



Universal Periodic Review of Madagascar

UPR Info pre-session for Madagascar - 8 October 2019

ACAT Madagascar and FIACAT's presentation – Ericka Razakanirahina

Presentation of ACAT Madagascar



- ACAT Madagascar is a human rights organisation founded in 1997 and affiliated to FIACAT since 2000.
- Activities
 - Centre for legal support and social reintegration of victims;
 - Popularization of human rights regulations and legislation;
 - Training workshop;
 - Advocacy;
 - National consultations on draft legislative reforms.



Criminalisation of torture



- **2nd cycle of the UPR:** recommandation by France (108.112)
- **Current situation:**
 - Criminalisation in law n°2008-008
 - Short comings:
 - Low sentences,
 - Does not include the criminalisation of other cruel, inhuman or degrading treatment or punishment;
 - No imprescriptibility of the crime of torture
 - Revision process underway since 2018
- **Recommendations:**
 - Accelerate the process of revising the Anti-Torture Law n° 2008-008 to bring it into line with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and in particular ensure that penalties are proportionate to the seriousness of acts of torture, that other ill-treatments are included and that acts of torture are not subject to statute of limitations.



Detention

- **2nd cycle of the UPR:** Recommendations by Germany (108.38), Switzerland (108.91), Algeria (108.117), Botswana (108.118) and Central African Republic(109.4).

1) Custody and pre-trial detention

➤ Current situation

- Custody time limits up to 12 days under certain circumstances.
- Law n°2017-013 : Strengthening the role of the lawyer during custody but not all rights are included during the Code of Criminal Procedure and those included are not always respected in practice.
- Detainees awaiting trial represented 59% of the detainees at Antanimora prison (Antananarivo) on 31st July 2018.
- Pre-trial detention is not used as an exceptional measure and some detainees are kept in pre-trial detention the legal time limits.

➤ Recommendations:

- Amend the Code of Criminal Procedure to suppress the maximum derogatory time limit of 12 days and include all rights of the person held in custody, ensure their respect in practice and improve detention conditions in custody cells;
- Pursue and intensify efforts to fight against excessive and sometimes abusive use of pre-trial detention.

2) Detention conditions

➤ Current situation:

- High prison overcrowding particularly due to abusive pre-trial detention.
 - (September 2018: 22 878 detainees for a capacity of 10 615 places being an occupancy rate of 216%)
- Several rehabilitation measures and efforts taken by the government to improve prison conditions since the last UPR, but the situation is still unsatisfactory, particularly with regard to food (300g of cassava/day/detainee) and access to health care.

➤ Recommendations:

- Improve conditions of detention, in particular combat prison overcrowding by fighting against excessive and abusive use of pre-trial detention and focusing on alternatives to detention, and continue and intensify efforts to improve nutrition and access to health care for prisoners.

National Human Rights Commission and National Preventive Mechanism



- **2nd cycle of the UPR:** recommendations by Portugal, the Bolivarian Republic of Venezuela and Belgium para 108.42 to 108.44 regarding the NHRI and by Ghana (108.1), Mali (108.3), Portugal (108.11), Switzerland (108.17), Togo (108.19), Tunisia (108.20), Uruguay (108.23) and Germany (108.38) on OPCAT ratification.
- **Current situation :**
 - CNIDH created by Law n°2014-007 and set up in 2017 – with status A and regional offices in the process of being set up.
 - OPCAT ratification on 21 September 2017 and integration of the NPM to the CNIDH by Law n°02-2018/PL.
- **Recommendations :**
 - Ensure that the Independent National Commission on Human Rights is provided with the necessary budget to carry out its functions and that its regional offices are set up.
 - Ensure that the members of the national preventive mechanism possess the professional skills and knowledge required for the monitoring of places of deprivation of liberty and that the mechanism is independent and provided with the necessary resources for its proper functioning.



Recommandations prioritaires



- Accelerate the process of revising the Anti-Torture Law n° 2008-008 to bring it into line with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and in particular ensure that penalties are proportionate to the seriousness of acts of torture, that other ill-treatments are included and that acts of torture are not subject to statute of limitations;



- Pursue and intensify efforts to fight against excessive and sometimes abusive use of pre-trial detention;



- Improve conditions of detention, in particular combat prison overcrowding by fighting against excessive and abusive use of pre-trial detention and focusing on alternatives to detention, and continue and intensify efforts to improve nutrition and access to health care for prisoners;



- Ensure that the members of the national preventive mechanism possess the professional skills and knowledge required for the monitoring of places of deprivation of liberty and that the mechanism is independent and provided with the necessary resources for its proper functioning.

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THANK YOU

