



Partnership Network International

PNI for Human rights & Sustainable development

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## **UPR MADAGASCAR**

### **Speech, Pre-session UPR Madagascar - Geneva, 8 October 2019**

Excellencies, Ladies, Gentlemen, Good morning

My name is Amaèle Bader, I am replacing Isabelle Bourgeois, President of Partnership Network International (PNI)

**PNI presented two reports for the UPR of Madagascar** (*an individual and a joint contribution with a large Malagasy coalition comprising 7 networks, 2 platforms, 7 INGOs, about 20 national organizations including media*). These written contributions deal with the subject of Environmental and Land Reforms in Madagascar and their actual implementation, particularly at the municipal level.

**Thirty years ago**, Madagascar was the first country in Africa to adopt an Environmental Charter in the form of state law, and was the first country in the world to adopt a law to forest protection. Its political will to involve local populations and international environmental protection organizations in the management of protected biodiversity to central and local public actors is not frequent.

**For fifteen years, the land system** (modern and traditional) has undergone significant changes and especially with **the 2015 land policy letter**. It is a question of offering a fast, massive, durable and reliable solution of identification and land security through **a certification procedure**, formalization in writing of land transactions.

**However, the populations as well as the registers and cadastres** through this developing country with rural vocation, still suffer from the problems of corruption and the weakness of the implementation of the Environmental and land reform.  
Many citizens simply do not trust the system anymore.

Not only some:

- although they have an act of sale, they do not know if they are legally owners,
- and others want to buy land but do not know if the seller owns it legally.
- It turns out that many do not own a title / certificate of ownership
- Others still fail to assert their property rights because of **corruption but also the lack of land counters and land agents trained** on the ground and even worse of the **ignorance of the local administration ... and of justice in case of litigation**.

In fact, many certificates are simply not reliable.

In addition, to overcome the inapplicability of the provisions concerning the registration of ancestral lands, the populations of themselves have adapted to the situation by establishing their own regulation in the form of a traditional Malagasy technique: *the Dina*.

**Rights are then protected from third parties by community solidarity** (*the Dina*) and / or the establishment of local land management procedures materialized by various "small papers". Often, these acts are neither targeted nor recorded by the public authority.

These practices and documents, as they are not recognized by the legislation in force, have no legal value, are **not legally enforceable** and do not preserve attempts at spoliation from outside. Indeed, in a situation of legal dichotomy, between the modern right and the traditional right, **the local population can be deprived at any time of its rights, for lack of title opposable to these requests for concessions.**

*It is important today to make available to family farms and grassroots communities written documents that guarantee their rights on land easily accessible and at an acceptable cost.*

Land insecurity is one of the major obstacles to Madagascar's development. In addition, **the legal recognition of unwritten land rights** is one of the main pillars of development.

Indigenous peoples and communities, farmers and forest breeders ... must increasingly defend their rights to maintain or buy land in front of new **types of buyers**. These do not necessarily come from the indigenous-agricultural environment and have other goals or other motivations than the sustainable development of communities, agriculture, the environment on the national territory.

For some, the presence of investors in land deals is an opportunity to take advantage of increased value for the sale of their land. However, for the most part, it presents an obstacle to the development of their community. But beyond the private interests of one or the other, it is in the general interest of the indigenous communities, farmers, breeders, sinners, foresters, artisans ... of today and tomorrow, and society whole Malagasy.

Ancestral lands / protected natural areas are limited and constitute a unique and valuable asset that serves for the production of an essential good, dignity, the organization of human activities, the protection of the environment, the production of food, shelter, clothes, tools .... **These lands are essential for the survival of the people.**

**The rush to the land and its resources in Madagascar could have major irreversible consequences.** Indeed, the land rush puts the country at risk of worsening **food insecurity**, environmental degradation, increased dependence on food assistance and marginalization ... see the disappearance of communities of peasants and breeders, fishermen, craftsmen.

**Land agreements often lack transparency and regulations** on the impact on people and the environment. These agreements, instead of supporting the basic communities Fokonolona, family structures and especially small farmers, small fishermen, breeders ... promote industrial agriculture, tourism and even the protection of the environment ... while displacing populations and destitute the populations who, precisely, have the capacity to make evolve their community.

**It is in disregard of their rights, their activities and their mode of communitarian governance** (in agreement with the contracts of the environmental law and the land reform) that rural populations are expropriated from their ancestral lands and that the biodiversity is looted . Damage to crops, forests, livestock and biodiversity threatens the right of people in basic communities to food and their right to an adequate standard of living, and the pollution of water and air endangers their right to health and drinking water.

Not only does this **change the territory, the environment and lifestyles**, but it can also disperse and annihilate populations and exhaust and contaminate water resources, agricultural, mining, forestry, fisheries, medicinal plants ...., Pollute the air, cause deforestation, and increase the risk of landslides, earthquakes, contamination, diseases, proliferation of species ... .be a vector of extreme poverty and violence.

**The state fails to prevent the most serious violations of human rights principles.** Trafficking of all kinds (precious woods, sapphires ...) are installed. Despite efforts by the State party to combat corruption, it persists with impunity and violates human rights that impede the enjoyment by all of economic, social and cultural rights, civil and political rights.

**Collaboration is needed for better territorial administration:** The successful implementation of land and environmental reforms in their primary mission of "integrating environmental policy into the overall development of the country" cannot ignore the practices legitimately put in place for thirty years in the context of environmental reform and must take into account the importance of collaboration and exchange of information between the government and decentralized communities.

In addition, communities, in their efforts **to better serve their communities**, protect them from predation and ensure the sustainability of community governance, **must be equipped and trained to new skills and thus participate effectively in the development of the country.**

***It is therefore important that the state:***

1. **Act immediately**, that violations of human rights, the environment and sustainable development are halted, the looted lands are returned and the damage repaired;
2. **Legally anchor** basic local communities
3. **Urgently intensify** the land and environmental reform by a local land administration
4. **Make land law and environmental legislation coherent**
5. **Builds capacity of communities** to manage and control their resources
6. **Strengthen the judicial system** and insist **that entities working in Madagascar respect the principle of free, informed and prior consent.**

***... And thus contributes to inclusive, participatory and equitable growth for sustainable development in Madagascar.***

Thank you for your attention