

## Universal Periodic Review – Human Rights Council

### UNICEF INPUTS – MADAGASCAR

#### I. Background and framework

1. Madagascar is the 4th largest island in the world, with a population of more than 19 million (State of the World's Children - SOWC, 2009). About half of the total population are children and 73% of the population lives in rural areas. Madagascar is a low income country, where 68% of the population lives on less than 1US\$ a day. The island nation is prone to natural disasters, including chronic drought, flooding and recurrent cyclones.
2. A period of political instability and violence since the beginning of the year led to the ousting of President Ravalomanana on 17 March 2009 and the subsequent instauration of a Transitional Authority, which is not recognized by the international community. The political crisis has given rise to a range of alleged human rights abuses, including the use of excessive force by the armed forces and law enforcement officers resulting in the death and injury of civilians, illegal house searches, arbitrary arrests and detentions. The right to freedom of expression has been curtailed, and both media and youth have expressed that they have been manipulated by the various political parties. As with previous political crises, no independent investigations have been conducted into the alleged abuses. As the transitional solution was never internationally recognized, Madagascar was suspended from AU (African Union) and SADC (Southern African Development Community) and most development aid was frozen. After the power change, mediation efforts were led by the AU, SADC, OIF (Organisation Internationale de la Francophonie) and the UN. Despite initial difficulties, the Maputo Charter of Transition was signed on 8 August by the four political movements, setting the framework for the establishment of Transitional Institutions. A second mediation meeting, Maputo II, took place to decide on the composition of the transitional institutions but no final agreement was reached on the main posts. On September 5<sup>th</sup>, the President of the Transitional Authority, Mr Rajoelina, decided to unilaterally form a new Government without the three other political movements. This decision was condemned by the International Contact Group and the SADC. In addition to the already difficult global financial situation, the political uncertainty is bringing Madagascar towards a severe recession. Both, the International Monetary Fund and the World Bank have predicted negative consequences of the crises on the economy and the state of public finances for the second semester 2009, with a possible serious crunch to be expected for 2010.
3. Madagascar is a State Party to most international human rights instruments, including the Convention for the Rights of the Child (CRC), as well as the two CRC Optional Protocols on Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography. The Malagasy Constitution's preamble clearly states that among others, the CRC is an integral part of the law of the country.
4. Between 2005 and 2008, five important laws reinforcing child rights' principles were promulgated, regarding adoption and alternative care, the legal age of marriage, protective measures connected with abuse, exploitation and lack of primary caregivers, trafficking and sex tourism, and retroactive birth registration. Law for justice reform is on track: particular attention is given to the reform of the juvenile justice system, including minimizing periods of pre-trial detention and developing community-based alternatives and rehabilitative interventions to reduce repetition of offences.
5. The Madagascar Action Plan (MAP) for 2007-2011 was launched in 2006 and represented the new national development strategy around eight commitments (Responsible Governance; Connected Infrastructure; Educational Transformation; Rural Development and a green revolution; Health, Family Planning and the Fight Against HIV/AIDS; High Growth Economy; Cherish the Environment; and National Solidarity). Firmly anchored in the Millennium Development Goals, the MAP contains measurable, time-bound

performance targets and relies on decentralization to better ensure the rights of vulnerable populations. As regards the right to protection, the MAP includes among its objectives the fight against human trafficking, protection and rehabilitation of child victims of violence and children in conflict with the law, and 100 per cent birth registration by 2012. The MAP also includes the commitment to improve access to and quality of education, from early childhood development to basic education, secondary education, higher education and adult education. With regard to the rights of life, survival and health, the MAP contains specific commitments related to maternal and child health, child survival and development, HIV/AIDS and water and sanitation. In the current context, the MAP has not officially been suspended. However, it remains to be seen whether the document will continue to play a central role for discussions on budgetary allocations and sector development orientations in the coming months.

6. Following the completion of the MAP, several sectoral policies and/or action plans were adopted. Among others, a ‘National Action Plan to combat Violence against Children’ was approved in 2007 for the period of 2008-11, with strong support of UNICEF. A National Action Plan against Child Labor (2004-2019) was adopted and the National Committee to Fight Child Labor, its monitoring and implementing body, was established. Local committees to follow up its implementation are in place in many areas. Madagascar’s revised Education for All (EFA) Plan (2008-2015) is in line with the MAP and with the Education for All goals. The 2007-2011 Health Sector and Social Protection Development Plan (PDSSPS) and the 2006-2008 Medium-Term Expenditure Framework (updated for 2009-2012) were developed to translate the MAP commitments on child and maternal health into specific strategies and activities. The Ministry of Health and Family Planning (MOHFP) also recognizes the critical role of the community in health promotion and the important contribution of community health and nutrition workers in both preventive and curative health and nutrition services, and further worked on the development of a community health policy (*Politique Nationale de Santé Communautaire*).
7. The whole social welfare system is still very weak in terms of its ability to reach the most vulnerable families and to offer alternative opportunities, access to social services and poverty alleviation.—Social protection has only recently been considered as a national priority in the development framework, and a Social Protection National Program is under preparation. However, at local level, community capacity-building and involvement are the basis for the development of community-based protection systems, through “community networks”. With UNICEF support, the government has developed a multi-pronged approach based on the development and strengthening of local networks for the promotion and protection of the rights of the child; The approach strengthens the delivery of social services with legal protection, includes prevention activities and promotes inter-agency networking and collaboration at local, national and sub-regional levels. Child protection networks at the commune level operationalize the promotion of a protective environment for children.
8. The National Commission for Human Rights was created in 1996. However, its formation has not been renewed and its members’ mandate has not been extended. Currently the Commission is not operational and is not able to receive complaints from individuals. The National Council of Human Rights was created in 2008 and its mandate is to monitor the application of the CRC, among other duties. Although the nomination of members has started, the Council is not yet operational.
9. In 2008 the government created several new units in the Ministry of Justice to tackle critical issues related to the administration of justice and the rule of law. Those offices include the Direction for Integrity Promotion, Direction for Jurisdictions Control, Direction for Communication and Direction for Human Rights and International Relations. However, the effective functioning of these bodies is still problematic, due to scarce human and financial resources as well as insufficient national and local monitoring mechanisms.

## II. Trends, Achievements, Challenges and Constraints

1. As one of the poorest countries in Sub-Saharan Africa, ranked 143<sup>rd</sup> of the 177 countries on the UN's Human Development Index, Madagascar faces many challenges in meeting the Millennium Development Goals (MDGs). The country's second national MDG Progress Report, produced in 2007 with the support of the UN Country Team, estimated that of 8 Millennium Development Goals, Madagascar was likely to achieve at least three: primary education, gender equality and HIV/AIDS. Whether this remains likely will depend on the outcome of the current political crisis.
2. Eliminate extreme poverty and hunger (MDG 1): Poverty remains widespread in Madagascar, where rural populations and women are the most affected. Food insecurity continues to be a main concern in the country; 42% of the under-five population suffers from malnutrition. According to the Second National MDG Progress Report, the combination of double digit economic growth and pro-poor policies is needed in order to achieve MDG 1 in Madagascar.
3. Achieve Universal Primary Education (MDG 2): Madagascar doubled the number of children enrolled in primary education from 1.9 million in 1997/1998 to 4.3 million in 2008/2009. The elimination of school fees and distribution of school kits to first graders, among other initiatives, contributed to this achievement. Other important policy choices included the extension of primary education from 5 to 7 years, as well as the establishment of Malagasy as the language of instruction in primary education: The policy would adjust education to the linguistic reality of the country and improve quality both by allowing children to learn in their own language and by giving them the opportunity to learn a second language (French) through an appropriate pedagogical approach. Madagascar has been cited as a good example of commitment and quality in connection with the development of the Education for All Plan (EFA), strong government leadership and partner collaboration and quality of reporting to the Fast Track Initiative (FTI). While the achievement of MDG 2 seemed likely until the end of 2008, the recent events have resulted in a loss of momentum that could put this achievement at risk.
4. Promote Gender Equality and Empower Women (MDG 3): While gender disparity remains a reality in Malagasy society, a strong policy environment has resulted in substantive progress in reducing primary school gender disparity. However, the situation varies at sub-national levels, with girls' enrolment higher than boys' in some areas and considerably lower in other parts of the country. At the secondary level, in particular, challenges persist when it comes to keeping girls in school. Again, the problems vary by region and district, with local traditions and socio-economic situations coming in to play in determining girls' access to education. At the societal level, gender equality is still not a reality in Madagascar, with considerably fewer women than men reaching positions of leadership and influence. Domestic violence against women is also an area of concern, as shown by a study conducted in 2008 in Antananarivo.
5. Reduce Child Mortality (MDG 4): Madagascar is among the few countries in Africa that has shown dramatic improvement in child mortality figures. The Under 5 Mortality Rate was reduced from 159 per 1000 in 1997 to 112 in 2007 (SOWC 2009). The reduction is attributed to the twice-yearly vaccination campaigns and distribution of Vitamin A, promotion of exclusive breastfeeding and extension of ITN distribution. The Mother and Child Health week is one of the key strategies in accelerating child survival and development in pursuit of MDGs 4 and 5. Causes of under-five deaths are mainly (WHO 2007): neonatal causes (26%), pneumonia (21%), malaria (20%) and diarrhea (17%).
6. Improve Maternal Health (MDG 5): Maternal mortality in Madagascar remains high at 510/100,000 (SOWC 2009). Improving reproductive health, neo-natal and post-natal care for mothers are key objectives needed to reduce maternal mortality in Madagascar. The Ministry of Health estimates that eight women die each day from complications related to pregnancy or childbirth. Only 51% of births are attended by skilled health personnel.

7. Combat HIV, Malaria and other Diseases (MDG 6): HIV has been an on going priority for the Government. Estimated HIV prevalence among adults aged 15-49 in Madagascar remains among the lowest in Sub-Saharan Africa, estimated at 0.13% (0.06-0.38) in 2008. Strategies aimed to maintain prevalence below 1% include: PMTCT services, prevention among young people and protection of vulnerable populations. For Malaria, strong recent progress has been made towards eradication; in the most recent survey carried out in endemic areas in Madagascar in 2008, the number of under-five children sleeping under a bed net grew from 38% (TRaC 2006 & CDC/Health Bridge Survey) to 75%.
8. Ensure Environmental Sustainability (MDG 7): In Madagascar, 47% of the population lacks access to clean water and 12% lacks access to basic sanitation (JMP 2008). Massive environmental degradation has been experienced over the past half century, leading to soil erosion and the endangering of many species unique to the island. Soil erosion increases the risk of damage and loss of life when annual cyclones hit the island.
9. Develop a Global Partnership for Development (MDG 8): There has been a move towards donor harmonization, alignment and more flexible aid modalities such as sector-wide approaches (SWAps) in Health, Education and WASH to support the MAP implementation. This move has received a setback in the current political crisis, though donors continue to keep a close dialogue on sector support while waiting for the political situation to stabilize.
10. In 2003, the Committee on the Rights of the Child's assessment of Madagascar's implementation of the Convention on the Rights of the Child expressed regret "that some of the concerns and recommendations it made upon consideration of the State party's initial report have been insufficiently addressed, ..., notably regarding the establishment of a monitoring mechanism, the fight against child labour and the reform of the juvenile justice system."
11. Regarding child protection and in terms of Millennium Declaration commitments, studies completed in 2008 on sexual exploitation of young people in tourist and mining sites, the situation analysis of children and women in Madagascar and the National Survey on child labor in Madagascar conclude that protection issues continue to be a concern for young and vulnerable populations, particularly girls, in every part of the country. These studies suggest that unlawful acts committed against children are significant, with girls being the victims in almost three quarters of cases. Almost half of these unlawful acts are of a sexual nature, including rape, incest, indecent assault and forced marriage. The study on sexual exploitation of young people highlights that while the number of abusers who seek young children is relatively low, there is a high social acceptance of exploitation. The survey on Child Labour shows that 28% of Malagasy children between 5 and 17 are economically active, and that the work of 82% of these children (1,534,000 children, of which 1,200,000 are under 15 years of age) is harmful to their well-being. Children mostly work in family settings in agriculture and as domestic servants in urban areas. The increase of child labourers in mining areas, tourist hotspots, fishing areas and related salt works along the coasts is a growing concern. The government with support of BIT/IPEC and 22 ONGs has made major investment in the implementation of first phase of NPA against child Labor in 11 zones of intervention (out of 22 regions) through education and vocational training, assist in the reinforcement of the legal framework, income generation activities for families, development of capacities at national and local levels and awareness raising and social mobilization. To date, 22946 children and 561 families benefit from these interventions and more than 996 actors (teachers, inspectors etc) have been trained. Similarly, the study on Adolescents in the Indian Ocean Region highlights the needs of this often neglected age-group. Young people voice their needs for opportunities, health, education and lifeskills as they confront adulthood.
12. Trafficking in children, in particular in relation to adoption, is another major concern in Madagascar although the scale of this trafficking is difficult to measure. For better law enforcement, UNICEF provided support to reinforce the National Adoption System, including its judicial component. A few years ago, Madagascar was still included by the US Department of State in the Tier 2 "watch list" for countries failing

to take adequate measures to address human trafficking. Since 2008, Madagascar has been considered as a “Tier 1” country, in recognition of its leadership in fighting trafficking in persons. However Madagascar still had a number of recommendations on steps that remain to be taken, specifically in the realm of prosecution.

13. Despite the social and political crisis prevailing in the country so far (including elections and changes in parliament, government, and local authorities since 2002), some progress has been made to protect children against all forms of violence. This includes the protection of rights of child offenders, victims and witnesses of violence, and ensuring justice for all children. One of the key strategies is the reinforcement of child protection systems at national and local levels through the creation of Child Protection Networks (CPN), with active youth and community participation and the setting up of child protection services. So far, intensive partnerships have been established in 765 of 1568 communes to have a CPN by December 2008. The perspective is to reach 75% of the communes by 2011, and the challenge is to ensure positive social change to reduce violence and exploitation of children (reporting of mistreatment cases, preventive actions including ending negative practices and customs, child participation, etc.)
14. Birth registration is not perceived as a fundamental right of the child by parents, who often live far from the nearest Municipality. Exclusion from basic social services and the risk of violence against children in contact with the justice system are exacerbated without birth registration. Twenty five per cent of children under five in Madagascar have not been registered at birth and hence have no legal form of identification. Since 2004, the Ministry of Home Affairs is leading the National Birth Registration Programme with support from UNICEF, UNDP and other international partners and in close collaboration with the Ministry of Justice and the Ministry of Health. The Ministry of Health has also included among its programmatic priorities to reinforce routine birth registration of newborns. Assistance has been given to reinforce ownership and accountability of duty bearers--district chiefs, judges, mayors and local authorities--in order to implement the above mentioned law; to set up watch dog systems at village level for systematic timely birth registration for all new born babies; and to systematize data collection and treatment. The program is now implemented in 581 municipalities and 573,056 children have been registered. The challenge is to operationalize a system for free birth registration of all children under 18 in all 1568 municipalities of the country.
15. Juvenile justice is also a major concern. Most adolescents in prison are awaiting trial and are often mixed with adults because alternatives to detention are unavailable. In relation to justice for children, UNICEF and other UN agencies such as the UNDP, as well as civil society organizations, are supporting national efforts in ensuring that justice systems provide greater protection to children as victims, witnesses and offenders. This includes strengthening national justice systems and influencing public attitudes. In terms of juvenile justice specifically, UNICEF’s work with the Ministry of Justice focuses on reducing the recourse to deprivation of liberty through the promotion of non-custodial measures, restorative justice and diversion as well as child friendly legal services for victimized children and for child offenders. Challenges remain in the functioning of the justice system and courts, and deficiencies in law application persist, particularly regarding delays in and deficient information on court decisions regarding perpetrators, as well as absence of information to victims and their families on court decisions. There is an insufficient number of judges and specialized magistrates. Only the court of Antananarivo, the capital, has social workers available to assist and support judicial work. The prosecution of perpetrators of child abuse and exploitation remains problematic, mainly due to deficient law enforcement and information on court decisions regarding perpetrators. This contributes to discredit efforts made to prevent abuse and to assist abused children, not only by discouraging the principal stakeholders, but also by potentially encouraging perpetrators.

### **III. Capacity building efforts**

1. UNICEF in Madagascar is working to guarantee each child and adolescent’s rights through the following programmes: Maternal and child survival and development, Education for development and gender

equality, HIV/AIDS prevention and care, Governance for child protection and Policy, communication and partnerships. All programs have a capacity building component.

2. UNICEF has a unique role in combining direct support to local level capacity building and programme implementation with upstream work to influence and support policy and strategy development. The evidence base developed through activities on the ground gives UNICEF credibility as well as the ability to propose realistic and appropriate strategies to ensure children's access to health, sanitation, nutrition, education and protection.
3. The application of international human rights instruments is weak in general, due to a low awareness and capacity of the relevant government staff. The international norms are rarely appealed in Malagasy courts or tribunals. In this context, the United Nations system is collaborating with the members of the Malagasy legal system in order to strengthen the justice administration and comply with the human rights international standards. Moreover, the objective of this collaboration is to make the legal system more accessible, equal, independent and impartial. Since 2007, multiple trainings have been provided for the police, judges, social workers and youth groups in collaboration with ENMG (Ecole Nationale de la Magistrature et des Greffes), the National School of Magistrates and Clerks, and civil society. ENMG recently included new legislation on child protection in its curriculum and conducted various courses for Magistrates at the central and field level; more than 2500 stakeholders benefited from these trainings all over the country. Adequate training tools have been elaborated and disseminated. Capacity reinforcement of law implementers (police, gendarmerie, judges, social workers etc.) have included a training guide on identifying abuse, a module on how to listen to and support child survivors of abuse and exploitation, and a booklet on legislation and procedures to support the police and judges.
4. In order to contribute to reinforce a protective environment enabling the realization of child rights, a partnership with six national NGOs has been established. Their capacities have been reinforced in order to be able to develop social mobilization and organization in the areas of birth registration, prevention and protection of children against all forms of violence, and protection of children without primary caregivers. The NGOs are involved in child protection networks, and specific training will be held in case management, support to foster families, advocacy, monitoring and data base management.
5. UNICEF supports the Indian Ocean Child Rights Observatory (ODEROI), based in Mauritius, to maintain and update a regional database on child rights. A regional study on adolescents was launched on 2008. Over 200 young people were present at the launch of the ODEROI study on Adolescents in Madagascar, which was followed by decentralized sensitization sessions to facilitate access to information and exchange of knowledge. UNICEF and partners including the Government and other UN agencies, organized expositions as a way of increasing outreach activities that build strategic knowledge.
6. UNICEF also assisted the country to conceive its 3rd and 4th periodic report on the Convention of the Rights of the Child.
7. In the context of the socio-political crisis, Madagascar's priority in capacity building for Human Rights is the promotion and respect of international human rights standards, prevention of violence and child abuse and promotion of social cohesion. Several workshops have been planned and organized for judiciary authorities, law enforcement agents and media.
8. While civic education has been integrated in the school curriculum, there is still much to do to ensure that the Malagasy public is educated on human rights and are able to claim these rights through democracy and the judicial system. UNICEF has developed peace education modules to support young people's capacity to deal with conflict in an informed and non-violent manner.

9. In addition, UNICEF, with International and national NGO support, concluded a rapid participatory youth assessment on the impact of the socio-political crisis on the youth in Antananarivo. 12,800 youth expressed their opinions and concerns regarding the crisis and the future of the country. The study also provides clear guidance on possible areas of intervention for youth to prevent and respond to the current volatile socio-political situation. The study highlights a substantial increase in the use of violence, a widespread mistrust of youth towards institutions and law enforcement agents, the decrease of social cohesiveness, and the increase in street gangs based on political ideologies, religion and ethnicity. A multi-sectoral emergency response plan to the problems identified by the study is under preparation. Among the aims is to generate an evidence-based policy dialogue which will ultimately reinforce the framework to protect children against all forms of violence, particularly in the context of the current crisis. It is hoped that the study findings will promote mutual capacity-building and new partnerships with civil society and national and local child protection institutions.
  
10. UNICEF supports also the creation and strengthening of a network of 85 social workers and 650 FIANTSO (Civil agents in the community) to monitor, report and refer or respond to child protection issues mainly during the period of the political crisis but, as well as, to continuum work during the development period. This also includes capacity development of specialized services such as psycho social support, legal orientation and social work for children in general. UNICEF and some specific NGOs also support formalization of the role of social work in justice sector (police and court). Official discussions and strong advocacy held with Ministry of Justice and Social Affairs to recognize social work in general and in the juvenile justice system in particular. The administrative procedures for official recognition are ongoing.