural Development and Farmers Sambirano-Ambanja*)
- Association Sociale pour l'Education et la Formation des Enfants et Femmes Maltraités (*Social Association for the Education and Training of Mistreated Children and Women*)
- Centre d'Echanges et Documentations Inter-Institutionnel de Fianarantsoa (*Centre for Inter-Institutional Exchange and Documentation Fianarantsoa*)
- Centre de Recherches et d'Appui pour les Alternatives de Développement –Océan Indien (*Centre for Research and Support for Development Alternatives*)
- Collectif des Associations de Femmes de Fianarantsoa (*Group of Women's Associations of Fianarantsoa*)
- Collectif des ONG œuvrant pour la promotion des Droits de l'Homme (*Group of NGOs working to promote Human Rights*)
- Confédération Nationale des Plateformes en Droits Humains (*National Confederation of Platforms on Human Rights*)
- Conseil de Développement d'Andohatapenaka (*Andohatapenaka Development Council*)
- Conseil National des Femmes de Madagascar (*National Council of Madagascar Women*)
- Consortium National pour la Participation Citoyenne (*National Consortium for Citizen Participation*)
- Ezaka Fampandrosoana ny any Ambanivohitra (Action pour le Développement Rural) de Fianarantsoa (*Action for Rural Development – Fianarantsoa*)
- Federasiona ny Vehivavy Tantsaha eto Madagasikara (Fédération des Femmes Rurales de Madagascar) – Vakinankaratra (*Federation of Rural Women of Madagascar – Vakinankaratra*)
- Fédération des Associations Femmes et Développement (*Federation of Associations Women and Development*)
- Fédération pour la Promotion Féminine et Infantile (*Federation for the Advancement of Women and Children*)
- Fikambanan'ny Tantsaha mivoy ny Fivoarana ato amin'ny faritra Betsileo (Association des paysans pour le développement dans la Région Betsileo) (*Association of farmers for the development of the Betsileo region*)
- Firaisankinan'ny Tantsaha eto Madagasikara / Coalition Paysanne de Madagascar dans la Région Boeny (*Madagascar Farmer Coalition – Boeny Region*)
- Focus Development Association
- Forum for African Women Educationalists (FAWE Madagascar)
- Gender links
- Humanitarian, Educational, Sports and Social Works Activities Association
- Justice et Paix Madagascar 04 17 603 06 (*Justice and Peace Madagascar*)
- Liberty 32/WYLD
- NGO FIANTSO Madagascar, Fianarantsoa
- Plateforme Nationale des Organisations de la Société Civile de Madagascar (*Madagascar National Platform of Civil Society Organisations*)
- SAHA
- SIMIRALENTA
- SOALIA
- Solidarité des Intervenants sur le Foncier à Antananarivo (*Solidarity of Participants working on Tenure in Antananarivo*)
- Solidarité du Personnel Permanent /Femmes Cadres de Toamasina (*Solidarity of Permanent Personnel/ Female Executives of Toamasina*)
- Syndicat des Professionnels Diplômés en Travail Social (*Trade Union of Social Work Professionals*)

*In memory of our dearly remembered colleague RASOAMANAMBOLA, to whom we dedicate this report, in homage to his tremendous work and his struggle for the respect of human rights in general, and gender equality in particular, as well as his valuable contribution to the development of this report.*

*Forever in our hearts!*

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- *The International Women's Rights Action Watch (IWRAW)*
- *The International Land Coalition.*

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## INTRODUCTION

1. The Coalition put together this shadow report following a participatory process which started in 2013 and involved a wide range of Civil Society Organisations (CSO) working in several regions of Madagascar and in different development sectors. A consultation process was carried out in the South of the island to examine the case of rural women, attended by stakeholders in the defence of women's rights in Madagascar. Whilst taking into account the government's report, and recognising the effort invested in it, this document presents the main critical questions (**highlighted in bold and underlined**) and recommendations for Madagascar (**in bold**) that the Coalition wishes to submit to the Committee for the Elimination of Discrimination against Women at its 62<sup>nd</sup> session. For the context, since January 2014, and after five years of political crisis (2009-2013), Madagascar has returned to constitutional order. The establishment of new institutions is effective, following on from presidential, legislative and municipal elections.

### ARTICLE 1 DISCRIMINATION –FINAL OBSERVATION PARAGRAPH 11

2. Although State institutions are already in place, **no constitutional, legislative or administrative measure has been taken to provide an explicit definition for « discrimination against women », in accordance with article 1 of the CEDAW,** despite sustained lobbying from CSOs on the subject. This makes sexist discrimination and other forms of indirect discrimination against women in Madagascar invisible, whilst maintaining insensitivity to these. Disparities between sexes in many domains arise fundamentally from this gap (e.g. 23% of the Malagasy consider that boys should be favoured in education<sup>1</sup>). Moreover, **the country's non ratification of regional instruments on gender equality reinforces their reticence for a firm commitment to fight discrimination against women and limits the instruments available to civil society to move the cause forward.**
3. The Coalition encourages the State to (i) submit final observations from the CEDAW Committee to all the relevant ministries, to Parliament, to legal powers, to CSOs, in accordance with paragraph 8 of these Observations; (ii) collect these institutions' ideas to develop a shared definition of gender-based discrimination, which will eventually be integrated into national legislation and (iii) ratify the CEDAW's optional protocol and the other instruments, notably regional, for the promotion of gender equality, such as the Protocol annexed to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the Gender and Development Protocol of the Southern Africa Development Community (SADC).

### NATIONAL MECHANISMS FOR THE ADVANCEMENT OF WOMEN AND NATIONAL INSTITUTION FOR THE DEFENCE OF FUNDAMENTAL RIGHTS - FINAL OBSERVATION PARAGRAPH 13

4. In institutional terms, the Ministry in charge of Women's Advancement has set up a senior management responsible for the Advancement of Women to improve the visibility of its actions to promote gender equality and to take on the monitoring and evaluation of related activities. Likewise, they created a unit entitled *Gender Mainstreaming*, directly linked to the Minister and with management ranking, to ensure the integration of gender in public policy (decree N° 2015-1034 dated 30<sup>th</sup> June 2015). This is intended to bring the Ministry's commitment to Women's Advancement to reality, with a view to the upcoming adoption of a framework law on gender equality under the auspices of the same Department. These different changes confirm the real willingness of this Department to prioritise the struggle against gender inequality.
5. However, **the State's national budget allocations to the Department in charge of promoting gender equality and women's empowerment remain derisory<sup>2</sup>. These are required for the implementation of plans and programmes that will be established at the end of the process,**

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<sup>1</sup>Afrobaromètre Report 2013

<sup>2</sup>Report of the Republic of Madagascar to commemorate the twentieth anniversary of the Fourth World Conference on Women and the adoption of the Beijing Declaration and the Action Programme in 2015, Ministry for Social Protection and the Advancement of Women, June 2014

**with a view to ensuring effective respect for women's rights. As a result, this risks compromising efforts already agreed and a return to one-off and sporadic actions, including awareness-raising and legal information campaigns particularly aimed at rural women, if measures are not taken.**

6. Furthermore, the Law 2014-007, dated 19 June 2014, established the National Independent Commission for Human Rights, in accordance with recommendations given by the Treaty Bodies and the Human Rights Council, at the time of the Universal Periodic Review. The application and operation of this Commission is underway, with representation from women's organisations.
7. Whilst congratulating recent government action, **the Coalition encourages the State to (i) increase the national budget allocated to the Department in charge of women's advancement, in order to allow them to carry out their mandate efficiently; (ii) launch the process of developing and adopting the framework law on gender equality, including favouring Public-Private Partnerships to speed up progress towards meeting the objective of gender equality.**

**ARTICLES 2, 3, 5 AND 10: COMBATING DISCRIMINATION AND THE ELIMINATION OF SEXIST STEREOTYPES AND PREJUDICE; PROMOTING GENDER EQUALITY; EDUCATION—FINAL OBSERVATIONS PARAGRAPH 25, 27**

8. The coalition congratulates the Government for having held the national consultation aiming to update national policy on the advancement of women and to draw up a new National Gender and Development Action Plan, within the framework of a National Gender and Development Symposium (1<sup>st</sup> – 3<sup>rd</sup> July 2015), in partnership with CSOs and with UNFPA support. However, at the time of release of this report, **the absence of more overarching strategies to tackle sexist discrimination, stereotypes and prejudices limits the impact of the sectoral and/or regional strategies being implemented.** Sure enough and contrary to presuppositions, sexual discrimination, stereotypes and prejudices strongly exist on a daily basis and in all spheres, including in the capital city Antananarivo<sup>3</sup>.
9. **The persistence of harmful cultural values and practices as well as sexist stereotypes deep-rooted in the prevailing socio-cultural norms prevents the effective application of legislative and political provisions in favour of gender equality in education. This is evident through the endurance of sexist stereotypes in the school environment (curriculum, school manuals conveying stereotypical representations of the two sexes, teaching practices, etc.<sup>4</sup>), showing-up flaws in the application of education policies termed "gender-sensitive".** This can be explained by insufficient systematic action aimed at (i) eliminating harmful and stereotypical cultural practices linked to gender in education and media tools, (ii) taking into account girls' specific needs in infrastructure and regulations relating to education and (iii) reducing the gap between girls and boys in higher education and in scientific, technical and professional disciplines. No text foresees either the retention or the reintegration of pregnant girls at school (although the boys who got them pregnant can continue their schooling), nor measures to prevent/sanction gender-related violence at school. **These practices and stereotypes are also the obstacle to society's adoption of the concept of gender equality and encourage violations of women's rights, in particular violence against women, which has considerably increased over the last few years.**
10. **The coalition encourages the State to: (i) carry out a comprehensive and sustainable strategy aimed at eliminating harmful cultural values and practices as well as sexist stereotypes in education and other domains; (ii) put in place an authority specifically entrusted with promoting equality in the education system. This will have the task of identifying all shortcomings (e.g. low proportion of women in positions of responsibility as compared with the**

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<sup>3</sup> E.g. 46% of women living in the capital (against 32% at the national level) think that, for whatever reason, a man has the right to beat his wife or partner, according to the Madagascar Demographic and Health Survey 2008-2009, National Institute of Statistics (INSTAT) and ICF Macro. 2010, Antananarivo

<sup>4</sup> UNICEF, *Gender and education : Case study in six Educational districts*, 2011

actual number of women with the required capability) and of proposing concrete action (e.g. the creation of a roster of men and women with their respective qualifications, and the proposition of gender-balanced appointments to the relevant authorities).

ARTICLES 4, 7 AND 8: SPECIAL TEMPORARY MEASURES; PARTICIPATION IN POLITICAL AND PUBLIC LIFE; FEMALE REPRESENTATION AT THE INTERNATIONAL LEVEL – FINAL OBSERVATIONS PARAGRAPHS 14, 15, 23 – GENERAL RECOMMENDATION N° 25

11. **The State has demonstrated a lack of political willingness to put in place special temporary measures. All attempts to institutionalise quotas/ parity, through pressure from CSOs collaborating with « champions » in the government Administration and/or Parliament, have failed.** This is due to the following:

- (i) Parliament's refusal (Lower House) to include the review of a proposed law in the session's agenda. This law aims to initiate a list of alternating male/female candidates (zebra list) for municipal authorities; alternating men and women at the head of the list (2012);
- (ii) Parliament's non-adoption (upper chamber) of a proposed law (n°03-2012/PL) on a minimum quota of 30% of women in elected and nominated positions and from the zebra list (July 2013);
- (iii) The Council of Ministers' non-adoption of the bill to ratify SADC's protocol on Gender and Development that Madagascar signed in 2008, on the grounds that the objective of 50% women in decision-making positions was not realistic considering the timelines (2015) specified (December 2014);
- (iv) The draft legislation developed regarding proportional gender representation in decision-making bodies (no less than 40% and no more than 60% for either sex) during a consultation workshop of stakeholders, an initiative of CSOs with UNDP support, remained without follow-through after it was passed to the Department in charge of transforming it into a bill (November 2014).

12. **The majority of political parties have not adopted the quota system. The law n°2011-012 dated 18<sup>th</sup> August 2011 adopted by Madagascar inciting all parties to « implement the gender approach » is too vague and non-vocal on the specific measures aiming to accelerate women's representation and their participation in decision-making posts.** It is an extremely critical question in light of women's under-representation in decision-making posts (overall rate of female representation in 2014: 4 %<sup>5</sup>) and in view of the 2015 territorial and senatorial elections. **The absence of a clear policy and text legislating women's representation in decision-making posts and the prevailing absence of a culture of parity explains the slowness of progress in the domain.** The current rate of 20% of women at the National Assembly, although inadequate, constitutes a step forward in the context of the country<sup>6</sup>but calls for vigilance. It results from multiple affirmative specific actions carried out by CSOs supported by partners. It is already annihilated by the last municipality elections in which just 6% of mayor candidates were female, presented primarily by political parties. This risks to be perpetuated at the next elections and nominations (regional and senatorial, amongst others) if strong, clear special temporary measures are not taken of a constitutional, legislative or administrative character, conforming to the Convention's provisions.

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<sup>5</sup>This rate includes the representation of women amongst members of the Government (19% in 2014 against 27% in the previous Government), the National Assembly (20%), General Secretaries/General Managers (17.9%), Directors of ministries (26.90%), heads of region (0%), heads of district (16.8%), mayors (4.2%), advisors at the municipality-level (5.9%) and heads of *Fokontany*, the grassroots administrative unit (2.6%) [Source: Sites of relevant Institutions; Baromètre PSG 2009 to 2014].

<sup>6</sup>Previous parliaments never achieved the threshold of 10% of women elected within this institution.

13. **At the level of the country's international representation, equality is far from being achieved in practice. In 2014, there were no women in charge of an Embassy or representing Madagascar abroad;** the highest achievement to date being three women holding such posts in 2002.
14. The coalition encourages the State particularly (i) to adopt the bill on parity in elected and nominative posts, including for State representation at the international level, developed during the consultative workshop of stakeholders; (ii) to support actions of civil society aiming to encourage women to place their candidature at elections, and political parties to present and support female candidates for elected and nominative posts; (iii) to put in place support structures for women in decision-making authorities so that they can contribute to the further advancement of the Convention's application and (iv) to add the principle of quotas (in parties' executive bodies and in their lists of candidates for elective or nominative posts) to the law on political parties and/or the electoral Code.

**ARTICLE 6: VIOLENCE AGAINST WOMEN AND HUMAN TRAFFICKING—FINAL OBSERVATIONS PARAGRAPHS 18-19 AND 20-21- GENERAL RECOMMENDATIONS N° 19-20**

15. The coalition welcomes the recent initiative of the Ministry responsible for Women's Advancement, which has launched a process to formulate a project for legislative and regulatory texts against gender-based violence which will include the qualification of gender-based violence, possible recourses, treatment and the system for the rehabilitation of survivors and perpetrators. Likewise, a national strategy to combat gender-based violence, accompanied by an action plan, was recently validated by stakeholders in the domain. This aims to address the high rate of Malagasy women victim of gender-based violence (30% according to the National Survey to Monitor the Millennium Development Objectives 2012/2013).
16. However, the coalition reiterates the fact that **existing laws are tainted by the absence of provisions on psychological/moral violence and sexual harassment which remain an offence still misunderstood by the general public, notably because of a definition which is too vague. Despite the enactment of laws to combat violence against women, legal teams and defendants are facing difficulties with their application.** It concerns notably the dispersion of texts which « complicate their use », costs borne by victims which are estimated to be high (non-gratuity of medical certificates, obligation to pay the cost related to searching perpetrators, etc.) and the sluggishness of procedures leading to delays in treatment<sup>7</sup> as well as the ineffectiveness and non-actualisation of victim care procedures. Added to this is the insufficiency and/or inexistence of special facilities for the rehabilitation and reintegration of survivors of gender-based violence. As a result, there is a low level of recourse to services offered, induced also by the dictatorship of the law of silence prevailing with survivors. As for prevention, awareness-raising campaigns are dependent on external funding, making actions sporadic and/or intermittent.
17. The adoption of the law to address human trafficking (n° 2014-040 dated 16<sup>th</sup> December 2014) responds to the Committee's final observations (paragraph 21) and to concerns raised by the special Rapporteur on contemporary forms of slavery in Madagascar<sup>8</sup>. The State launched a national five-year action plan to fight human trafficking aiming at, amongst other things, strengthening victim protection, notably of women and children, and at supporting coordination between Madagascar, destination and transit countries. The plan's implementation was started with support from the International Organisation for Migration and USAID. **But the challenges remain immense with respect to glaring poverty<sup>9</sup> and cultural aspects<sup>10</sup>, making Madagascar « a**

<sup>7</sup>In 2011, only 53% of rape cases reported to the Morality Police and Anosy Child Protection and the Tsaralalana division Morality Police and Child Protection (zones situated in the centre of the capital city) were processed (Baromètre PSG 2013).

<sup>8</sup>Report of the Special Rapporteur on contemporary forms of slavery, including their causes and consequences, Mrs Gulnara Shahinian, A/HRC/24/43/Add.2 (2012)

<sup>9</sup> In 2010, Madagascar's poverty rate was 75.3%, based on the national threshold, and 92.8 % using the international reference of two dollars per day per person (World Bank -IEP, Conference Proceedings, 9<sup>th</sup> July 2014)

**country source of women and children subjected to forced labour and human trafficking for prostitution »<sup>11</sup>**. The trade union of social work professionals (SPDTS) noted, between 2009 and 2014, 123 cases of placing underage girls as domestic workers with families in Gulf countries involving the use of false papers, in addition to other cases notably sexual harassment and abuse, abduction and passport confiscation, out of the 2,363 recorded cases of homecoming.

18. **The coalition encourages the State to: (i) integrate, in legislative and regulatory text currently being drafted, responses to difficulties encountered by legal experts and defendants in combating acts of violence and the impunity of perpetrators and to speed up their adoption as well as their effective application. In particular via the gratuity of services to search perpetrators, the putting-in-place of enforcement judges, the strengthening of institutions providing legal system control; (ii) officially launch the national strategy to fight gender-based violence and implement the related action plan, through allocating adequate and sufficient resources, and by ensuring effectiveness, and (iv) strengthen border controls to avoid the illegal sending of clandestine women abroad.**

**ARTICLE 9: RIGHTS TO NATIONALITY—FINAL OBSERVATION PARAGRAPH 25**

19. **The bill to reform nationality regulations, and complying with the Committee's recommendations, has not yet been adopted by the government**, in spite of preliminary stakeholder consultations (September 2014) at the time of its drafting. **The coalition encourages the State to (i) speed up the adoption of nationality legislation reform to ensure its accordance with international human rights principles; (ii) eliminate discriminations against women contained in provisions of the current Nationality Law, since, apart from the fact that this is contrary to CEDAW's provisions, it has been internationally proven that legal systems which prevent mothers from passing on their nationality to their children, on the same basis as fathers, can lead to the birth of stateless children; (iii) foresee provisions which aim to warn of and reduce statelessness as well as to protect stateless people in nationality legislation; a situation to which stateless females and their children are hard hit.**

**ARTICLE 11: EQUALITY IN RIGHTS TO EMPLOYMENT AND WORK—FINAL OBSERVATIONS IN PARAGRAPHS 15 AND 29**

20. **Gendered salary gaps and occupational segregation, as well as the concentration of women in the informal sector, comprise structural inequalities linked to gender which persist.** In effect, women's salaries remain on average almost 30% lower than men's for work of the same value<sup>12</sup>. In addition, the large majority of women are confined to occupations considered feminine (family care, domestic services, sewing, etc.) and poorly paid. Women have limited access to quality jobs, notably in the non-agricultural sector (46.9% in 2010) and leadership roles (38.4%)<sup>13</sup>, and 47.3% of active women find themselves in a situation of jobs which do not fit against just 39.3% of men<sup>14</sup>.
21. **Women are the main victims of the lack of policies which support the informal sector and migrant workers.** In effect, the high rate of unemployment since the 2009 political crisis has triggered an increase in the number of women which have left for the United Arab Emirates. In 2012 departures numbered 1,626 of which 360 left respectively for Kuwait and Saudi Arabia.<sup>15</sup> Since regular cases of mistreatment suffered by Malagasy female migrants and the violations of their rights in their host countries have been reported, the Malagasy State

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<sup>10</sup> The 2012 study on « *Factors which guide the sexuality of adolescents in the Atsimo Andrefana region, Madagascar* » revealed the social indulgence in relation to early sexual relations which favour child sex abuse, apparently growing in magnitude to become a social blight.

<sup>11</sup> Report from the Department of State (US) on the treatment of people (TIP) for year 2013, 19<sup>th</sup> June 2014

<sup>12</sup> World Bank 2013

<sup>13</sup> Data from INSTAT used

<sup>14</sup> Data taken from the National Report of Monitoring the Millennium Development Goals – 2012

<sup>15</sup> Source: Ministry of Public Service and Social Laws

suspended the sending of migrant workers to countries considered high risk in relation to workers' rights<sup>16</sup>. This in addition to the Decree n° 2005/396 dated 28<sup>th</sup> June 2005 and the Decree n°01-013/2010 dated 10<sup>th</sup> February 2010, regulating conditions and the manner of exercise of private employment agencies; conditions for the granting or withdrawal of authorisation. However, up until now, this new measure appears to have not been followed through. Underemployment is also a major challenge in Madagascar, to women's greater disadvantage. It concerns a quarter of workers (20.3% of men and 35.1% of women). Lastly, **the non-consideration of women's non-paid work tends to lead to excessive workloads which they have to put up with, and does not allow for the adoption of measures to ease their burden.**

22. The coalition encourages the State to take urgent measures to: (i) ensure the effective application of provisions of the Labour Code and international conventions on employment that Madagascar has ratified in all sectors; (ii) ratify the Convention on Domestic Work n°189 of the International Labour Organisation; (iii) dedicate Madagascar to the principle of equal pay for work of equal value and to the monitoring and the application of these provisions, as well as on appeal mechanisms, statistics on their use by women and results obtained; (iv) produce gender-specific data including a current trend analysis on women and employment in formal and informal sectors; (v) develop and implement policies to support the informal sector and migrant workers and (vi) update studies on women's time-budget and take their unpaid work into account in development policies and programmes, as well as in projects aiming to lighten women's workload.

**ARTICLE 12: EQUALITY IN HEALTHCARE ACCESS—FINAL OBSERVATION, PARAGRAPH 15 AND 31**

23. The description of the situation in the health domain does not reflect reality, especially in terms of vulnerable groups' access to quality healthcare services. This reality is illustrated by **the high and stationary level of maternal mortality (478 for 100,000 live births<sup>17</sup>) showing women's difficulty in accessing quality reproductive health services.** On the other hand, **the high number of teenage pregnancies (31.7% of young women aged 15 to 19 years old have already started childbearing years<sup>18</sup>), and clandestine abortion (53.3% of young women aged 15 to 24 years have resorted to this<sup>19</sup>), exacerbated by the phenomena of early marriage of young girls, reveals the persistence of habits and customs and insufficient sexual education and family planning services, notably aimed at adolescents.** On this subject, the Coalition acknowledges the Government's accomplishments in the strengthening of emergency obstetrical care, the training of traditional birth attendants in remote areas, raising pregnant women's awareness on the importance of carrying out four prenatal consultations and of giving birth in health centres with competent personnel. These efforts would, however, benefit from being strengthened. **Problems of access to health services are due to public budget cuts in the health sector since several years.** Hence, it is a widespread problem whose principal cause must be treated in an adequate manner so that specific measures taken to improve women's health can have long-lasting effects.
24. The coalition encourages the State to (i) allocate 12% of the State's national budget to Health (against 9.7% in 2001 and 7.2% in 2006; 15% recommended by the Heads of State of the African Union in 2001), whilst giving priority to reducing maternal mortality; (ii) integrate reproductive health services and health needs specific to women, including sexual education and family planning services, within a coherent health policy whose implementation must be guaranteed by adequate budget allocations, (ii) establish a policy of improving the quality of emergency obstetric care and outreach.

<sup>16</sup> Decree n° 2013-594, dated the 2<sup>nd</sup> August 2013, declaring the suspension of sending Malagasy workers to high-risk countries.

<sup>17</sup> Source: National Survey for the Monitoring of Millennium Development Goals (ENSOMD) 2013

<sup>18</sup> Source: Demographic and Health Survey (2008-2009).

<sup>19</sup> Source: IPPF-FISA 2007

**ARTICLE 13: ELIMINATION OF DISCRIMINATION AGAINST WOMEN IN OTHER DOMAINS OF ECONOMIC AND SOCIAL LIFE - ARTICLE 13 c): THE RIGHT TO PARTICIPATE IN RECREATIONAL ACTIVITIES, SPORTS AND IN ALL ASPECTS OF CULTURAL LIFE**

25. **Sociocultural factors which determine the persistence of discrimination against women with regard to land tenure and ownership, asset management and inheritance are not given enough attention in strategies to tackle discrimination against women. The excessive concentration of efforts on promoting microfinance could lead to the creation of a microfinance ghetto where women are confined.** Discriminatory practices in land ownership, asset management and inheritance persist, especially in rural areas, and perpetuate gender inequalities to the disadvantage of women in their access to productive resources. Initiatives to improve women's access to credit have generally concentrated on microfinance, to the detriment of resolving the major problem of the guarantee; women's principal obstacle accessing normal bank loans. However, the Ministry of Finance and Budget, through the National Microfinance Coordination (CNMF), adopted measures including the promotion of « Credit With Education » (CWE) targeting very vulnerable women<sup>20</sup> (from 2006 to 2009). But this has since become a service delivery benefiting more Microfinance Institutions than the target groups. In addition, no follow-up post-training was carried out of this initiative, leading to repayment failures. Women from the informal sector cannot take advantage of welfare benefits. It is noteworthy that the Ministry in charge of Social Protection has validated the National Policy on Social Protection (September 2015) which foresees, amongst other things, the promotion and protection of rights of specific at-risk groups. This measure is too recent to have noticeable effects.
26. **The insensitivity of some government authorities and sport federations on gender equality as well as magistrates' lack of familiarity with CEDAW, lets flagrant gender discriminations go unnoticed and accepted.** In 2013, the Malagasy Federation of Bowls imposed pre-selection events on female bowling players, including the official world champion, with a view to their participation in the World Championship, whilst male players were automatically selected. In order to arrive at a case law ruling based on the Convention, Madagascar's National Women's Council (CNFM) started civil action proceedings at Antananarivo's Court of First Instance regarding this mode of selection (double standards) of female and male members of the national bowls team. The CNFM's case was rejected because it was not related to the Federation's policy but concerned a statement by its Vice-President, which involved but him. The Sports Minister did not reply to the CNFM's request for an audience.
27. **The coalition encourages the State (i) to develop an overarching strategy for women's economic empowerment which must go farther than increasing their access to microfinance, so as to allow them to develop their economic activities and overshoot the micro level. This strategy must pay particular attention to the informal sector, which constitutes the main provider of women's employment and their means of existence; (ii) reactivate and strengthen CWE through developing a specific programme at all levels, notably concerning training on project development and management as well as technical guidance on management up until rural women are empowered; (iii) popularise the CWE, in this new format, in favour of rural women, particularly in remote areas; (iv) establish recreation and sports infrastructure in rural municipalities, taking into account gender equality; to do this, strengthen Public-Private Partnerships, both local and international; (v) accelerate the implementation of the National Social Protection Policy through programmes which respond to women's specific needs, in particular those of rural women.**

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<sup>20</sup>Madagascar Annual Report 2013, UNDP.

**ARTICLE 14: RURAL WOMEN—FINAL OBSERVATIONS PARAGRAPH 33: MAKE THE PROMOTION OF GENDER EQUALITY AN EXPLICIT COMPONENT OF NATIONAL AND LOCAL DEVELOPMENT PLANS AND PROGRAMMES**

28. **The principle of gratuity of state primary education, as specified by article 24 of the Constitution, is not respected.** Parents of pupils in all of Madagascar's State primary schools are subject to the payment of school fees and subscriptions. In addition, the timing of the start of the school year is not favourable to rural children due to the schools' inaccessibility in this period and parents' financial constraints.
29. Likewise, **the principle of gratuity of basic health services is not respected. Vulnerable women are always subjected to the payment of medical charges and childbirth costs in the case of complications, as well as subscriptions for mosquito nets impregnated with insecticide.** In addition, **the National Community Health Policy is not effective.** In that respect, medical and psychosocial care services for vulnerable people, particularly women and those living with a handicap, are not available in Basic Health Centres. Also, insufficiencies in budgets allocated to state hospital establishments persist.
30. On the subject of land ownership, article 34 paragraph 2 of the Constitution obliges the State to ensure facilitated access to land ownership through appropriate legal and institutional devices and a transparent management of land-related information. Despite this provision, **the law 68-012 dated 4<sup>th</sup> July 1968 related to inheritance, wills and donations in its article 83 is discriminatory in the sense that« The co-heirs can agree that female heirs receive their share of inheritance in the form of a sum of money. In this case, the payment of the sum will be preceded by an estimated inventory of possessions to be shared and observed by an authentic or authenticated deed ».**
31. **In addition, the new land tenure policy paper adopted by the Government, 5<sup>th</sup> August 2015, following demands from trade unions of employees at decentralised land tenure services, undermines democratic principles and the tenure rights of rural women.** According to this paper, the holders of land certificates are obliged to transform them into land deeds before any subsequent procedure, after a stipulated period. This provision appears to be a coercive, costly and clumsy measure, preventing rural people, in particular women, from acceding land easily and in fact reducing productive force, which is at the core of the country's economic development. In fact, **the persistence of traditional heads' arbitrary power in the management of property assets constitutes a major obstacle to the promotion of women's rights in relation to land use and notably inheritance.**
32. As part of developing their communities, **the majority of rural women are not involved in the process of drafting and implementing local development plans. They do not have the right to make decisions without consulting traditional authorities or close male members of family (brothers, fathers, husbands, grandfathers, etc.).** This situation is very common especially in Vatovavy Fitovinany region. In August 2014, the NGO AFD FP (Women's Activities for the Fundamental Development of the Population) held consultations with a view to mounting a Rural Development Project in the Nosiala municipality to benefit single mother-headed households of which the majority separated from, or were left by, their partners. During these meetings, the women could not make decisions without agreement from traditional authorities or their close male relatives.
33. In Madagascar, **no concrete measure aiming to improve Social Security is tangible on the ground.** Moreover, empowerment of rural women is utopian without their access to, and their enjoyment of, productive assets such as land and natural resources. **Yet, legislative texts are sometimes inapplicable in light of the power of tradition and religion.** Collecting information on the place of rural women in society has showed that more than 75 % of people interviewed do not know CEDAW. **The unreasonable practice of habits and customs discriminates against women, and their ignorance of legal rights weakens their efforts for claims. The State's lack of political will to make the implementation of the substantive law effective, and to put in place public policies favouring women's empowerment, constitute one of the principal causes.**

34. The participatory budget is one tool by which women can participate in decision-making in community development. Thus we recommend that the State (i) involves women much more in decision-making and builds upon experiences acquired, scaling this up to the national level; (ii) facilitates women's access to land ownership; (iii) repeals as soon as possible the new Land Tenure Policy Paper validated on the 5<sup>th</sup> August 2015 that is judged discriminatory and, thereafter, to take account of the first Paper dated the 26<sup>th</sup> May 2015 which respected inclusive and democratic principles at the time of its drafting; (iv) revises the law n° 68-012 dated 4<sup>th</sup> July 1968 related to inheritance, wills and donations by repealing the provisions of article 83; (v) builds upon experiences acquired from decentralised tenure management, especially the issuing of land certificates to rural women (such as the case of Ambila where 33 /159 Land Certificates were issued to women); (vi) adopts a National Policy for Social Security to apply intended programmes in the National Development Plan; (vii) implements social and economic development programmes in order to promote the population's economic and social rights, in particular those of rural women; (viii) intensifies the popularisation of the CEDAW, especially in rural areas; (ix) builds and renovates schools in remote zones; (x) strengthens awareness-raising actions for the inclusion of rural girls in schools as well as incentive measures for the education and re-education of young girls; (xi) honours education's gratuity; (xii) carries out awareness-raising actions aimed at the elimination of all forms of harmful cultural practices leading to discrimination against women in property inheritance; (xiii) pursues efforts already started so as to give a means of action to rural women with the goal of their economic empowerment, on the one hand, and to build their capacity on management and productivity on the other hand.

#### ARTICLE 15: GENDER EQUALITY BEFORE THE LAW

35. The fundamental problem remains the unawareness of international conventions on gender equality that protect women against all form of discrimination, including by women themselves, and their subjection to discriminatory texts (e.g. nationality law, inheritance law, etc.) Added to this is the absence of effective mechanisms for implementation of legislative and administrative provisions in favour of non-discrimination against women. In spite of the Ministry of Justice's creation of Legal Clinics in nine urban municipalities and a Rights Centre in Antananarivo, as well as other departments' efforts in popularising the CEDAW, 75% of rural women do not know about the CEDAW (source: surveys FIANTSO-2015).

36. The coalition encourages the State to include priority actions aiming to: (i) strengthen the popularisation of international conventions on gender equality and legislative texts which protect women against all forms of discrimination; (ii) bring into compliance the provisions of domestic laws with those of these conventions; (iii) take concrete measures for the effective application of laws and measures aiming to respect the principle of non-discrimination, including gender-related discrimination, such as the translation of existing texts into the Malagasy language, the adoption of a law allowing women "heads of family" to acquire a family record book, (iv) make existing legal clinics permanent and sustainable, and extend them into the most remote districts and municipalities, as well as the Law Centres in the five other provincial centres, and (v) create pools of lawyers within each court, especially for the most remote zones.

#### ARTICLE 16: ELIMINATION OF DISCRIMINATION AGAINST WOMEN IN ALL MATTERS RELATING TO MARRIAGE— FINAL OBSERVATIONS PARAGRAPH 37

37. The major concerns lie in the duality of the legal regime and the predominance of customary laws: « Moletry, Valifofo, Valitroky ». These practices favour arranged, forced and early marriage, sometimes agreed by two parents from the same family. The young underage girls, or women, in question, are deprived of their right to freely choose their spouse and to enter into marriage. These practices constitute barriers to the effective application of CEDAW in Madagascar. The coalition admires the efforts recently committed to by the Ministry responsible

for Women's Advancement through the launch of the campaign to combat early marriage, with financial support from the UNFPA and UNICEF (June 2015). But it backs up the alarming nature of Madagascar's situation which is one of 41 countries in the world where early marriage affects more than 50% of underage girls. The major factors known to be at the origin of this scourge are traditional practices, adolescents' access to unsavoury sites and to social networks via new information and communication technologies, and ignorance of legislation on marriage.

38. **Despite the adoption of the law n°2007-022 related to marriage and to matrimonial regimes, awarding spouses equal rights and responsibilities concerning the administration of their possessions and setting the minimum age required for marriage (18 years), these provisions are rarely enforced due to the predominance of customary rights and traditional social rules (e.g. early, arranged and forced marriages).** Equality of men and women concerning joint property division in the instance of divorce (or death of one spouse) is far from effective, given that many women, particularly in rural areas, do not have access to land (not even to cattle jointly owned in some ethnic groups) and even less so to inheritance, on the same basis as for men.
39. **The coalition encourages the State (i) to harmonise legislation relative to marriage and customary rights with article 16 of the Convention. In this perspective, the measures which must be taken are not only legislative, but must also aim to change attitudes and behaviour linked to traditional norms; (ii) to pursue the fight against early marriage in a sustained manner whilst tackling the root causes of this practice, and (iii) to establish a policy aiming to raise awareness and hold community debates to convince traditional leaders to gradually eliminate all customs which restrict women's access to the same rights, as well as their empowerment.**