



Partnership Network International

PNI for Human rights & Sustainable development

HUMAN RIGHTS COUNCIL

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MADAGASCAR

Joint submission of the Coalition composed with:

PARTNERSHIP NETWORK INTERNATIONAL (PNI)

THE TAFO MIHAAVO NETWORK and:

ANJAVA SAKATIA; WOMEN'S ASSOCIATION ANDRIN'NI MPANDRARY; ASSOCIATION DEVELOPMENT AND ENVIRONMENTAL LAW CENTER (DELC); MANOHISOA ASSOCIATION; TSANGANALOKÉ ASSOCIATION; AUTISM MADAGASCAR; MIKEA CONFEDERATION; FEDERATION MAHAFALY ANDRIAKE; FEDERATION MAHAFALY ANTETY; FOKONOLONA ANDRANOMANDEVY; ID-HAYDIA; YOUNG ASSETS OF SUSTAINABLE DEVELOPMENT (JADD); HAONASOA; NATURAL JUSTICE; NY TANINTSIKA; OJM: ORDER OF JOURNALISTS OF MADAGASCAR (OJM); FIANTSO NGO; NGO RAVINTSARA; OSCIE PLATFORM; PLATFORM SOLIDARITY OF STAKEHOLDERS ON THE LAND (SIF); MIHARI NETWORK; SAHA; SOA IOMBONANA TAFO MIHAAVO ITASY; SOAMIRAY; TAFO MIHAAVO AT SINANA-TOAMASINA; TRANSPARENCY INTERNATIONAL INITIATIVE MADAGASCAR; TSANGANALOKÉ; TSARAFARA; UNION MAITSO ARIVONIMAMO II; UNION VOI SOAMITAMBATRA; VOI TAMIA ANDRANOBE; YOUTH FOR MADA.

Antananarivo, 14-15 March 2019

LIST OF CIVIL SOCIETY'S REPRESENTATIVES

Consultation and Elaboration of A MADAGASCAR UPR WRITTEN CIVIL SOCIETY COALITION'S CONTRIBUTION To the Universal Periodic Review of MADAGASCAR jointly organized by:

1. **PARTNERSHIP NETWORK INTERNATIONAL (PNI)** - Geneva / CH in collaboration with
2. **TAFO MIHAAVO** - Madagascar and

NETWORKS, ASSOCIATIONS AND SECTIONS OF INGO AND PLATFORM MALAGASY:

3. TRANSPARENCY INTERNATIONAL INITIATIVE MADAGASCAR
4. NATURAL JUSTICE
5. ORDRE DES JOURNALISTES DE MADAGASCAR (OJM)
6. PLATEFORME OSCIE
7. PLATEFORME SOLIDARITE DES INTERVENANTS SUR LE FONCIER (SIF)
8. CONFEDERATION MIKEA
9. RESEAU MIHARI
10. UNION MAITSO ARIVONIMAMO II
11. UNION VOI SOAMITAMBATRA
12. FEDERATION MAHAFALY ANDRIAKE
13. FEDERATION MAHAFALY ANTETY

ASSOCIATIONS AND MALAGASY NGOs

14. ANJAVA SAKATIA
15. ASSOCIATION DES FEMMES ANDRIN'NI MPANDRARY
16. ASSOCIATION DEVELOPEMENT AND ENVIRONNEMENTAL LAW CENTER (DELIC)
17. ASSOCIATION MANOHISOA
18. ASSOCIATION TSANGANALOE
19. AUTISME MADAGASCAR
20. FOKONOLONA ANDRANOMANDEVY
21. HAONASOA
22. ID-HAYDIA
23. JEUNES ACTIFS DU DEVELOPPEMENT DURABLE (JADD)
24. NY TANINTSIKA
25. ONG FIANTSO
26. ONG RAVINTSARA
27. SAHA
28. SOA IOMBONANA TAFO MIHAAVO ITASY
29. SOAMIRAY
30. TAFO MIHAAVO ATSIANANA-TOAMASINA
31. TSARAFARA
32. TSANGANALOE
33. VOI TAMIA ANDRANOBE
34. YOUTH FOR MADA

OBSERVER

35. UNDP GEF SGF: UNDP is an integral part of the United Nations Development Group (UNDG), the Global Environment Facility Micro Finance Facility (GFM / GEF SGP). It is a financial mechanism that aims to find local solutions to global environmental problems. It provides technical and financial support for the execution of community projects, which can contribute to the sustainable management of resources.

PROTECTION OF THE *FOKONOLONA* LOCAL COMMUNITIES

Natural Resources Management
*IN THE DEFENSE OF THE RIGHT TO A SUFFICIENT LEVEL OF LIFE AND SUSTAINABLE
AND INCLUSIVE DEVELOPMENT IN MADAGASCAR*

INTRODUCTION

1. PARTNERSHIP NETWORK INTERNATIONAL (PNI), the TAFO MIHAAVO NETWORK and the coalition composed by: ANJAVA SAKATIA; WOMEN'S ASSOCIATION ANDRIN'NI MPANDRARY; ASSOCIATION DEVELOPMENT AND ENVIRONMENTAL LAW CENTER (DELCO); MANOHISOA ASSOCIATION; TSANGANALOE ASSOCIATION; AUTISM MADAGASCAR; MIKEA CONFEDERATION; FOKONOLONA ANDRANOMANDEVY; ID-HAYDIA; YOUNG ASSETS OF SUSTAINABLE DEVELOPMENT (JADD); HAONASOA; NATURAL JUSTICE; NY TANINTSIKA; ORDER OF JOURNALISTS OF MADAGASCAR (OJM); FIANTSO NGO; NGO RAVINTSARA; OSCIE PLATFORM; PLATFORM SOLIDARITY OF STAKEHOLDERS ON THE LAND (SIF); MIHARI NETWORK; SAHA; SOA IOMBONANA TAFO MIHAAVO ITASY; SOAMIRAY; TAFO MIHAAVO AT SINANA-TOAMASINA; TRANSPARENCY INTERNATIONAL INITIATIVE MADAGASCAR; TSANGANALOE; TSARAFARA; UNION MAITSO ARIVONIMAMO II; UNION VOI SOAMITAMBATRA; VOI TAMIA ANDRANOBE; YOUTH FOR MADA.

2. **PARTNERSHIP NETWORK INTERNATIONAL (PNI)** is an NGO based in Geneva, Switzerland. It was founded in 2014 to promote human rights and sustainable development through capacity building, project sponsorship, and international advocacy transmitting to the United Nations (UN) the concerns of the more vulnerable. PNI is active in some fifteen countries. We recall here that PNI has also produced an individual report addressed to the OHCHR for the 2019 UPR of Madagascar.

The collaboration between PARTNERSHIP NETWORK INTERNATIONAL (PNI) and the GEF UNDP GSP of Madagascar began during the Expert Consultation "Expert Consultation on Children's Rights and the Environment" organized by the OHCHR and the Special Rapporteur Mr. John Knox¹ in Geneva. 22-23 June 2017, finalizing his report submitted to the Human Rights Council.

3. **The TAFO MIHAAVO network** is a network of natural resources management communities that brings together some 534 associations from 22 regions of Madagascar representing 1,250,000 people from Malagasy local communities.

Established in May 2012, TAFO MIHAAVO issued a Declaration of Commitment and Proposal called "Declaration of Anja". It is a network of *Fokonolona*, VOI (local authorities grouped in association), COBA (units having contracts of management of natural resources), Associations, federations or other natural resource management structures at the base, instituted in Madagascar.

The network aims to strengthen the right and responsibility of the grassroots community rooted in *Fokonolona's* management and governance of natural resources.

4. **ANJAVA SAKATIA**: Malagasy Association whose objective is marine conservation and safeguarding biodiversity and the island of SAKATIA.

5. **WOMEN'S ASSOCIATION ANDRIN'NI MPANDRARY**: Women's Association created in 2010 to promote Malagasy craftsmanship.

¹ From October 25 to 31, 2016, former Special Rapporteur Mr. John Knox visited Madagascar with the mandate of establishing facts and studying the relationship between human rights and the environment and promoting the implementation of human rights obligations relating to the environment.
A/HRC/37/58 <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/environmentandrightschild.aspx>
<http://webtv.un.org/search/clustered-id-sr-on-sustainable-environment-and-on-right-to-food-17th-meeting-37th-regular-session-human-rights-council/5744971238001/?term=environment&sort=date>

- 6. DEVELOPMENT AND ENVIRONMENTAL ASSOCIATION LAW CENTER (DELIC):** Malagasy Association created in 1996 for the mission the promotion of environmental justice to contribute to sustainable development.
- 7. MANOHISOA ASSOCIATION:** Association of university students working on human rights and sustainable development. Its objectives include strengthening the capacity of *fokonolona*, promoting farmer organizations and recycling garbage.
- 8. TSANGANALOE ASSOCIATION:** Malagasy regional association created on April 8, 2000. It works in the south of Madagascar and protects natural resources and rural biodiversity and is concerned by the theme of climate change.
- 9. AUTISM MADAGASCAR:** Association working for the protection, the promotion of the rights of autistic people (especially children) and those of their families.
- 10. MIKEA CONFEDERATION:** An association of 53 associations in the north-west of Madagascar. The strategic areas in which are involved they are: environment, justice including the "Dina" and the right to land, marine areas, governance and management of natural resources and space planning, the fight against climate change, networks , culture, economic social development. The confederation works to protect the land so that farmers can fully enjoy their rights. Its objectives are summarized in legal support in the land area of the Malagasy population and particularly the most vulnerable, awareness of the population and local associations on land legislation.
- 11. FEDERATION MAHAFALY ANDRIAKE:** Association of local communities managing natural resources on the coast of southern Madagascar
- 12. FEDERATION MAHAFALY ANTETY:** Association of local communities managing natural resources in the south of the south-west region of Madagascar
- 13. FOKONOLONA ANDRANOMANDEVY:** Basic local community protecting the environment in the promotion of traditional law according to Malagasy customs.
- 14. HAONASOA:** Established in 2000, Haonasoa collaborates with regional and national projects and institutions to promote "appropriate approaches to identify issues of local development in all its dimensions". The Malagasy association works to promote local and community governance in the Haute Matsiatra region.
- 15. ID-HAYDIA:** Malagasy Association, created in 2019, aims to serve and support actions for the education of the Malagasy individual for citizenship and community empowerment inscribed in its local, regional environment socio-economic cultural and ecological.
- 16. YOUNG ASSETS OF SUSTAINABLE DEVELOPMENT (JADD) Madagascar:** The JADD is a group of young volunteers, registered as an association, who work on the implementation of the sustainable development objectives through advocacy, concrete actions on the ground and capacity building as well as citizen participation.
- 17. NATURAL JUSTICE:** A non-governmental organization working on the interface between human rights and environmental law especially in African countries. The organization has been working in Madagascar since 2015. It supports the government and especially local communities and its partners to assert the rights of local communities in the decision-making process at all levels related to environmental resource management.
- 18. NY TANINTSIKA:** NGO created in 2002 working for rural development.

19. ORDER OF JOURNALISTS OF MADAGASCAR (OJM): Founded in 1974, brings together all Malagasy professional journalists. The OJM is the guardian of the ethics and deontology of journalism. She defends the profession and provides training. The OJM gathers more than 1000 professional journalists, it is recognized like a world institution and managed by the council of the order.

20. FIANTSO NGO: Established in 2005, the NGO is an organization working in the field of human rights and the environment. Member of the SIF platform and Alliance Voahary Gasy, which intervenes in the environment and the ROHY Movement of the civil society.

21. RAVINTSARA NGO: Established in 2003, the NGO Ravintsara is a national organization working in the field of sustainable management of natural resources and local governance. It supports the "Community Indigenous heritage areas" which is a member of the organization support organization of the TAFO MIHAAVO network.

22. OSCIE PLATFORM: Organization of Civil Society on Extractive Industries, created in 2016. Consisting of 12 entities including TAFO MIHAAVO, WORLD WILDLIFE FUND (WWF), VOAHAARY GASY Alliance (AVG), TRANSPARENCY INTERNATIONAL INITIATIVE MADAGASCAR, SIF, SAF / FJKM, BLUE VENTURES, TARATRA, DURREL, CRAAAD-OI, KMF / CNOE, ROHY. Our vision is to work for the good governance of the extractive sectors in Madagascar. Our goal is to improve the texts governing the sector so that it can meet the expectations of the Malagasy population.

23. SOLIDARITY PLATFORM OF STAKEHOLDERS ON THE LAND (SIF): A platform of civil society working in the field of land, bringing together several federations of farmers' organizations, twenty rural organizations, NGOs and associations.

24. MIHARI NETWORK: Network of coastal communities managing locally managed marine areas "LOCALLY MANAGE MARINE AREAS (MMA)" of Madagascar. The civil society network provides the voice of fishing communities at the national, regional and international levels, links fishing communities and shares best practices in governance and local management of fisheries resources and advocacy. It supports and supports organizations such as WORLD WILDLIFE FUND (WWF), WILDLIFE CONSERVATION SOCIETY (WCS),...

25. TAFO MIHAAVO NETWORK: The grassroots associations of the 22 regions of Madagascar, founded in May 2012, represent approximately 1,250,000 people. The strategic areas in which it operates are: the environment, justice, including "Dina" and rights to land, marine areas, governance and management of natural resources and regional planning, the fight against climate change, the networks, culture, economic social development.

26. SAHA: Sahan'Asa Hampandrosoana ny eny Ambanivohitra is a rural development support program funded by the Swiss Cooperation and started in January 2000. It works in the areas of governance and local economy for contribute to the reduction of poverty. Organized by a multidisciplinary team whose expertise affects all aspects of development.

27. SOA IOMBONANA TAFO MIHAAVO ITASY: Association that manages and protects natural resources in the Itasy region.

28. SOAMIRAY: Women's Association created in 2008 to promote Malagasy crafts.

29. TAFO MIHAAVO ATSIANANA-TOAMASINA: Affiliated with the TAFO MIHAAVO network, the association manages natural resources in forests in eastern Madagascar.

30. TRANSPARENCY INTERNATIONAL INITIATIVE MADAGASCAR: Section autonome de TRANSPARENCY INTERNATIONAL créée en 2000 œuvrant à la promotion des principes d'intégrité, de redevabilité et de transparence auprès de l'ensemble des acteurs de la société. TRANSPARENCY

INTERNATIONAL INITIATIVE MADAGASCAR est le représentant de la coalition TRANSPARENCY INTERNATIONAL, la plus importante organisation issue de la société civile luttant contre la corruption.

31. TSARAFARA : Association créée en 2014, elle est active dans la gestion des ressources naturelles de la forêt de TSIAZOMPANIRY dans la région ANALAMANGA. Elle défend les droits des *fokonolona* à tous les niveaux, par notamment : l'aide sociale, la sensibilisation des communautés locales, la construction d'école, de lieux de culte, d'éducation environnementale.

32. TSANGANLOKE : Association régionale malagasy créée le 8 avril 2000. Elle œuvre dans le sud de Madagascar et protège les ressources naturelles et la biodiversité rurale et est concerné par le thème du changement climatique.

33. UNION MAITSO ARIVONIMAMO II : Union des *fokonolona* défendant la forêt de TAPIA et ses ressources naturelles. L'union développe des activités liées au travail de la soie.

34. UNION VOI SOAMITAMBATRA : Union de communautés locales de base dont l'objectif est d'améliorer les activités relatives à la pêche en eau douce et la protection des ressources renouvelables.

35. VOI TAMIA ANDRANOBE : Communauté locale de base qui défend les intérêts des 10 000 habitants d'Andranobe, son lac et ses forêts Ambohitsokima.

36. YOUTH FOR MADA : Organisation de jeunes malagasy pour les jeunes et par les jeunes de Madagascar comme son nom l'indique. Appuyer mobiliser, et rassembler les jeunes acteurs locaux pour la réalisation des programmes et projets de développement durable dans l'ensemble des régions de Madagascar. Elle est appuyée par le réseau TAFO MIHAARO pour cibler notamment localement les communautés *Fokonolona* les plus fragilisées par le changement climatique et agir en conséquence dans les zones cibles.

This Coalition submits written comments on Madagascar, for consideration by the Working Group on the Universal Periodic Review (UPR) at its 34th session (11 November 2019).

37. In the third cycle of the UPR of Madagascar in November 2019, the coalition submits a report focusing inter alia on the reconciliation between the objectives of conservation of natural resources and local sustainable development in Madagascar.

This report takes into account data from various sources, including first-hand information collected by partner organizations working in the field.

38. The report highlights the main concerns related to the issues directly related to the coalition partners in their respective work for the protection and promotion of human rights in Madagascar.

It highlights the contradictions between introduced systems and local management systems that threaten to weaken the community institutions that govern the use of resources.

It notes the remaining gaps in the progressive realization of the right to sustainable development and an adequate standard of living, including management tools for the implementation of good governance and management of natural resources.

Particular attention is devoted to the populations constituting the basic local communities called *Fokonolona* and to the problems of the management of natural resources in Madagascar.

Conflicts over natural resources are growing and intensifying. If these conflicts are not resolved, they may cause livelihood and environmental degradation and project disruption and violent responses.

The real pursuit of the defense of the right to an adequate standard of living and sustainable, inclusive development in Madagascar requires a redefinition of the form of the law concerning the legal protection and support of the traditional "*Fokonolona*" putting into practice the management of natural resources.

SITUATION

39. In Madagascar, three-quarters of its 25 million people live below the economic poverty line. Extreme poverty is a concern and has been the subject of recommendations accepted by the government at the 2014 UPR.

In Madagascar, two million Malagasy people would need emergency aid, so as not to go hungry and 450,000 people are severely food insecure². 80% of the poverty rate prevails in nine regions and 97% of the population of Androy still live in poverty.³

Socio-economic-environmental degradation puts the most vulnerable people, and especially children, among the local grassroots in situations of critical deprivation and violates their fundamental rights, through lack of access to food, education and care.

The level of efforts to be made by the State to restore food security and sustainable and inclusive development for economic recovery for the reduction of poverty among populations is considerable.⁴

MANAGEMENT OF NATURAL MALAGASY RESOURCES:

Multiple handicaps on access to the law and its implementation.

40. In Madagascar, the 4th largest island in the world (1600km in length) and one of the most unique places in the world in terms of the environment, the State has constituted as the sole and sole owner of natural resources, mining, fishing, forestry, land

41. The environmental potential, important for humanity, is all the more important for the very survival of the inhabitants of the place. Almost 75% of Malagasy and *Fokonolona* live and depend on natural resources, and exploit them irrationally. The incidence of poverty with a threshold of \$ 1.90 a day is expected to decline by 75 to 73% between 2018 and 2020.⁵

² Clustered ID: SR on Sustainable Environment and on Right to Food - 17th Meeting, 37th Regular Session Human Rights Council - 5 Mar 2018, Intervention orale Madagascar, Ms. Eulalie Yvette Bodosoa - <http://webtv.un.org/search/clustered-id-sr-on-sustainable-environment-and-on-right-to-food-17th-meeting-37th-regular-session-human-rights-council/5744971238001/?term=environment&sort=date#player>

³ <https://matv.mg/malnutrition-banque-alimentaire-disponible-a-madagascar-en-janvier-2019/>

⁴ UPR 2014 A/HRC/WG.6/20/MDG/3 35. "The authors of Joint Communication No. 3 state that the large number of female Malagasys migrant workers is mainly explained by the country's poverty rate. Nearly four out of five inhabitants live below the poverty line, which is more than 76% of the population. This poverty has increased for four years by 12% and the World Bank expects it to increase further. Living conditions are particularly difficult. The poorest people are in rural areas. Moreover, in May 2013, an invasion of 500 billion locusts, affecting 15 of the 22 regions destroyed many crops (rice, pastures, corn, sugar cane), depriving the inhabitants of food and modest gains "

RECOMMENDATIONS UPR 2014 concerning extreme poverty in Madagascar

108.121 Redouble efforts to implement its national poverty strategy (South Africa);

108.122 Continue to intensify its efforts to combat poverty (United Republic of Tanzania);

108.123 Continue the fight against poverty and adopt policies for the vulnerable and continue the economic cooperation that the country needs (Venezuela (Bolivarian Republic of));

108.124 Make efforts to reduce the poverty rate (Angola);

108.125 Continue efforts to combat poverty (Cuba);

108.126 Combating the precarious situation of work and poverty (Djibouti);

108.54 Continue its efforts to reduce the unemployment rate, eradicate poverty and focus on the protection and promotion of people's economic, social and cultural rights (China);

⁵ <https://www.banquemondiale.org> Economic Outlook Note to Madagascar, 31 July 2018, Press release

42. Decentralization. Since 1990, Madagascar's environmental policy has adopted an Environmental Action Plan / EAP aimed at slowing down the "spiral of environmental destruction" and the so-called "agar" law allowing for the transfer of management to conservation-oriented local communities for sites around protected areas, or for production purposes.

THE GELOSE LAW

43. Madagascar is the first country in Africa to adopt a law in the field of the Environment to make ecology safer. The State, aware of the environmental degradation in Madagascar, adopted the law n ° 96-025 or GELOSE. This law governs the transfer of management to resident communities (or VOIs) in the immediate vicinity of natural resources.

The Gelose law is a contractual tool. It requires the constitution of an association operating according to the regulations in force. Its members express the desire to take charge of the protection and development of natural resources in an executive manner to the prescribed law.

I. THE BASIC COMMUNITIES "FOKONOLONA": ADMINISTRATIVE MANAGEMENT OF PROXIMITY

44. Fokonolona Basic Communities:

The total population is estimated at 25,570,895 inhabitants in 2017⁶ since all the inhabitants Malagasys are administratively registered inside a fokontany, thus form part of a Fokonolona, that it is the individual living in a remote rural area or in the capital Antananarivo, inhabitant of a city.

The *Fokonolona* is a community village, a true territorial institution grouping the inhabitants of the same district called "*fokontany*". The traditional *Fokonolona* are, moreover, communities bordering natural resources, are similar to the generational lineage, represent the population in a given locality.

For example, the capital Antananarivo is made up of about 2.61 million people⁷ forming the *Fokonolona* distributed in 192 *fokontany* (territories) and Nosy Be is made up of 111 123 people forming 42 *fokontany*.

45. Legal framework

- **Preamble of the Constitution:** "Convinced that the *Fokonolona*, organized in *fokontany*, constitutes a framework of life, emancipation, exchange and participative consultation of the citizens".

- According to **Article 152 of the Constitution of IV Republic 2010.** The *Fokonolona*, organized in *fokontany* within the municipalities, is the basis of development and socio-cultural and environmental cohesion. The *fokontany* leaders participate in the development of the development program of their commune.

- **Orders 73-009, 73-010 and 73-040,** relating to the competences and attributions of the Fokonolona stipulate the responsibilities of the latter with regard to the governance and the management of the natural resources located in their terroir.

- **Decree No. 2002-1170 of 7 October 2002** lays down the rules relating to the organization, functioning and attributions of *fokontany* and *Fokonolona* and makes *fokontany* a local administrative management unit. Local communities put in place the system and management plan for their land. They take in hand, together with the other stakeholders, the activities of environmental management, food security and improvement of their living conditions in general. In its present form, and faced with the absence of other

⁶ World Bank data: <https://data.worldbank.org/countries/madagascar>

⁷ <https://mg.one.un.org/content/unct/statistique> de 2015

survival alternatives, *Fokonolona* creates a freedom of action for the benefit of individuals (individuals or communities) that the state can only respect.

- **Organic Law n ° 2014 - 018 of 12 September 2014** governing the competences, the organizational and operational modalities of the decentralized territorial communities, as well as those of the management of their own affairs.

- **Mantasoa declaration:** initiated by the TAFO network MIHAAVO gives a definition of *Fokonolona*.

46. The *Fokonolona* structure is based on a value system: the equality of all citizens in relation to the chance to live and respect. The basic *Fokonolona* communities are built around respect for social disciplines. In Malagasy society, *Fokonolona*, as a fundamental structure, remains essential.

47. The Dina, "... a collective agreement being considered as a set of customary rules of organization of the society conceived as the emanation of a real popular will" Preamble Law 2001-04, of October 25, 2001 on the general regulation of the Dina in matters of public safety.

The Dina is enforceable once approved.

Relationships between community members as natural resource managers are governed by Dina. Law No. 96-025 of September 30, 1996, relates to the local management of renewable natural resources (Law GELOSE).⁸ All Dina must be in accordance with the laws and regulations in force and that which emanates from the law.⁹

II. THE "FOKONOLONA" BASIC COMMUNITY: TRANSFER OF NATURAL RESOURCE MANAGEMENT

48. The State recognizes *Fokonolona's* share of responsibility in the conduct of state affairs by giving the right to the decision so as to develop and protect biodiversity.

- **Ordinances Nos. 73-009 of 19 March 1973 and 73-010 of 24 March 1973** (73-009, 73-010 and 73-040) relating to the powers and duties of *Fokonolona* stipulate the responsibilities of the latter for the governance and management of natural resources located in their territory.

- Creation of the new land status of 2005 by **Law 2005-019** (Article 33) recognizing the long-term occupation of land: in 1911 Legislative incentive for the occupation of land (presumption of domaniality)

- **2015 land policy letter:** recognition of community lands but texts not yet established; orientation 1: securing rights in their diversity; Axis 1.2: Secure community management areas.

49. The legal framework on fisheries¹⁰, mineral resources, management of protected areas, environment, forestry, protection of fauna and flora, industrial pollution, waste, land ... does not sufficiently protect the right of communities local and is sometimes contradictory.

⁸ Article 49: The dina are approved by the members of the community of base according to the customary rules governing the community. In case two or more basic communities are involved in the management of the resources, the Dina applicable to the community members must be approved by the members of each group according to the rules governing each community.

Article 50. The dina can not contain measures that may be detrimental to the public interest and public order. The prescriptions they contain must comply with the constitutional, legislative and regulatory provisions in force as well as with recognized and uncontested uses in the rural commune of attachment.

⁹ In all cases, the applicable Dina is the place where the wrongdoing or wrongdoing was committed

¹⁰ For example: The Fisheries Code does not guarantee a privileged access right for small fishermen.

III. THE BASIC COMMUNITIES "FOKONOLONA": A COLLECTIVE COMMITMENT

50. Main actors in the management and transfer of natural resource management in Madagascar, *Fokonolona* contributes to the sustainability of governance and resource management. It allows to play the interface role of the Administrative and Technical Services in the field, both in the actions of monitoring, control, and transfer of information to the competent authorities.

51. In a context of widespread extreme-poverty, community management has made a significant contribution to improving the environment through the reduction of itinerant clearings, the control of illegal logging, fire and erosion in and out of the country, protected areas, protection of water and coral reefs, restoration and reforestation. Forest accessory products.

52. In a context of developing countries in rural dominance, community management contributes significantly to the improvement of food security, health, education, personal security ... Building the capacity of communities to manage and control their resources, allows them to access additional income.

53. Impact of visible climate change in Madagascar:¹¹

Madagascar is one of the 3 most vulnerable countries in the world facing the impacts of climate change.¹²

- Severe food insecurity, Famine¹³
- Tarnishing of spring water.
- Rate reduction and production quality
- Reduction of arable land (in area).
- Proliferation of infectious diseases.
- Disturbance of the cultural calendar
- School dropout
- ...

Climate change and its consequences threaten the realization of many, if not all, of the rights enshrined in the Charter of Human Rights.

Fokonolona, a resilient grassroots solidarity community, can better cope with climate change using adaptation techniques and practices and renewable energies. (Valorisation of endogenous values, biological fertilizers ...)

54. Basic communities are recognized as particularly effective actors in the management of natural resources and pillars of sustainable and inclusive development. Local communities have been awarded world honorary awards, such as the Equator prize in 2002, 2008, 2010, 2012, 2015, 2017: prizes awarded to 6 Malagasy communities¹⁴, Climate Change Initiative 2016 ...

55. The TAFO MIHAAVO network: To contribute to the improvement of their involvement, the representatives of some 532 natural resource management communities from 22 regions of Madagascar

¹¹ <https://www.bbc.com/afrique/37833518> *Climat : l'ONU appelle à aider Madagascar, Rapporteur Spécial Environnement John Knox*

<http://www.rfi.fr/afrique/20170701-madagascar-enjeux-climatiques-menu-conference-organisee-ue>

http://www.lakroa.mg/item-341_articles_societe_11.html

Apart from climate change, cyclones and drought also remain the leading cause of famine in the south as well as the proliferation of pests such as mosquitoes and locusts.

¹² <https://www.bbc.com/afrique/37833518> *Climat : l'ONU appelle à aider Madagascar, Rapporteur Spécial Environnement John Knox*

¹³ Clustered ID: SR on Sustainable Environment and on Right to Food - 17th Meeting, 37th Regular Session Human Rights Council - 5 Mar 2018, Intervention orale Madagascar, Ms. Eulalie Yvette Bodosoa - <http://webtv.un.org/search/clustered-id-sr-on-sustainable-environment-and-on-right-to-food-17th-meeting-37th-regular-session-human-rights-council/5744971238001/?term=environment&sort=date#player>

¹⁴ <https://www.equatorinitiative.org>

formed the TAFO MIHAAVO network, which issued a Declaration of commitment and proposal: "Anjà Declaration" in May 2012.

The network develops a proposed strategy and community action plan planned until 2050 for Sustainable Community Governance and Management of Natural Resources (GGCDRN), and specifies the identity and role of the local community in relation to *fokonolona*.

Actions already undertaken to promote a law on land ownership of Fokonolona:

- Draft law on *Fokonolona*,
- Community mapping of terroirs,
- Parcel census to know the status of land in the soil (legal recognition of *Fokonolona* as a legal subject likely to appropriate real estate.
- Diachronic analysis of *Fokonolona* (in time and space)
- *Fokonolona* law text design considering the specificities of each community. The legislator has a tendency to universalize.
- Inventory of resources
- Advocacy action
- Resource mobilization / partnerships.

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 to planning / management and management, participatory decision-making and on the wise use and sustainable use of these resources.

IV. THE BASIC COMMUNITIES "FOKONOLONA": THREATENED

56. The coalition remains very concerned about the deterioration of the human rights situation in Madagascar, and more particularly the local indigenous *Fokonolona* communities.

This is characterized by the sale of title deeds to companies or individuals, or foreign states, expropriations of ancestral territories by armed force and bulldozers, desecration and destruction of cultural landmarks, the destruction of livestock zebu¹⁵ - theft of cattle,¹⁶ issuance of exploitation permits without the consent of the landowners, ... against the background of pressure exerted on the *Fokonolona* communities.¹⁷

57. State actors, government officials, representatives of the private sector are cited among the perpetrators. This serious process continues to accelerate and the amount of land sold daily to foreign investors is worrying.

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

¹⁵VideoDahalohttps://www.facebook.com/alexia.m.marguerite/videos/2217612831822627/
https://youtu.be/EPFteqbn6Lw

¹⁶ https://www.amnesty.org/fr/latest/news/2019/02/madagascar-gruesome-killing-of-suspected-cattle-thieves-must-be-investigated/
¹⁷ http://www.madagate.org/madagascar-informations-politiques/a-la-une/6057-madagascar-john-knox-q-la-corruption-sape-tous-les-efforts-de-conservation-de-lenvironnementq.html- Déclaration du rapporteur spécial des Nations Unies, M. John H. Knox au terme de sa mission à Madagascar Antananarivo, 31 octobre 2016 «... Corruption undermines all efforts to protect the environment "

¹⁷ http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0445+0+DOC+PDF+V0//FR
Parlement européen 2014-2019 - Adopted text Madagascar European Parliament resolution of 16 November 2017 on Madagascar (2017/2963(RSP) - P8_TA(2017)044

Most of these natural resource acquisitions are not legitimate because they do not take into account the civil, political, economic, social and cultural rights of local people, small farmers, women and children, the entire Malagasy population survival depends on it.

59. The coalition deplores the violations of human rights and international law in Madagascar. A large number of complaints concern violations of the rights of *Fokonolona* local communities. There are complaints include the theft of resources belonging to *Fokonolona* communities, kidnapping, firing of entire villages, forced eviction of their lands and exclusion of decisions concerning them, corruption and diversion, weak institutions, governance ...¹⁸

60. The coalition is concerned about the situation of whistleblowers and witnesses who continue to be the target of systematic repression by local, state and private actors. The justice system is used to harass and intimidate human rights defenders and journalists, especially those working on environmental or corruption issues, as well as to limit their freedom of expression.¹⁹ "Thousands of people languish in jail without being convicted of any offense because the state has resorted to excessive and unjustified detention."²⁰

61. We also wish to draw the attention of the Human Rights Council to the reason for the organization of a training course followed by a workshop given by the organization PARTNERSHIP NETWORK INTERNATIONAL (PNI) in Antananarivo. September 10th and 11th, 2018. This event followed the expropriation of the *Fokonolona* community in early September 2018 on Sakatia Island (Nosy Be). (Document No. 3).

It has been co-organized and funded by PARTNERSHIP NETWORK INTERNATIONAL (PNI), Malagasy organizations TAFO MIHAAVO, RAVINTSARA, SIF and GEF SGP UNDP Madagascar, the Federal Ministry for the Environment, nature conservation and nuclear safety based on decision the German Bundestag and the ICCA Consortium and, with the participation of representatives of the Ministry of the Environment of Madagascar, This training followed by a workshop led to the drafting of an "**urgent appeal for the recognition of the rights of *Fokonolona***" dated of September 11, 2018. This document was written and signed by the representatives of the 15 most emblematic *Fokonolona* communities with dissemination through the media. (Documents n ° 4 (Malagasy version) and 5 (French version))

62. Finally, to put an end to this upsurge of cases of repeated violations of human rights in Madagascar, including the capture of the natural resources of *Fokonolona* indigenous communities, ensure the sustainability of community governance and the sustainable development of *Fokonolona* and all the Malagasy population and especially the most vulnerable.

Considering that the capture of land and natural resources, the degradation of the environment, puts the country at risk of worsening food insecurity, increasing dependence on food assistance and marginalization ... see the disappearance of the communities of peasant farmers and herders, fishermen, craftsmen, traders ... the vulnerable categories such as women, children, young people, migrants ... goes against the will of the States and in particular of the State of Madagascar signatory of the Charter of Human Rights,

63. WE RECOMMEND THE FOLLOWING:

63.1 Harmonization and enforcement of laws concerning the management of natural resources for basic local communities and rehabilitations and / or amendments of existing laws and regulations to secure the land, property, resources of the most of the Malagasy population.

¹⁸ Many cases are mentioned during the consultation

¹⁹ <https://www.amnesty.org/fr/latest/news/2019/01/madagascar-next-president-must-tackle-historic-rights-violations/>

²⁰ <https://www.amnesty.org/fr/latest/news/2018/11/madagascar-next-government-must-end-human-rights-violations/>

63.2 Recognize the legal personality of the Fokonolona, as expressed in the preamble of the Malagasy Constitution and its Article 152, and ensure that the lands are registered legally in their name in terms of land.

63.3 Provide technical, socio-organizational support for the Fokonolona, and strengthen their capacity by providing the necessary means for their development and the establishment of good governance for better management of natural resources.

63.4 Strengthen what exists, develop, and adopt national legislation establishing an effective procedure for the protection of whistle-blowers, witnesses of violation and ensure the protection of all human rights of the population of Madagascar, including populations constituting the basic Fokonolona communities.

63.5 Urge 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.