

Navigating the Complexities of Advancing Human Rights in Madagascar: Persistent Challenges and Opportunities for Reform

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Abstract

The Universal Declaration of Human Rights, adopted in 1948, remains a powerful testament to humanity's collective commitment to dignity, freedom, and equality. Emerging in the aftermath of global atrocities, it provided a framework for protecting civil, political, social, economic, and cultural rights. Although Madagascar was under French colonial rule at its adoption, the country drew inspiration from its principles when drafting its post-independence constitutions. Despite the global recognition of these rights, violations continue to persist, both internationally and within Madagascar, where political crises have exacerbated human rights challenges. Torture, arbitrary detention, and extrajudicial executions still occur, though efforts at reform have been notable and supported by various national and international programs. Since independence, Madagascar has faced repeated cycles of political instability, marked by popular uprisings in 1972, 1991, 2002, and 2009. Each of these events contributed to the erosion of the country's socio-economic fabric, culminating in the 2009 crisis, which led to widespread poverty and weakened state institutions. Although constitutional order was restored in 2013, reinforcing human rights remains an ongoing challenge. The legitimacy of power and public trust in political leadership, particularly in nations like Madagascar where democracy is an imitation of Western models, is tenuous. Fundamental freedoms, though enshrined in the Constitution, are not always fully realized, especially concerning freedom of expression. Media ownership, concentrated among political elites and business figures, has compromised media independence and pluralism. Additionally, the political participation of women remains hindered by the absence of affirmative action and political will. Nonetheless, there are opportunities to address these systemic issues. Strengthening gender equality, enhancing media pluralism, and ensuring adherence to human rights principles are essential steps toward sustainable development and the promotion of democracy in Madagascar.

Keywords

Human Rights; Madagascar; Media Pluralism; Gender Equality; Democracy



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I. Introduction

All human beings are born free and equal in dignity and rights: this declaration, one of the most eloquent ever included in an international agreement, continues to resonate powerfully today. The Universal Declaration of Human Rights, adopted in 1948, embodies a global commitment by states to reject the oppression, discrimination, and contempt for human dignity that have marred the history of humanity. It offers a vital safeguard for economic, social, political, cultural, and civil rights—the essential foundations for a life free from fear and deprivation. When Madagascar was still under French colonial rule at the time of its adoption, the country later drew inspiration from these principles in developing its first constitutions after gaining independence in 1960.

While the Declaration marked a turning point in the recognition of human rights, violations continue to persist worldwide. However, significant progress has been made, both internationally and nationally, in promoting the acceptance of these fundamental principles. In Madagascar, the various crises have often underscored the importance of these rights, although cases of torture, arbitrary detention, summary executions, and other abuses persist. Nevertheless, efforts can be acknowledged, mainly through national and international programs aimed at guaranteeing freedom and equality for all, without distinction based on race, religion, or social status.

The question remains: what further progress is needed to ensure the full respect and application of human rights principles? Inspired by these principles, we continue to work toward a future where everyone can fully claim their fundamental rights. For Madagascar, the goal is that by 2030, human rights practices will be at least 50% effective, with socio-economic rights respected at 85%, with particular emphasis on freedom of expression and political liberties.

II. Research Method

2.1 Historical Background

a. Definitions

Human Rights represent the core principles derived from the inherent dignity of each individual (Donnelly, 2013). They delineate the dynamic between the individual and the State, setting boundaries on governmental power while ensuring the protection and enhancement of citizens' rights (Smith, 2018). Emerging from the French and American revolutions of the 18th century (Morsink, 1999), these rights were central to revolutionary efforts to liberate people from oppression. Today, Human Rights, enshrined in national constitutions and international treaties (Nations., 1948), constitute a universal foundation of justice. They transcend mere moral ideals (Tasioulas, 2005), forming a binding legal framework that empowers individuals to assert their rights and seek redress in cases of infringement (Hannum, 2011). Since the Second World War, the United Nations has been pivotal in articulating and universalizing these rights (Schwartz, 2015), thereby reinforcing a system of values embraced by the vast majority of nations.

b. Human rights standards

Since the Second World War, human rights have emerged as a cornerstone of political discourse (Donnelly, 2013). The egregious atrocities of the conflict underscored the imperative to uphold human dignity, catalyzing the international codification of fundamental rights and freedoms (Koh, 1994). In this context, the United Nations has dedicated itself to the promotion and protection of these rights, ensuring their respect across all distinctions (Steiner, 2008).

c. Universal Declaration of Human Rights

Adopted in 1948 by the United Nations General Assembly, the Universal Declaration of Human Rights represented a pivotal advancement in the recognition of human rights (Nations., 1948). It formalizes the interpretation of "human rights" as outlined in the United Nations Charter (Brower, 2020). Complemented in 1966 by two international covenants addressing civil, political, economic, social, and cultural rights, it constitutes the International Bill of Human Rights (Alston, 2013).

This framework has since been expanded through numerous universal and regional instruments that address various dimensions of human existence, from civil and political to social and economic spheres (Hannum, 2011). Such codification empowers individuals to shape their lives with respect for human dignity, encompassing both individual and collective rights—from self-determination to environmental protection.

Although the Cold War era initially delineated civil and political rights from economic and social rights, contemporary understanding recognizes their intrinsic interdependence and universality (Smith, 2018).

2.2 Fundamental Principles

Human rights, grounded in the inherent dignity of each individual, transcend distinctions of race, gender, or origin (Lang, 2016). Their equitable and universal application ensures justice and equality across diverse social and cultural contexts (Shaw, 2019). As inalienable entitlements, human rights may only be restricted under exceptional, legally defined circumstances, such as following a criminal conviction (Rights, 2008.).

These rights are intrinsically interconnected and interdependent; the existence of one right often relies on the recognition and protection of others (González, 2021). For instance, the right to a decent standard of living necessitates access to adequate food, while educational opportunities underpin access to public services. Civil, political, economic, social, and cultural rights are mutually reinforcing and collectively vital to human dignity (Morsink, 1999).

Their full realization is crucial for fostering development and sustaining peace (Sen, 1999). The international community must uphold these rights impartially, without hierarchy, while respecting cultural, historical, and religious contexts.

Discrimination against particular groups has resulted in profound human rights violations, underscoring the centrality of equality and non-discrimination in international legal frameworks (Bunch, 1990).

The principle of equality mandates that states ensure the protection of human rights without prejudice based on sex, race, religion, opinion, origin, or other distinguishing characteristics. Discrimination, perpetrated by both state and non-state actors, obstructs certain groups from fully exercising their rights, thereby perpetuating inequality and injustice.

2.3 Generations and Categories of Human Rights

Contemporary efforts to advance human rights are deeply rooted in the enduring quest for individual emancipation. Each historical epoch has contributed to the evolution of this concept (Donnelly, 2013). Human rights are typically categorized into three generations: the first generation encompasses civil and political rights (Nations., 1948); the second generation addresses economic, social, and cultural rights (Riedel, 2011) ; and the third generation includes collective rights, often referred to as solidarity rights (Kothari, 2007). Each generation builds upon the previous, reflecting a progressive expansion of the scope and depth of human rights (Fitzpatrick, 1994)

a. First generation rights

The theoretical origins of human rights can be traced back to the 17th and 18th centuries, primarily as a reaction against the overreach of absolute state power (Locke, 1988). The central aim was to safeguard individual freedoms from state encroachments, often conceptualized as rights of resistance (Cranston, 1973). The core principles of this early framework were personal liberty and protection from state intrusion (Mill, 1989). These rights mandated that public authorities respect individual autonomy by refraining from interference in the private domain (Habermas, 1989), while simultaneously ensuring that personal freedoms were upheld (Rawls, 1971).

b. Second generation rights

Ces droits, qui concernent la manière dont les individus vivent et collaborent ainsi que leurs besoins fondamentaux, reposent sur les principes d'égalité et d'accès garanti aux opportunités et services essentiels (Marshall, 1950). Apparues avec l'État providence après la Seconde Guerre mondiale (Eide, 2001), les droits de deuxième génération incluent le droit au travail, à un salaire équitable, à la santé, et à l'éducation (Nations, 1966). Ces droits ont été particulièrement revendiqués par le mouvement ouvrier aux XIXe et XXe (Moyn, 2018). Leur mise en œuvre est cruciale dans la lutte contre les inégalités et la promotion de l'égalité sociale (Rosas, 2012.)

c. Third Generationlaw

Since the 1970s, a third generation of rights, often called solidarity rights, has emerged in response to global challenges (Alston P. , 2005). These rights, based on international solidarity, do not yet have a universal text fully defining them (Baxi, 2006). The right to development, considered a cornerstone of third-generation rights, emphasizes the collective and interdependent nature of these rights (Boutros-Ghali, 1992). As the global landscape continues to evolve, the discourse surrounding these rights remains dynamic and increasingly relevant (Gómez Isa, 2014).

2.4 Charters and Agreements

a. International standards

History of ratifications

The Charter of the United Nations (1945) identifies the promotion and safeguarding of human rights and fundamental freedoms as a core objective of the organization (Nations, Charter of the United Nations., 1945). The Universal Declaration of Human Rights, adopted in 1948, marks the inaugural collective endeavor by States to codify human rights within a singular document (Nations., 1948). Emerging from the atrocities of the Second World War,

the Declaration serves as a moral assertion of fundamental rights and freedoms, envisioned as a "common standard of achievement for all peoples and all nations."

In essence, the Universal Declaration of Human Rights delineates two principal categories of rights: civil and political rights, and economic, social, and cultural rights. At the time of its adoption, it was evident that these rights required formal legal codification through binding treaties (Cabrillac, 2024). This necessity was extensively deliberated by the Commission on Human Rights, established in 1946. By 1966, the General Assembly had adopted the International Covenant on Civil and Political Rights (Nations, General Assembly, 1966) and the International Covenant on Economic, Social and Cultural Rights (Nations, General Assembly, 1966). These covenants established the foundational standards upon which over a hundred international and regional conventions and declarations are predicated.

In addition to the foundational International Covenants, five other pivotal United Nations instruments further delineate the human rights framework. These include the International Convention on the Elimination of All Forms of Racial Discrimination (1965) (Nations, General Assembly, 1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979) (Nations, 1979), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (Nations, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984), the Convention on the Rights of the Child (1989) (United Nations, 1989), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) (Nations, 1990).

Many of these treaties are complemented by optional protocols that introduce additional provisions. These instruments, including the Covenants, adhere to a consistent model: they articulate fundamental rights within their normative framework and are overseen by committees of independent experts, such as the Human Rights Committee, which is tasked with evaluating state compliance with established standards.

International charters and conventions

Although the International Covenant on Civil and Political Rights was adopted in 1966, it only came into force on March 23, 1976, after ratification by 35 States (Nations, General Assembly, 1966). As of June 2004, the number of States Parties had increased to 117, now totaling 152 (Nations, Treaty Collection, 2024). Updated lists of States Parties for all treaties are accessible via the Treaty Bodies Database of the Office of the High Commissioner for Human Rights and the United Nations Treaty Collection. States may also accede to either of the optional protocols: the first allows the Human Rights Committee to review individual complaints and has been in force since March 23, 1976, with 104 States Parties (Nations, General Assembly, 1976); the second, which abolishes the death penalty, has been in force since July 11, 1991, and currently has 53 States Parties (Nations, 1990)

International Covenant on Civil, Political, Economic, Social and Cultural Rights)

The Covenant is divided into six parts: the first two set out the general provisions, the third details the rights, and the following parts deal with the Human Rights Committee, its monitoring, and technical aspects.

First and Second Parts: General Provisions

The initial sections of the Covenant, Articles 1 through 5, establish overarching principles essential for its framework. Article 1 enshrines the right to self-determination, a collective right unique to peoples rather than individuals, shared by the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights (Nations, General Assembly, 1966). While its precise legal contours can

be ambiguous, it is understood that the effective exercise of this right necessitates thoroughly enjoying the Covenant's provisions by its members (Nations, General Assembly, 1966).

Articles 2 to 5 outline the obligations of State parties to respect and ensure the rights recognized by the Covenant for all individuals within their jurisdiction, without discrimination (Barbe., 2024). States must enact appropriate legislation to protect these rights, investigate violations, and provide effective remedies for victims. Typically, violations are addressed by courts and administrative bodies. Access provisions would be significant if necessary, as they are often undermined without them. These nationally supported State obligations are categorized into three types: the obligation to respect rights, which requires abstaining from violations (a "negative" obligation); the obligation to protect, which involves preventing and addressing violations by third parties through suitable laws and resources; and the obligation to promote (Barbe., 2024), which necessitates proactive measures to ensure rights are fully realized, including legal assistance and efforts to prevent prison overcrowding.

Article 3 mandates gender equality in the enjoyment of rights. Evolving case law has expanded Article 26's guarantee of equality before the law to include equal protection, highlighting its significance (Nations, General Assembly, 1966). Article 4 acknowledges that rights may be suspended under exceptional circumstances, provided such measures are publicly declared and proportionate to the emergency (Nations, General Assembly, 1966). The Human Rights Committee oversees compliance, ensuring that certain rights, such as the right to life and the prohibition of torture, remain absolute and inalienable (Nations, Human Rights Committee., 2024).

Article 5 concludes the second part by safeguarding the integrity of the rights outlined in the Covenant, prohibiting any reduction or destruction of these rights (Nations, General Assembly, 1966). It stipulates that national laws offering greater protection cannot be used to undermine the rights guaranteed by the Covenant.

Thirdpart:

The third part, central to the Covenant, enumerates the fundamental rights and freedoms that form the basis for individual remedies in cases of violations, supplemented by the general principles established in the first part. Articles 6 to 11 of the Covenant delineate the fundamental protections for life, liberty, and physical security. These provisions outline the precise conditions under which the death penalty may be legally administered in jurisdictions where it is still practiced, while firmly prohibiting acts such as torture, non-consensual medical experimentation, slavery, and forced labor (Nations, General Assembly, 1966). This section also addresses the rights of individuals deprived of liberty, typically following arrest, and stipulates regulations concerning entry, exit, and movement within a country, including specific provisions for the expulsion of foreigners. Articles 14 and 16 ensure judicial guarantees, including the right to a fair trial, equality before the law, and protection against retroactive criminal legislation, affirming the fundamental right to legal recognition.

Articles 23 and 24 underscore the vital role of the family, addressing issues related to marriage and the rights of children. Article 25 enshrines the essential right to political participation, encompassing the rights to vote, stand for election, enjoy universal suffrage and secret ballot, and engage in public affairs and hold public office on an equitable basis. Articles 17 to 22 enshrine crucial freedoms: privacy (Article 17), freedom of thought and religion (Article 18), freedom of opinion and expression (Article 19), the right to peaceful assembly (Article 21), and the right to form associations, including trade unions (Article 22). Article 26 reinforces the principle of equality before the law and equal protection, explicitly

prohibiting discrimination and mandating that legal distinctions be based on objective and reasonable criteria (Nations, General Assembly, 1966).

The Covenant's third part concludes with Article 27, which guarantees the rights of ethnic, religious, or linguistic minorities to preserve their culture, practice their religion, and use their language. This provision, though framed for individuals, serves to protect the collective rights of communities. The subsequent sections elaborate on the establishment and functioning of the Human Rights Committee, the treaty's monitoring body (Barbe., 2024).

Fourthpart:

The fourth part, encompassing Articles 28 to 45, details the constitution, functions, and procedural aspects of the Committee.

b. Ratification of the two protocols

Origine

The first Optional Protocol to the Covenant grants the Human Rights Committee the authority to receive and examine complaints from individuals who allege violations of their rights as enshrined in the Covenant. While adherence to this protocol is not obligatory, it provides any individual under the jurisdiction of a State party the opportunity to submit a written complaint to the Committee. This mechanism is available not only to nationals and residents but also to individuals subject to the State's authority, regardless of their residency status abroad (Tatiana Grundler). Articles 1, 2, 3, and 5 delineate the criteria for the admissibility of such complaints, while Article 4 outlines the procedures for addressing communications. Article 6 mandates the publication of an annual report by the Committee to the General Assembly, and Articles 7 to 14 address technical clauses concerning accession, denunciation, and other procedural aspects of the Protocol.

The Second Optional Protocol, as its title suggests, is aimed at the abolition of the death penalty. Article 1 unequivocally prohibits the execution of any person under the jurisdiction of a State party, imposing a legal obligation on States to abolish the death penalty. Article 2 allows for a limited reservation in cases of serious military crimes committed during wartime, under strict conditions. Article 6 reinforces the irrevocable nature of these provisions, integrating them as additional measures within the Covenant. Articles 3 to 5 adjust the reporting and communication procedures, while Articles 7 to 11 govern matters concerning federated States and the usual processes for ratification and amendment of the protocol.

Convention on the elimination of all forms of discrimination against women

Adopted by the United Nations General Assembly in 1979, the Convention on the Elimination of All Forms of Discrimination against Women is the most comprehensive international instrument on women's rights. Often regarded as a global declaration of women's rights, it imposes binding legal obligations on States Parties to eradicate discrimination in all spheres (Nations, 1979). The Convention affirms the principle of gender equality in the exercise of civil, political, economic, and cultural rights, obligating States to eliminate discrimination in legal, familial, and societal contexts. Notably, it uniquely acknowledges women's reproductive rights and highlights the role of culture and tradition in shaping gender roles and family dynamics. The Convention entered into force on 3 September 1983, and by 1 November 1999, 165 States had become parties to it. Articles 1 to 16 outline the responsibilities of States, while Articles 17 to 30 provide the mechanisms for implementation.

Convention against torture and other cruel, inhuman or degrading treatment or punishment

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984 and entering into force on 26 June 1987, seeks to eradicate torture and ill-treatment worldwide (Nations, United Nations General Assembly, 1984). It compels States Parties not only to prohibit acts of torture but also to take proactive measures to prevent such practices and provide remedies to victims. The Convention establishes a monitoring committee to ensure its enforcement. Madagascar ratified the Convention on 13 December 2005 and subsequently passed Law No. 2008-008 on 25 June 2008 to implement its provisions at the national level.

c. Standards

1) African Charter on Human and Peoples' Rights

History and creation

Adopted in 1981 by the Organisation of African Unity, the African Charter on Human and Peoples' Rights, often referred to as the Banjul Charter, stands as the paramount legal instrument safeguarding human rights across Africa. This seminal document, which entered into force on 21 October 1986, establishes binding international norms for African states, shaping the contours of human rights law on the continent (Unity, 1981).

As of today, 53 African states have ratified the Charter, demonstrating their commitment to its provisions

Main provisions

The Charter delineates individual rights in Articles 3 to 18, while Articles 19 to 24 enshrine the collective rights of peoples. The broader framework of the Charter is grounded in Articles 1, 2, and 26, which articulate fundamental principles, underscoring the essential nature of harmonious relations within both the family and society.

The rights themselves are broadly classified into civil and political rights, concerning life, liberty, and political participation, and economic, social, and cultural rights, addressing basic human needs such as education, health, and cultural expression. These categories are fluid, often intersecting, particularly when considering the rights of indigenous populations

2) National standards

Constitution

The 2010 Constitution places human dignity, fundamental rights, freedom, and equality at the heart of its principles. It ensures the effective enjoyment of citizens' rights while regulating powers to prevent dictatorial excesses, thereby protecting democracy and the rule of law (Madagascar., 2010). The preamble emphasizes the Malagasy State's commitment to the international Charter of Human Rights and conventions on the rights of the child (Nations, Convention on the Rights of the Child, 1989), women's rights (Nations, 1979), the environment, as well as social, economic, civil, and cultural rights.

The Constitution concretizes these principles through thirty-three articles (arts. 7 to 39) that detail the civil, political, social, economic, and cultural rights of citizens.

Law 2008-008

The 2010 Constitution of Madagascar reflects this commitment to human dignity, fundamental rights, freedom, and equality. It places the effective realization of these rights at its core, while instituting safeguards to prevent the concentration of power, thus fortifying the pillars of democracy and the rule of law. The preamble explicitly affirms Madagascar's adherence to the International Bill of Human Rights (Nations, Universal Declaration of Human Rights, 1948) and other significant international conventions, including those concerning children's rights (Nations, Convention on the Rights of the Child, 1989), women's rights (Nations, 1979), environmental protection (Nations, Environment Program, 1992), and

social, economic, civil, and cultural rights (Nations, General Assembly, 1966; Nations, International Covenant on Economic, Social and Cultural Rights, 1966).

The constitutional guarantees are expounded in thirty-three articles (Art. 7 to 39), which intricately detail the civil, political, social, economic, and cultural rights of Malagasy citizens (Madagascar., 2010).

2.5 Data Collection and Processing Methods

a. Documentary and NET searches

Sociological research, underpinned by both documentary and online exploration, plays a crucial role in acquiring profound insights into human rights issues. Once a topic of inquiry is selected, a comprehensive review of existing literature is conducted, supplemented by extensive internet research. Access to platforms such as Google, www.acelf.ca, and <http://depot.erudit.org/id/001142dd>, enriched by cybercafé access and mobile devices, provides access to an array of academic and specialized sources, deepening the analysis of the impact of new information and communication technologies (NICTs).

b. Surveys

Two primary instruments of data collection were employed: interviews and questionnaires. These tools were fundamental to gathering the data necessary for understanding the study's subject. The questionnaires, specifically designed for the survey at Antanifotsy High School, served as the principal tool for acquiring quantitative data from teachers and students alike.

Questionnaires

Questionnaires were the main tool used to collect data for the survey conducted at Antanifotsy high school. In keeping with the quantitative nature of the study, this instrument made it possible to gather precise information in the field from teachers and pupils.

Interviews

Interviews were conducted as a supplementary method, targeting Terminale teachers, particularly the IT instructor. Semi-structured interviews proved more suitable than the questionnaires for capturing in-depth insights, with the interviews taking place according to each teacher's availability in the classroom setting.

Administration of questionnaires

Before distributing the questionnaires and conducting interviews, a formal visit was made to the Principal of Antanifotsy High School to present the survey authorization.

Once verified, the research proceeded under the supervision of the General Supervisor, who oversaw the distribution of questionnaires to the teachers, while students completed their surveys on the same day, with responses collected promptly within thirty minutes.

Materials used

Throughout the research process, a camera documented key visual data, a Dictaphone recorded the interviews, and notes were meticulously taken with pen and paper. The collected data was then compiled on a computer, with statistical calculations aided by a calculator, facilitating efficient data processing.

Type of questionnaires used

The questionnaires featured both open and closed questions, and were formatted electronically as tables, ensuring a structured approach to data collection.

c. Interviews and personal observations

Data gleaned from interviews with key resource individuals served to enhance the overall body of information, while personal observations provided an additional layer of

depth, enriching the methodological approach and enabling a more accurate depiction of the prevailing conditions. These observations, grounded in fieldwork, offered crucial insights into the lived realities of those involved.

2.6 Limitations of the Study and Problems Encountered

a. Limitations linked to the country's poverty

The convergence of theory and empirical observation highlights a fundamental issue: in economically disadvantaged nations, the prioritization of human rights frequently diminishes. Poverty erodes the foundation upon which human rights rest, leading to widespread violations as survival often supersedes the pursuit of these essential rights.

b. Limits linked to the lack of respect for democracy

Democracy, defined as governance of the people, by the people, and for the people, remains an elusive ideal in Madagascar. The actual power wielded by the populace is minimal, a reality that correlates directly with the limited enforcement and recognition of their rights.

2.7 Problems Encountered

a. Time management difficulties

Amidst these systemic challenges, personal burdens weigh heavily. The concurrent responsibilities of household management, academic studies, employment, and the preparation of the dissertation have been particularly taxing. The academic year of 2018-2019 proved to be especially arduous, as these competing demands imposed significant strain.

b. Financial difficulties

Compounding these difficulties is the financial burden associated with dissertation research and preparation, which has placed considerable pressure on the family's limited economic resources, further exacerbating the challenges of pursuing higher education in such a constrained environment.

III. Results and Discussion

3.1 Freedom of expression and of the press

a. History

The end of the monopoly state on the press in 1989, followed by the abolition of censorship in 1992, marked a decisive turning point in Madagascar's media history. This evolution allowed the alignment of Malagasy law with international standards concerning freedom of expression and the right to have access into informations, as evidenced by the legal instruments ratified by Madagascar and the relevant national regulations (Madagascar., 2010) ,

Freedom of expression is guaranteed by law and respected in practice

The dismantling of the state monopoly over the press in 1989, followed by the abolition of censorship in 1992, signaled a pivotal moment in the media landscape of Madagascar. This progression aligned Malagasy law with international standards governing freedom of expression and the right to information, as reflected in the legal instruments ratified by the country and corresponding national regulations (Madagascar., 2010).

As a cornerstone of democracy, freedom of expression is legally protected and generally upheld, though it remains subject to various constraints. This indispensable right, intrinsically linked to the freedom of the press, is not absolute. It is safeguarded by

international bodies and associations, particularly in light of the digital age, which presents both complexities and opportunities in exercising this freedom (Nations, *The Right to Freedom of Opinion and Expression*, 2011). Freedom of expression is fundamental to both individual and collective growth, facilitating the pursuit of truth, the democratic process, and societal stability. It also complements other essential liberties, including freedom of association, assembly, and demonstration, which collectively foster the free exchange of ideas and ensure transparent communication (UNESCO, 2017). Codified in Article 19 of the 1948 Universal Declaration of Human Rights and echoed in the International Covenant on Civil and Political Rights, freedom of expression safeguards individuals from persecution based on opinion and enshrines the right to seek, receive, and disseminate information without regard to borders or media type.

The Constitution of Madagascar's Fourth Republic, enacted on December 11, 2010, reinforces these principles, particularly through Article 10, which guarantees the freedoms of opinion, expression, communication, the press, and assembly while permitting limitations in respect of others' rights, public order, national dignity, and state security (Madagascar, 2010).

Nevertheless, these freedoms are increasingly curtailed, as illustrated by recent legislative reforms. The Communications Code, for instance, grants the government sweeping authority to deny media licenses, confiscate equipment, and impose sanctions—measures that frequently target political adversaries (Oberdorff, 2023).

Article 61 of the Constitution introduces the concept of a "state of necessity," allowing the President of the Republic to wield exceptional powers under the terms and conditions defined by organic law. Article 95 further permits expropriation and requisitioning of private property for reasons of public necessity, while Articles 81 through 91 outline penalties for defamation or insult toward public officials under the pretext of state security. In parallel, Law No. 90-031, enacted on December 21, 1990, imposes stringent punishments for incitement to crimes against state security, with imprisonment ranging from one to five years and fines reaching up to 10 million Fmg (Madagascar, 1990)

Despite the constitutional assurances of free expression, the new Communications Code imposes significant limitations (Oberdorff, *Freedom of Expression in Madagascar*, 2023) particularly on public dissent, curbing the right to critique the government when it is deemed to infringe upon the rights of others, disturb public order, or offend national dignity and state security. Throughout Madagascar's constitutional history, from its first republic to the present, the principle of free expression has been enshrined, albeit inconsistently applied both locally and globally. The political crisis of 2009 further exacerbated these inconsistencies, leading to widespread human rights violations that compromised the very essence of democratic values.

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In the current global context, freedom of expression, along with the rights to protest, associate, and maintain privacy, faces mounting restrictions under the guise of national

security. The presidential and legislative elections of 2013 and 2014 marked a fragile return to democratic governance following a prolonged period of instability, yet the challenges to these fundamental freedoms remain profound and persistent.

The regime change has precipitated a series of reforms, notably embodied in Law 2016-029 on media communication, which introduces a nuanced reconfiguration of the landscape of freedom of expression. This legislative shift heralds a renewed interpretation of this fundamental right, seeking to balance the delicate interplay between state interests and the imperative to uphold democratic principles. As such, it reflects an evolving understanding of the role that media communication plays in shaping public discourse and the broader social fabric, offering both opportunities and challenges in the ongoing quest to safeguard civil liberties within a dynamic political environment ((Madagascar G. o., 2016).

b. Evolution of freedom of expression

Following the 2009 political crisis and the restoration of institutional order in 2013, Madagascar has faced significant challenges concerning freedom of expression. According to the 2013 report by Reporters Without Borders, the nation ranked 88th out of 180 countries in terms of media freedom (Borders., 2013)

During the crisis, several state authorities severely curtailed this fundamental right, leading to the closure of numerous media outlets and the imprisonment of journalists. One notable case occurred in November 2013 when journalists Lalatiana Rakotondrazafy and Fidèle Razarapiera, from Radio Free FM, received suspended prison sentences and fines for defamation and the dissemination of false information (Report, 2023).

Fearing for their safety, many journalists sought refuge in foreign embassies, including the South African Embassy. The return to institutional stability in 2013 initiated reforms such as Law 2016-029 on the Media Communication Code, aimed at reinstating the rule of law (Law No. 2016-029 , 2016)

In recent years, freedom of expression has regained prominence in Malagasy society, allowing individuals to express their opinions more openly. Six years after the political restoration, notable improvements have been observed. The absence of repression during the 2018 presidential elections marked a significant milestone (World, 2019)

By 2019, Madagascar had climbed to 54th place in the Reporters Without Borders press freedom index, a substantial leap from its 2013 ranking (Borders., 2013) This progress reflects a concerted effort to strengthen media freedoms and reestablish Madagascar's standing on the global stage (International, 2021).

3.2 Equality in the political process

a. Article 6 of the Constitution

Article 6 of the Constitution of the 4th Republic underscores that the law is the expression of the general will, applying uniformly to all, whether in terms of protection, obligation, or punishment. It also affirms the principle of equal rights and fundamental freedoms, irrespective of (Constitution de la Quatrième République, Article 6., 2010).

Despite these legal guarantees, efforts to ensure equal representation of women in public office, including in political and social spheres, have been insufficient.

While women have ascended to leadership positions in political parties, Madagascar has yet to introduce quotas to ensure gender parity in representation (Gender Links for Equality and Justice , 2015). Initiatives to enshrine this approach within electoral laws remain inadequate (Rakotoarisoa, 2017)

b. Women and State Institutions

Since the establishment of Madagascar's four republics, the country has yet to witness a female president. Women's candidacies for the presidency began in 1992, with one woman among eight candidates. In 2005, the figure was one among thirteen; in 2013, two among thirty-four; and in 2018, five among thirty-six candidates (UN WOMEN Political Participation of Women in Madagascar, 2018)

During legislative elections, political parties have made strides in promoting female representation. However, in 2015, women made up only 4.8% of mayors (81 out of 1,695) and 6.3% of municipal councillors (688 out of 10,960). Female heads of Fokontany were a mere 3.2% (333 out of 10,257) (INSTAT, 2019). Elected women received just 4.95% of the vote, significantly lower than their proportion in the population (IDEA, 2020).

Female appointments in government have lacked stability and consistent political will. In 2019, women accounted for 27.27% of government ministers, yet did not occupy key portfolios such as Defense, Finance, or Foreign Affairs (World Bank, 2020)

Conversely, women hold 23% of senior state positions, with notable representation among Secretaries-General (7%), Directors-General (21%), and Directors (24%) (Hanta, 2019)). In the judiciary, women constitute the majority, representing 52% of the workforce, and 51% of lawyers are female (Raharinaivo, 2017)

However, technical fields continue to see women as a minority, despite an upward trend: in 2013, women made up 21.7% (177/956) of these roles, increasing to 26.26% (228/868) in 2017. In territorial administration, women held 15% (21/143) of Head of District/Prefect positions in 2019, though all 22 regional heads remained men (INSTAT, 2019)

Implementation 2015-2019:

To enhance women's leadership in local governance, UNDP-supported training sessions were organized in 2015 for elected female mayors and councillors, focusing on strengthening leadership, raising awareness of their roles, and revitalizing the network of women elected representatives. These initiatives were led by the Ministry of the Interior and Decentralisation, the Ministry of Population, Social Protection, and the Advancement of Women, along with civil society organizations advocating for gender equality (UNDP, 2015).

The primary objective of this initiative is threefold: first, to cultivate and enhance the leadership capacities of women serving as mayors and municipal councillors; second, to foster a deeper awareness among these elected women of their pivotal roles and responsibilities as local representatives; and third, to support and strengthen the revitalisation of the network of women in local governance (Madagascar M. o., 2016).

The program is designed to target 280 women mayors and municipal councillors from across Madagascar's 22 regions, with a concerted effort to create a cohesive and empowered cohort of female leaders (Ravololomanga, 2018).

The pool of trainers guiding this initiative comprises representatives from the Ministry of the Interior and Decentralisation, the Ministry of Population, Social Protection, and the Advancement of Women, as well as civil society organisations dedicated to advancing gender equality (Tripp, 2003).

Since 2009, and particularly with the creation of the Gender Committee within the Assembly in 2016, greater emphasis has been placed on gender-sensitive legislative analysis, assessing the impact of proposed laws on men and women across all sectors (Madagascar M. o., 2016). Concurrently, the "Gender Caucus" or Network of Women Parliamentarians, active since 2014, has championed the adoption of gender equality legislation (UNDP, Supporting Women's Participation in Local Governance , 2014).

Despite legal provisions ensuring women's participation in the political process, cultural and traditional norms continue to impede their full engagement. While no legal barriers exist, women's involvement remains limited due to societal challenges such as illiteracy, economic dependence on spouses, and domestic responsibilities, all of which restrict access to essential information and training (Todes, 2007).

3.3 Equality at work

a. Overview of legislation

Labour legislation generally imposes differentiated temporal constraints based on gender. A prominent illustration is found in Article 92 of the Labour Code (Law No. 2003-044 of 28 July 2004), which explicitly forbids women from engaging in nocturnal work within factories (Labour, 2004). Despite this prohibition, women frequently find themselves employed during nighttime hours, particularly within the textile sector of free trade zones, a consequence of pervasive unemployment (ILO, 2017).

The provisions that regulate daily rest for women and children, along with the specific safeguards afforded to pregnant or nursing women, ought to be universally applied, transcending gender distinctions, to ensure equitable treatment for all workers (Kabeer, 2012).

b. Women's rights at work

Labour legislation generally imposes differentiated temporal constraints based on gender. A prominent illustration is found in Article 92 of the Labour Code (Law No. 2003-044 of 28 July 2004), which explicitly forbids women from engaging in nocturnal work within factories (Labour, 2004). Despite this prohibition, women frequently find themselves employed during nighttime hours, particularly within the textile sector of free trade zones, a consequence of pervasive unemployment (ILO, 2017).

The provisions governing daily rest for women and children, alongside the specific protections extended to pregnant or nursing women, should be applied equitably to all workers, irrespective of gender, in order to uphold principles of fairness in labour rights (Bioy., 2022).

Madagascar remains fundamentally an agrarian society, with 78% of the population residing in rural areas and 67.2% of households directly engaged in agricultural activities (Bank, 2018). Agriculture is the primary source of employment, especially within the informal sector, where 75.3% of the working population is concentrated, accounting for 93% of the active workforce (Women, 2015).

Traditionally, agriculture is perceived as a male-dominated activity, with women and children relegated to the status of "family helpers" (46%). Consequently, 87% of women in this sector face inadequate employment conditions, compared to 75.8% of men (Murray, 2010). This significant disparity may partially explain the migration of women in search of salaried employment (14% of women versus 30% of men) or their decision to relocate in support of their husbands' professional endeavors (Tripp, 2003).

Despite their pivotal role in the economy, Malagasy women, who are actively involved in entrepreneurial ventures such as trade, catering, and agriculture, struggle to achieve recognition and visibility. In the informal survival economy, where 51.70% of workers are women, they constitute 58.1% of self-employed individuals, often working from home (38%, compared to 11% of men). They also dominate in sectors such as garment making and domestic services (Healy, 2007).

Within the formal sector, women represent a significant proportion of workers, comprising 38.68% of those affiliated with the National Social Security Fund (Caisse Nationale de Prévoyance Sociale). They are notably prevalent in teaching and religious associations (54.55%) and among domestic workers (50.76%). Nevertheless, access to decent employment opportunities remains an ongoing challenge, hindered by slow economic development and limited prospects within the private sector (Rosenberg, 2011).

Achievements 2015-2019 :

The Malagasy state has established a well-adapted labor legislation, governed by the Labor Code of July 28, 2004 (Law 2003-044), complemented by a Maritime Code and a Civil Service Statute. This legal framework sets the standard workweek at 40 hours (42.6 hours in the agricultural sector) and grants 30 days of annual leave. The Code stipulates that :

- 1). Workers are entitled to equal pay for work of equal value, irrespective of origin, skin color, nationality, gender, age, union affiliation, or opinion (Article 53).
- 2). It also prohibits any form of discrimination based on gender, race, religion, political affiliation, union membership, or HIV status.
- 3). However, specific restrictions limit the employment of women in certain industries and prevent them from working at night (Articles 85 and 93).

Decree No. 2013-337 of May 14, 2013, harmonizes the retirement age for men and women at 60 years, applicable to employees governed by the Labor Code. Concerning maternity leave, Malagasy women are entitled to 14 consecutive weeks, divided into 6 weeks of prenatal and 8 weeks of postnatal leave. In cases of pregnancy-related complications, this leave can be extended by 3 weeks. During this period, the employer provides half of the salary, while the CNaPS (The National Social Welfare Fund) offers various social and medical benefits.

c. Women's rights at work

The legislation enshrines the right of workers across both public and private sectors to form trade unions without the need for prior authorization or undue conditions, thus safeguarding the principle of freedom of association (Ravololomanga, 2018). Nonetheless, specific categories of workers, including civil servants, maritime workers, and those in essential services (such as police, military, and firefighters), are governed by distinct regulations. While maritime workers are not explicitly granted the right to establish trade unions, other workers are permitted to engage in union activities, including the right to strike, albeit under restrictions related to public order and safety (Bioy., 2022).

The law mandates conciliation, mediation, and arbitration prior to authorizing a strike, often extending the process by up to two years (Todes, 2007). In essential services, although the right to strike is recognized, it is heavily regulated by the requirement to maintain a minimum service level and to notify the employer in advance. The Labour Code further imposes penalties, including fines or imprisonment, on those who initiate unlawful strikes (Labour, 2004).

Trade unions are afforded protection against employer discrimination, with employers liable for any breaches. However, civil servants and public sector employees face less robust protection against external interference (Rosenberg, 2011). While collective agreements are generally upheld in large international corporations, their implementation is more challenging in free trade zones and local enterprises, where workers may be hesitant to exercise their rights due to fears of reprisal. Despite the legal guarantees, the exercise of trade union freedom can be subtly compromised by certain employers (ILO., 2020).

d. Ban on forced labour and child labour

The law formally prohibits forced labour; however, it remains a pervasive issue, particularly affecting children within the informal sector.

The persistence of forced labour can be seen through the practice of "dinas," an informal arrangement often used to resolve disputes or settle debts, which continues to be tolerated due to inadequate law enforcement. In 2014, the adoption of an anti-trafficking law marked a significant legislative advancement, expanding the definition of trafficking and introducing penalties aimed at its eradication (UNODC, 2014). Moreover, the law establishes a minimum legal working age of 15, strictly regulates the conditions under which children may work, and prohibits their involvement in hazardous activities (Renault-Brahinsky, 2024). It also forbids minors under the age of 18 from engaging in night work or employment in sectors deemed dangerous to their safety and moral well-being (NCLACL, 2015).

IV. Recommendations

4.1 An efficient legal framework

The constitutional legal framework requires adjustment and fortification to better uphold freedom of expression and ensure access to information, as well as to decriminalise press-related offences. This undertaking should actively involve the Ordre des Journalistes de Madagascar, the Syndicat des Journalistes, civil society organisations, and academic institutions.

The independence of the Commission spéciale de la communication audiovisuelle (CSCA) must be preserved until the establishment of the Haut Conseil de l'Audiovisuel. Furthermore, the transition to digital terrestrial broadcasting must be carefully managed, with swift adoption of reforms that align with international standards on governance and the right to access information.

4.2 An appropriate communication code

Legislation to prevent media concentration should be enacted following an inclusive consultation process with both public and private stakeholders. The independence of the Communication Code Commission must be fortified through an impartial and transparent appointment process for its members, while ensuring it is tasked with promoting transparency in media ownership and the allocation of frequencies and audiovisual licenses. Moreover, the introduction of preferential tax regimes for the media, encompassing both operational management and investment, is imperative. A comprehensive legislative and financial framework, bolstered by technical support, is also necessary to foster the growth of community media, requiring collaboration between the government, legislators, civil society organizations, and media stakeholders.

The Ministry of Communication, in partnership with relevant actors, could explore the establishment of scholarships for journalists and encourage the creation of regional press centers. Media service decentralisation would be enhanced by the enforcement of decentralisation laws and the accelerated establishment of public broadcasting stations nationwide.

A media observatory, dedicated to self-regulation, could oversee media practices and publish national studies on audience trends and the broader media landscape. Additionally, it is crucial to advocate for a national code of good practice in advertising, achieved through

dialogue among media, advertising agencies, and institutional actors. Finally, it is essential to uphold the common reference framework for journalist training, which should include instruction on democratic debate and the integration of digital technologies, with e-learning modules designed to ensure access to high-quality training.

4.3 An efficient platform

The establishment of a Civil Society Platform dedicated to the media is of paramount importance in addressing the informational needs of citizens. Equally critical is the enhancement of media literacy for all stakeholders, through partnerships aimed at aligning training programs and tools with the evolving demands of the media sector.

4.4 Autonomy for journalists

Journalists must be empowered to exercise their independence and uphold professional ethics by invoking the conscience clause when an editorial line conflicts with their convictions. Malagasy law, both in its older provisions and in the current Communication Code, guarantees this right, safeguarding journalists from undue interference (Heymann-Doat, 2022). Article 60 of the Code protects journalists from being compelled to perform any act that contradicts their beliefs or dignity, while Article 67 further ensures that they may refuse assignments violating ethical principles without fear of disciplinary action.

4.5 Media self-regulation

The adoption of collective codes of conduct by media outlets is essential, ensuring that the ethical standards of journalism are respected. A code for election coverage, for instance, could draw from the principles set forth by the Organisation Internationale de la Francophonie (OIF), the Southern African Development Community (SADC), or the International Federation of Journalists (IFJ), emphasizing accuracy, impartiality, and honesty. Such codes should prohibit discriminatory language or incitements to violence and require the correction of factual inaccuracies. Journalists should be integrally involved in drafting these codes, and internal committees should be established to monitor adherence, as exemplified by the Express de Madagascar SA, albeit lacking effective oversight mechanisms.

4.6 Reorganisation

Providing ongoing assessments of the profession and offering recommendations to the Order of Journalists. A structured system of sanctions, both positive and negative, is necessary. In addition to the disciplinary measures outlined in the Media Code for ethical violations, a reward system for exemplary journalism could bolster professional standards. The Disciplinary Board, already tasked with handling ethical transgressions, could issue sanctions ranging from warnings to disbarment, including temporary suspension from practice, as stipulated in Article 59 of Law 2016-029.

The training of journalists in covering public events, particularly elections and citizen initiatives, is essential in bolstering their credibility and reinforcing their role in ensuring democratic transparency. Additionally, media concentration must be addressed through clear regulations that mitigate the risk of monopolistic dominance.

The creation of an independent regulatory body, free from external interference, is equally imperative. The High Audiovisual Council, initially proposed in 1990, has yet to be established, leaving regulation to the Special Commission for Audiovisual Communication (CSCA), which operates under the Ministry of Communication and regulates the sector arbitrarily. To ensure the independence of the Autorité nationale de régulation de la

communication médiatisée (ANRCM), the adoption of the implementing regulations for the law must be expedited.

It is crucial to revise certain provisions of the new Communication Code, which grants the ministry powers that should rightfully belong to the regulatory authority, particularly in relation to administrative sanctions, such as the closure of media outlets (Denizean, 2023), as stated in Article 44. Such powers should be entrusted to an independent body. Furthermore, coherent rules regarding media ownership must be introduced to ensure transparency in mergers and acquisitions, while consolidating media concentration regulations into a unified legal framework.

The terms of reference for private audiovisual companies must be updated to reflect the rapid evolution of Madagascar's media landscape, aiming to curb the negative impacts of excessive concentration. The status of press owners should also be redefined to definitively prohibit the use of proxies, as mandated in Article 84 of the Code, while further clarifying this status to ensure its effective enforcement.

Limiting the interference of majority shareholders in editorial decisions is essential, ensuring that they hold no editorial responsibility, as outlined in Article 85. It is also recommended that the legal representative of the company assume the role of publication director, thereby promoting a clearer separation of powers within media organizations.

Lastly, the requirement for transparency in media companies, as specified in Article 102 of the Code, must be rigorously enforced. All relevant information regarding ownership, legal structure, directors, and editors should be clearly disclosed in every publication. Amending Article 83 to mandate the inclusion of shareholder identities in official registers is also vital to enhancing transparency. To facilitate access to media-related information, a comprehensive, reliable, and regularly updated database system should be established for Madagascar's media sector.

4.7 Facilitating access to information for the press

The enactment of comprehensive legislation on transparency and access to public information is of paramount importance, given that Article 7 of the Media Communication Code defers the arrangements for accessing administrative documents to a subsequent text. To bolster transparency, the establishment of both direct and indirect support systems for the media is indispensable. Furthermore, while Articles 116 and following of the Code secure rights for press companies, their enforcement remains inadequate. Fostering media literacy from primary education is thus crucial, enabling the public to fully exercise their right to information.

4.8 Improving the political process

a. Voting rights and eligibility

To enhance the political participation of women and youth, it is essential to streamline political parties and reinforce their capacities, alongside ensuring the efficacy of state subsidies (Soldini, 2021). Articles 37 to 39 of the Nationality Code must be revised to restore full civil rights to women who have obtained Malagasy nationality through marriage (Rabeharisoa, 2020). Moreover, fostering dialogue and development through support for political parties in partnership with relevant actors is critical for sustaining democratic engagement.

Aligning Article 4.1 of the Electoral Code with constitutional principles of criminal law is also necessary. The principle of freedom to stand as a candidate should be regulated by

specific legal criteria, such as nomination by a political party or sponsorship by a stipulated number of elected officials, in accordance with Article 15 of the Constitution (Rakotondrazaka, 2019).

Reforming the Nationality Code to accept dual nationality and restoring the civic rights of naturalized foreigners after a decade of residency are equally essential. Finally, the swift establishment of the National Media Communications Regulatory Authority (ANRCM), as mandated by Law 2016-029 of 24 August, is crucial to ensuring equitable media coverage of electoral campaigns (Madagascar N. A., 2016). A more rigorous oversight of access to local public media, combined with heightened professionalization of journalists, is necessary to clearly delineate between news content, editorial opinion, and paid advertisements (UNDP, Enhancing Women's Participation in Political Decision-Making in Madagascar, 2021)

b. Gender equality

In the pursuit of political parity, the adoption of a national strategy on gender and elections is imperative. This strategy should support electoral initiatives that promote the participation of women and youth (Binet, 2024) and strengthen the role of civil society organizations in electoral observation. Raising civic awareness and enhancing the coordination of electoral activities, particularly among the youth, are vital components of a more inclusive and participatory democratic process (UNDP, Enhancing Women's Political Participation in Madagascar: A Strategic Framework, 2022).

V. Conclusion

Since gaining independence, Madagascar has endured a succession of cyclical political crises that have deeply shaped its socio-economic landscape. Popular uprisings in 1972, 1991, 2002, and 2009, which led to the ousting of successive heads of state, significantly destabilized the nation. The crisis of 2009, in particular, plunged Madagascar into extreme poverty, rendering it one of the poorest countries globally by 2011, as noted by the World Bank. However, the restoration of constitutional order in 2013 paved the way for reforms aimed at fortifying adherence to human rights principles.

Even in well-established democracies, public trust in political leaders is not a given, and the state can easily lose its credibility. In nations where democracy is merely an emulation of Western models, the issue of power legitimacy becomes even more pronounced. Thus, while Madagascar has been periodically shaken by crises, the fundamental freedoms enshrined in the Constitution and affirmed by international standards continue to be upheld, despite ongoing challenges.

Freedom of expression, a cornerstone of any democracy, remains a fraught issue in Madagascar, as it does in many other nations. Media ownership, often concentrated in the hands of influential politicians or businessmen, has turned the media into a tool for bolstering political and economic influence. This phenomenon has moved beyond simple media concentration, evolving into multi-sectoral cooperation and alliances, thereby transforming the media into active participants in shaping the narratives that reach the public.

Decentralization and the proliferation of media outlets have yet to deliver the anticipated results in fostering true pluralism. While some progress has been made, media diversity remains limited. Similarly, the participation of women in politics, though gradually improving, remains insufficient. The absence of affirmative action measures, despite the provisions of the 2010 Constitution, and the lack of political will to promote gender parity in leadership and decision-making roles, underscore these persistent challenges. Yet, there are

opportunities to reform the system and pursue genuine gender equality, a crucial element for sustainable national development.

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