

ENVIRONMENTAL & LAND PROPERTY REFORMS in MADAGASCAR



PROGRESSIVE REALIZATION OF THE RIGHT TO AN
ADEQUATE STANDARD OF LIVING AND SUSTAINABLE
DEVELOPMENT

THE NEW BALANCE OF DECENTRALIZATION
... IN THE VISION OF REPRESENTATIVE DEMOCRACY AND
STRENGTHENING THE VARIOUS INSTITUTIONS REGULATING
ACCESS TO LAND AND ORGANIZING THE MANAGEMENT OF
SPACES.

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PARTNERSHIP NETWORK INTERNATIONAL (PNI)

Isabelle Bourgeois, President – EPU MADAGASCAR 11/11/2019

TWO WRITTEN CONTRIBUTIONS

- **Individual** from Partnership Network International (PNI)
- **Joint Contribution** PNI in collaboration with Tafo Mihaavo & the Malagasy Coalition

*presented to the OHCHR / Geneva on the occasion of
the UPR of MADAGASCAR 2019*

- Please find the reports on : www.partnershipnetworkinternational.org



LIST OF CIVIL SOCIETY REPRESENTATIVES



Consultation and elaboration of the joint contribution organized by:

PARTNERSHIP NETWORK INTERNATIONAL (PNI) - Geneva / Switzerland in collaboration with
TAFO MIHAAVO - Madagascar and THE MALAGASY COALITION including:

□ **7 NETWORKS, 5 ASSOCIATIONS & 3 SECTIONS OF INGOs & 2 MALAGASY PLATFORMS:**

TRANSPARENCY INTERNATIONAL INITIATIVE MADAGASCAR; NATURAL JUSTICE; ORDRE DES JOURNALISTES DE MADAGASCAR (OJM) ; PLATEFORME OSCIE ; PLATEFORME SOLIDARITE DES INTERVENANTS SUR LE FONCIER (SIF); CONFEDERATION MIKEA; RESEAU MIHARI; UNION MAITSO ARIVONIMAMO II; UNION VOI SOAMITAMBATRA; FEDERATION MAHAFALY ANDRIAKE; FEDERATION MAHAFALY ANTETY.

□ **20 ASSOCIATIONS & MALAGASY NGOs :**

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□ **OBSERVATOR:** GEF SGP PNUD



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FROM INSECURITY ... TO A SUSTAINABLE ENVIRONMENT FOR ALL

Progressive realization of the right to an adequate standard of living and sustainable development <i>Multiple handicaps on access to the law and its implementation are observed in Madagascar</i>			
PNI Presentation	Theme 1	Theme 2	Objective
Context of: Generalized poverty (Angola, China, South Africa, Tanzania, Djibouti, Venezuela, Slovenia, Vietnam) + Destruction of the environment sustainable management of natural resources (Norway) + Attack on the fundamental rights of the population	ENVIRONMENTAL REFORM	REFORM OF LAND	<i>Sustainable development</i>
Subject <i>Progressive realization of the right to an adequate standard of living and sustainable development</i>	Management of <u>protected areas</u>	Legal recognition of non-written land rights	Participatory, inclusive and egalitarian democracy
New developments Ensure the application of the principles of governance set out in the Universal Declaration of Human Rights (Norway)	Weakness of access to information and public participation of <u>Fokonolona</u> grassroots communities	National land <u>insecurity</u>	Stability and Security (local and national) <i>Reconcile legality and legitimacy in land and environmental matters</i> <i>Anticipate on the settlement of potential conflicts</i>
New needs <i>Guarantee the effective enforcement of property rights and land / property management (Belgium)</i>	Access to useful remedies and <u>recours</u> + Capacity building basic local <u>communities Fokonolona</u>	Land restitution + <u>Legal</u> recognition grassroots <u>communities Fokonolona</u> and their lands	Basic interests from Madagascar <i>Right to inclusive governance</i> <i>Rational use and sustainable exploitation of resources.</i> <i>Legal anchoring of grassroots communities</i>
Extreme vulnerability of local grassroots managers called "<u>Fokonolona</u>"			





PARTNERSHIP NETWORK INTERNATIONAL (PNI)

3rd CYCLE UNIVERSAL PERIODIC REVIEW

ENVIRONMENTAL REFORM

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A - IMPLEMENTATION OF THE PREVIOUS RECOMMENDATIONS made by:



- *make efforts (Angola), continue efforts (China), redouble efforts (South Africa), intensify efforts (Tanzania), fight (Venezuela), fight (Djibouti) against poverty and precarious situations,*



implement its national strategy to combat poverty (South Africa), take all necessary measures (Slovenia) while pursuing policies for vulnerable people (Venezuela) and social-economic development programs,

- *promote the eco-social-cultural rights of the population (Vietnam, China), to ensure that all people, especially children, have an adequate standard of living, including access to safe drinking water and sanitation (Slovenia).*



- *On the sustainable management of natural resources, Norway once again stressed the importance of sustainable management of Malagasy natural resources by recommending as before: "to apply in a general way the principles of governance set out in the Universal Declaration of Human Rights". human beings, as they are essential for the sustainable management of natural resources, such as the protection of tropical forests, and essential for the realization of fundamental economic, social and cultural rights "*

B - SITUATION

The State of Madagascar is committed



- to endorse all these recommendations and to implement them.
- It has strengthened actions against poverty, corruption and environmental destruction.
- However, more needs to be done, particularly with respect to the protection of the most vulnerable, especially the local *Fokonolona* communities.

Local communities, municipalities and customary organizations are among the day-to-day players in environmental management.

New Development: *Transfer of Natural Resource Management*



- The country fails to develop sustainably;
- Exceptional assets;
- Decentralization policy and democratization;
- Weak access to information and public participation of *Fokonolona* grassroots communities;
- Attacks on the fundamental rights of rural people.

New Development: *Transfer of Natural Resource Management*



- **The country fails to develop sustainably;**



#1: End poverty in all its forms everywhere



#11: Make cities and human settlements inclusive, safe, resilient and sustainable

- **Exceptional assets;**



#14 Conserve and sustainably use the oceans, seas and marine resources for sustainable development



#15: Protect, restore and promote sustainable use of terrestrial ecosystems



13 Take urgent action to combat climate change and its impacts



16 Promote peaceful and inclusive societies for sustainable development



#12 Ensure sustainable consumption and production patten

- **Decentralization policy and democratization;**



16 Promote peaceful and inclusive societies for sustainable development

- **Weak access to information and public participation of *Fokonolona* grassroots communities**



- **Attacks on the fundamental rights of rural people.**



6 Ensure availability and sustainable management of water and sanitation for all



3: Ensure healthy lives and promote well-being for all at all ages



8 Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all



2 End hunger, achieve food security and improved nutrition and promote sustainable agriculture

New needs:

The challenges around the management of natural resources are multiple.



The collective and individual interests of the actors are fundamentally divergent. Each group of actors has its logic of behavior and its own rationality.

Mining, exploitation and mining, forestry, but also fishing, agriculture, livestock, tourism, etc. are carried out in the name of a "pseudo-economic development", **sacrificing fundamental rights of the Malagasy population and causing** pollution, environmental degradation, loss of cultural identity, loss of economic income, ... even loss of life in some cases.

From insecurity to a sustainable environment for all

C - RECOMMENDATIONS



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Contribute to the respect and progressive realization of international human rights law

1. Legally recognize local organizations;
2. Strengthen the processes of decentralization and democratization;
3. Protect the human rights of the population and safeguard the environment;
4. Build the capacity of communities to manage and control their resources;
5. Intensify the fight against poverty in collaboration with UNDP;
6. Take concrete measures to effectively combat corruption;
7. Comply with the United Nations Guiding Principles on Business and Human Rights.



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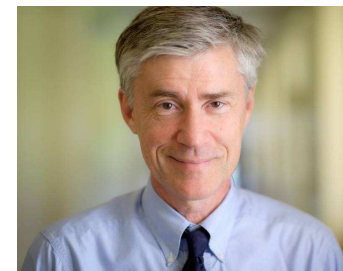
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D - QUESTIONS FOR THE STATE OF MADAGASCAR - SUBJECT 1



1. What legal protection for the basic *Fokonolona* communities?
2. What is the policy to fight against widespread poverty?
3. What are the efforts to ensure effective management in the conservation and exploitation of resources?
4. What efforts are being made to support basic local communities, family structures, small farmers?
5. What are the efforts to prevent the destruction of habitats and to protect an environment on which we all depend, one that is viable for all?
6. What budget line is allocated to the UNDP GEF SGP for the implementation of the action plans for *Fokonolona* Basic Communities?
7. What remedies are available for people who have been harmed?

John Knox, S.R Environnement



- **At the end of his Mission in Madagascar** he said: "The authorities have the obligation to encourage and protect those who seek to protect the environment on which we all depend".
- (...) In addition, in order to comply with human rights obligations, all conservation and exploitation activities **must be undertaken only after evaluation and consultation** with those most affected. **The latter must have access to appropriate remedies in case of violation of their rights. "**

The right to inclusive governance



- can provide **an anchor** for local and national groups to defend their communities and territories against **predator-driven** economic development projects and policies.
- **The transfer of natural resource management to grassroots communities** should not be limited to the responsibility / management dimension but should be extended to inclusive governance, ie planning / **management and participatory decision-making and the rational use and sustainable exploitation of these resources.**



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3ème CYCLE UNIVERSAL PERIODIC REVIEW

LAND REFORM

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A – MISE EN ŒUVRE DES RECOMMANDATIONS PRECEDENTES faites par:



- We note that **no recommendation has been made by the States Parties concerning land reform undertaken in Madagascar.**
- **However, Belgium has addressed** the subject with this recommendation: Adopt a policy to ensure the effective enforcement of the law on real estate property and to remove the customs that prevent women from inheriting the land.
- The State of Madagascar has pledged to endorse all these recommendations and to implement them.
- To facilitate access for all to the land, including that of rural women, the Malagasy government drafted and **adopted a land policy letter in August 2015.**

*Although the initial goal has not yet been achieved
and the implementation of the reform is not easy, there has been a huge progress*

B – Situation

The State of Madagascar is committed



to endorse this recommendation and to implement it.

To facilitate access for all to land, including that of rural women, the Malagasy government drafted and adopted a land policy letter in August 2015.
(see *Mid-Term Report*)

Although the initial goal has not yet been achieved and the implementation of the reform is not easy, there has been a huge progress.

New development: *Transfer of land management*



- **Difficult validation and transfer of ownership;**
- **Legal dichotomy between modern law and traditional law;**
- **Insecure land feeling has spread throughout the territory;**
- **Alarming phenomenon of land rush;**
- **Deterioration of the human rights situation in Madagascar, and more particularly the indigenous local communities *Fokonolona*;**
- **Degradation of the environment and the vector of extreme poverty.**



New needs:

The issues around land management are multiple



The implementation of land reform and resource management involves:

- **Rigorous control of the legal systems** that apply not only to the management of rights on the ground but also to local management;
- **It is imperative to take into account** the civil, political, economic, social and cultural rights of local people, small farmers, women and children, all the Malagasy population whose survival depends on it.
- **Create a local land administration** to allow rational basic land management; An approach aiming at the negotiation of the actors and foreseeing a succession of stages which will allow a progressive process, under the control of all the actors.

C - RECOMMENDATIONS

Contribute to the respect and progressive realization of international human rights law

1. An immediate action of the Malagasy government;
2. Secure the lands, assets and resources of the most vulnerable of the Malagasy population, including the *Fokonolona* basic communities;
3. To legally recognize private land and property owners;
4. Better administrative management;
5. Consistency of land and environmental law;
6. Strengthen the processes of decentralization and democratization;
7. Stress entities working in Madagascar to respect the principle of free, informed and prior consent to comply with the UN Guiding Principles on Business and Human Rights.

D - QUESTIONS FOR THE STATE OF MADAGASCAR - SUBJECT 2



1. *What efforts are being made to combat widespread poverty?*
2. *What efforts are being made to reform the regulatory framework for sustainable, equitable and inclusive development?*
3. *What legal protection for the basic Fokonolona communities?*
4. *How do you improve the administrative management of land reform?*
5. *What are the efforts to ensure the effective management of a local land service?*
6. *What are the training efforts of land agents?*
7. *How do you intensify the fight against corruption, especially with the judicial system protecting the people's human rights and safeguarding the environment?*

The new balance of decentralization



- **By embarking on the path of community management and massive land security**, the Malagasy State, in a context of developing countries with a rural dominance, **cleans the business climate** and provides access to a more productive vision. rural areas, increased household income, agricultural productivity, and increased land transactions.
- However, an environmental and land reform can only be relevant if it takes into account the social, cultural and historical realities ... and **respects the rights of the most vulnerable** and in particular local communities ***Fokonolona***.

Thank you for your attention



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