

Republic of Madagascar

National Child Protection Legislation

National Legislation

- Age of Child: **Under 18 years of age**
[Law No. 2007-023 of August 20, 2007 - on the rights and protection of children](#)
Article 2
A child means any human being under the age of 18.

[In addition, see Article 3 of [Law No. 2016-018 - relating to measures and procedure applicable to children in conflict with the law, 2016](#), Article 6 of [Law No. 2007-038 of January 14, 2008 - amending and supplementing certain provisions of the Penal/Criminal Code on the fight against trafficking in persons and sex tourism](#), and Article 2 of [Law No. 2005-014 - relating to adoption](#).]
- Age of Consent: **14 years of age for heterosexual sex; 21 years of age for homosexual sex**
[Penal/Criminal Code, 1972](#)
Article 331
Indecent assault committed or attempted without violence on the person of a child of either sex aged under 14 years, will be punished by five to ten years of imprisonment and a fine of ten million to fifty million francs (Order 62-013 of 10.08.62). Indecent assault committed by any ascendant on the person of a minor of 21 years, even aged over 14, but not emancipated by marriage, will be punished by the penalty provided for in the first paragraph.

(Law No. 98-024 of 25.01.99) Without prejudice to the more serious penalties provided for in the preceding paragraphs or in Articles 332 and 333 of this Code, anyone who commits an indecent or unnatural act with a minor of the same sex under the age of 21 shall be punished by imprisonment of two to five years and a fine of ten million to one hundred million francs.
- Age of Marriage: **18 years of age**
[Law No. 2007-022 of August 20, 2007 - relating to marriage and matrimonial property regimes](#)
Article 3
The President of the Court of First Instance may authorise marriage before 18 years of age with parental or guardian consent as well as the consent of the individual.
- Age of Criminal Responsibility: **13 years of age; 18 years of age for criminal majority**
[Law No. 2016-018 - relating to measures and procedure applicable to children in conflict with the law, 2016](#)
Article 4

The criminal majority, consisting of the age from which a child is subject to common criminal law, is set at 18 years. The age of the child is assessed at the time the offence was committed....

Article 8

The age of criminal responsibility is set at 13 years. Below this age, a child cannot be prosecuted or held criminally responsible in criminal proceedings.

However, the victim, their legal representative or any person in authority on it can seize the civil court for compensation for the damages suffered.

Article 9

If a child over 13 years of age has committed an offense and if prevention is established in their regard, they benefit by right from mitigating excuses of minority. If the offense is established against them, only a simple educational measure can be taken against them, in particular admonition, return to the family, or placement with any trustworthy person or in a rehabilitation centre approved by the state.

Article 10

Offenses committed by a child under 18 years of age shall be prosecuted and punished in accordance with the ordinary law procedure, subject to the special provisions of this law.

- **Extraterritoriality & Dual (or Double) Criminality**

[Law No. 2007-038 of January 14, 2008 - amending and supplementing certain provisions of the Penal/Criminal Code on the fight against trafficking in persons and sex tourism](#)

Chapter Three

A person may be prosecuted in Madagascar under this provision [of extrajudicial prosecution] even if they committed a crime defined in this law abroad; and furthermore, if the perpetrator resides in another country, the concept of extradition may be applied.

Article 9 - The following articles numbered 335 ter, 335 quater and 335 quinto are inserted after article 335 bis, which are written as follows:

333 ter - Nationals and persons having their habitual residence in Madagascar who engage in trafficking, sexual exploitation, or sex tourism in other countries are prosecuted and punished in accordance with the provisions of the Penal/Criminal Code.

335 quater - Requests for the extradition of persons sought for the purposes of proceedings in a foreign State are executed for the offenses provided for in this law or for the purpose of enforcing a sentence relating to such an offense. The procedures

and principles provided for by the extradition treaty in force between the requesting State and Madagascar are applied.

In the absence of an extradition treaty or legislative provisions, extradition shall be carried out in accordance with the procedure and in compliance with the principles defined by the model treaty on extradition adopted by the United Nations General Assembly in its [Resolution 45/116](#).

- **Mandatory reporting requirements**

[Law No. 2007-023 of August 20, 2007 - on the rights and protection of children](#)

Article 69

Any person, including parents, family members, neighbors, friends, local authorities, teachers, religious dignitaries, social workers, medical personnel, and the judicial police, who becomes aware of attempted or actual abuse, must report it to the competent administrative or judicial authorities, subject to Article 62 paragraph 1 of the Penal/Criminal Code [imprisonment of one month to three years and a fine of 18,000 to 750,000 francs, or one of these two penalties only].

If signs of child abuse are discovered, medical personnel are required to prepare a forensic report. To this end, they are not bound by professional secrecy.

Article 70

The person reporting the report may remain anonymous if they wish; in this case, the administrative or judicial authority receiving the report is required to respect it.

Article 71

The report may be made verbally or in writing to the Fokontany, the Social Assistance Office of the Municipality, the Police, the Gendarmerie or the Court closest to the victim or the person committing the acts.

The authority notified must follow up on the report under penalty of legal action. To this end, it is obliged to record the statement in a report and subsequently refer the matter to the competent court as soon as possible.

[Law No. 2007-038 of January 14, 2008 - amending and supplementing certain provisions of the Penal/Criminal Code on the fight against trafficking in persons and sex tourism](#)

Article 6 - Three articles numbered 333 ter, 333 quater and 333 2 are inserted after Article 333 bis.

Anyone who, knowing full well the existence of pimping, sexual exploitation or sex tourism, has not reported or denounced the facts to the competent authorities, in accordance with the provisions of Articles 69 and 70 of Law No. 2007-023 of 20 August 2007 on the rights and protection of children, is considered an accomplice. Acts of participation are considered separate offenses.

- **Statute of Limitations**

[Law No. 2007-038 of January 14, 2008 - amending and supplementing certain provisions of the Penal/Criminal Code on the fight against trafficking in persons and sex tourism](#)

Article 8

The child victim of a crime involving rape and anyone who is a victim of sexual harassment, sexual exploitation, sex tourism, and exploitation may at any time report or file a complaint with the Public Prosecutor's Office or any competent authority regarding the incident that has occurred and demand compensation for their losses.

The statute of limitations for prosecuting crimes involving human trafficking and exploitation, sexual exploitation, sex tourism, and sexual exploitation of minors begins to run from the time the child victim reaches the age of 18.

- **Educational Obligations**

[Law No. 2004-004 of July 26, 2004 - providing general guidance for the Education System, of Education and Training in Madagascar](#)

Article 57

Private educational institutions must recruit part of their teaching staff full-time. The proportion of these teachers is set by order of the Minister of Education, which takes into account the need for permanent educational staff. Persons who have been convicted of a crime or intentional offense against persons or property may not be recruited for work or teaching in private establishments.

[Law No. 2007-023 of August 20, 2007 - on the rights and protection of children](#)

Educational assistance measures

Article 48

When the safety, physical or moral integrity, health or education of a child are compromised, the Children's Judge intervenes with the help of social workers, either to help and assist the family in its role as the child's natural educator, or to take appropriate educational assistance measures and ensure their follow-up.

Article 49

The Children's Judge is competent to decide on educational assistance measures adapted to the situation of a child. These measures are taken by the Children's Judge at the request of the father and mother jointly or one of them, the person or service to whom the child has been entrusted or the guardian, the child himself or the Magistrate of the Public Prosecutor's Office. The Children's Judge may also take action ex officio. Educational assistance measures may be ordered at the same time or separately for several children under the same parental authority.

Article 50

Educational assistance measures consist in particular of: - transfer to the parents or any person having authority over the child in return for certain commitments concerning the child's education; - temporary guidance, support and accompaniment; - enrollment of the child in official educational establishments and compulsory

attendance; - placement in another family, approved institution or a trustworthy person.

Article 51

They may be ordered separately or cumulatively depending on the case. When the educational assistance measure decided by the Children's Judge consists of the placement of the child in another family or institution, the duration is 3 months renewable. The educational assistance measure may be replaced or renewed by reasoned decision according to the evolution of the child's situation. In no case may the duration of the measure taken exceed two years.

- **Prohibition to hold certain positions**

[Law No. 2004-004 of July 26, 2004 - providing general guidance for the Education System, of Education and Training in Madagascar](#)

Article 56

It is required that neither of the two persons concerned [the owner and effective Director of a private educational establishment] has been the subject of a judicial conviction for a crime or intentional offense.

Article 57

Persons who have been convicted of a crime or intentional offense against persons or property may not be recruited for work or teaching in private establishments [relating to private educational institutions].

[Law No. 2007-023 of August 20, 2007 - on the rights and protection of children](#)

Articles 25

Guardianship, which aims to protect the child and administer his or her property and begins when both the father and the mother are deceased or in the loss of parental authority, is exercised by a tutor. Those who are unable to be guardians include: minors; the insane; and persons sentenced to an afflictive and infamous punishment, or those notoriously known for their misconduct.

- **Criminal Law - Defamation**

[Law No. 2016-029 Concerning the Mediated Communication Code](#)

CHAPTER IV OFFENSES AGAINST PERSONS

Article 23

Any public allegation or imputation of an incorrect fact that undermines the honor or reputation of a person, the presumption of innocence they enjoy prior to any final conviction, or of a body to whom the fact is attributed constitutes defamation, provided that it results in personal and direct harm to the person or body concerned.

The direct publication or reproduction of such an allegation or imputation is punishable, even if it is made in a dubious manner or if it targets a person or body not expressly named, but whose identification is made possible by the terms of speeches, appeals, threats, writings, printed matter, posters, drawings, advertisements, or

electronic publications. Defamation committed by any of the above means against a State, State institutions and constituted bodies, courts, tribunals, or the armed forces is punishable by a fine of 1,000,000 to 6,000,000 Ariary.

Defamation committed by the same means against a person, a citizen in a temporary or permanent public service or office, an assessor in the course of their duties, or a witness for their testimony is punishable by a fine of 1,000,000 to 2,000,000 Ariary.

[Penal/Criminal Code, 1972](#)

Article 400

Whoever extorts or attempts to extort by force, violence or constraint, the signature or delivery of a writing, an act, a title, or any document containing or operating an obligation, provision or discharge, shall be punished by imprisonment of five to ten years.

Anyone who, by means of a written or verbal threat of defamatory revelations or imputations, extorts or attempts to extort either the delivery of funds or securities, or the signing or delivery of the writings listed above, shall be punished by imprisonment of one to five years and a fine of 180,000 francs to 1,800,000 francs. The same penalties may be applied to anyone who has made a request in bad faith for a declaration of paternity rejected by the civil court.

▪ **Employment Law**

[Carrying the Labor Code](#)

Article 4

Forced or compulsory labor is prohibited. This refers to any work or service exacted from any person under the menace of any penalty for which the said person has not offered themselves voluntarily. This does not apply in the cases listed below:

- Works, services, relief required in circumstances of accidents, shipwrecks, floods, fires or other calamities as well as in cases of robbery, looting, flagrant offenses, public outcries or judicial execution.
- Work of collective interest carried out in application of an agreement freely agreed to by the members of the fokonolona or within the framework of small village works and which have become enforceable.
- Work of a purely military nature when required under the legislative provisions governing the organization of national defense and work of general interest carried out voluntarily within the framework of National Service.
- Any work required of an individual as a consequence of a conviction handed down by a court decision, provided that this work or service is carried out under the supervision and control of public authorities and is intended for public purposes. However, the imposition of work on persons in pre-trial detention and the free transfer of prison labor to individuals, companies or private legal entities are prohibited, even if they are responsible for carrying out public works.

Article 5

Every employee has the right to respect for their dignity. In all employment relationships, no one may be a victim of mistreatment or violence that affects their physical or moral integrity as provided for and punished by the Penal/Criminal Code.

No employee may be subject to any sanction, discrimination in their career or work, or dismissal for having resisted harassment by an employer, their representative or any other person who, abusing the authority conferred on them by their functions, relations or position in the company, has given instructions, made threats, imposed constraints or exerted pressure of any kind on this employee with the aim of obtaining favors of a sexual or other nature for their benefit or for the benefit of a third party.

Sexual harassment in the workplace is considered any unwanted conduct of a sexual nature that interferes with work, conditions employment or the normal course of a career, or creates an intimidating work environment.

No employee may be subject to any sanction, discrimination in their career or work, or dismissal for having testified to the actions defined in the preceding paragraph or for having reported them.

When a body search of staff, upon entering or leaving work, is justified by the particular nature of the work performed or the activity of the company, it may under no circumstances be carried out in conditions contrary to the dignity of employees. In all cases, a body search must only be carried out by a person of the same sex as the person undergoing it.

- **Cyber Security/Computer Law**

- [Law No. 2014-038 - On the protection of personal data](#)

- The right to the protection of personal data is recognized to all persons. It is an autonomous right that is an integral part of human rights. The right to the protection of personal data becomes an essential right for the effective exercise of other fundamental freedoms and rights such as freedom of movement or freedom of information.

- This law aims to protect individuals against the risks of abuse of personal data files and processing with regard to their fundamental rights and freedoms.

- The protection of personal data is based on four pillars:

- the fundamental principles which must govern the design and implementation of personal data processing and which are likely to prevent abuse: such as the principle of the legitimate purpose of collecting and processing personal data, the principle of fairness of collection and processing;
 - the rights of individuals, namely the right of individuals to object to the use of their personal data, the right of access and rectification;
 - the independent authority;
 - the sanctions regime.

Sexual Offenses Against Children

[Law No. 2007-023 of August 20, 2007 - on the rights and protection of children](#)

Article 1

The purpose of this law is to guarantee every child the enjoyment of all fundamental rights inherent to every human being, and all fundamental freedoms.

It indicates measures to protect children against all forms of abuse.

It also determines the procedure used before the competent courts with regard to child victims of any form of violence.

Article 3

Every child enjoys the same rights without distinction of any kind, regardless of race, color, sex, language, religion, political or other opinion of the child or of his or her parents or legal guardians, national, ethnic or social origin, disability, property, birth or any other status.

Article 4

No child shall be subjected to any form of neglect, discrimination, exploitation, violence, cruelty, and oppression.

Article 5

In all decisions concerning him or her, the best interests of the child shall be the primary and determining consideration.

Article 10

The family of origin or extended family, the public authorities, the State have the duty to ensure the survival, protection and healthy and harmonious development on the physical, intellectual, moral, spiritual and social level of a child, in conditions of freedom and dignity.

Article 11

No child may be separated from their parents against their will. They have the right to reside with them, and they have the right to the protection and care of their parents.

Article 12

The child may not be separated from his or her parents except by a court decision based on their best interests. In the event of separation from one or both parents, the child has the right to maintain regular personal relations and direct contact with his or her parents unless otherwise decided by a court order.

Article 66

The State must protect the child against all forms of abuse and take legislative, administrative, social or other measures to put an end to it.

Article 67

Abuse is defined as all forms of violence, physical or moral harm or brutality, abandonment or negligence, mistreatment or exploitation, including sexual violence, perpetrated on a child by his or her parents, legal guardians or any other person. Any sanctions taken against children within the family, schools or the community when they harm his or her physical or moral integrity are considered to be abuse. Perpetrators of abuse are punished by the penalties provided for in the Penal Code according to the offense.

Article 68

Without prejudice to the application of the penalties provided for by the Penal/Criminal Code punishing moral offences committed against minors, parents or legal representatives or any person having authority over an adolescent girl under 18 years of age who is pregnant and abandoned by the presumed father are entitled to take legal action in order to obtain an order against the latter to pay the related expenses as well as maintenance. If the convicted person is a minor, his parents or legal representatives or any person having authority over him are jointly and severally liable to pay the sentence imposed.

[Decree No. 2007-563 - relating to child labor](#)

Article 2

In application of the provisions of article 100 of Law No. 2003-044 of July 28, 2004 relating to the Labor Code, children aged 15 and over may be hired to perform light work; the following are considered light work:

- work that does not exceed their strength;
- work that does not present causes of danger;
- work that is not likely to harm their health or their physical, mental, spiritual, moral or social development.

Article 3

In application of the provisions of article 102 of Law No. 2003-044 of July 28, 2004 relating to the Labor Code, children between 14 and 15 years of age may be exceptionally authorized by the labor inspector to perform light work, if they have completed their compulsory education.

The issuance of the authorization by the Labor Inspector is conditional on the result of a preliminary investigation by the Labor Inspection Service into working conditions, occupational health and safety, the work environment, the protection, health and schooling of the child and local circumstances, the terms of the investigation of which will be set by the decree of the Minister in charge of labor after consultation with the National Committee for the Fight against Child Labor (CNLTE). The authorization of the Labor Inspector is issued revocably.

Article 4

In all cases, the employment of children of either sex is strictly prohibited after 6 p.m.

Article 5

Any recruitment of children must necessarily result in:

- the establishment of a nominal list;

- the production of the medical certificate provided for in Article 9 of Order No. 2003-1162 of November 15, 2003, organizing company medicine, corresponding to said list;
- all administrative documents proving the child's age;
- the establishment in writing of a parental consent duly signed by the father and mother or a person having authority over the child.

These documents must be sent to the relevant Labor Inspector within eight days of the recruitment date.

Article 6

The employer must keep a special register containing all useful information concerning the recruited child, including full identity, type of employment, salary, number of working hours, health, schooling information, and parental status.

Article 7

Any natural or legal person employing children must ensure that good morals and public decency are respected.

It is prohibited to use any form of violence of any kind against them.

Article 10

Within the meaning of International Labour Convention No. 182 relating to the prohibition of the worst forms of child labour and in accordance with the provisions of Law No. 2003-044 of 28 July 2004 on the Labour Code, children under 18 years of age of either sex may not be employed in immoral work, work exceeding their strength, forced labour and dangerous or unhealthy work.

Article 11

It is prohibited to employ children in work of an immoral nature, in particular in the production, handling and sale of printed material, posters, drawings, engravings, paintings, emblems, images, films, compact discs and other objects whose sale, offer, exhibition, display or distribution are punishable by criminal laws or which, without falling under these laws, are contrary to good morals. It is also prohibited to employ children in premises where the work listed in the preceding paragraph is carried out.

Article 12

It is prohibited to employ children in bars, discos, casinos, gambling houses, cabarets. The same applies to outdoor displays located near the aforementioned places as well as any other public place where alcoholic beverages are consumed.

Article 13

The recruitment, use, offering and employment of children of either sex for the purposes of prostitution, the production of pornography or pornographic performances, and commercial sexual exploitation are prohibited. For the purposes of this article: the term "recruitment, use, exploitation, offering and employment of children" means any act involving the engagement of a child in any sexual activities and the transfer of that child to another person or group of persons for remuneration or the promise of any benefit; the term "child prostitution" or

"commercial sexual exploitation" means any use of a child for sexual activities for remuneration or any other form of benefit; the term "child pornography" means any representation, by any means, of a child engaged in actual or simulated explicit sexual activities or any representation of a child's sexual organs, for primarily sexual purposes.

Regarding punishments specifically for "child pornography":

[Penal/Criminal Code, 1972](#)

Articles 346 and 347

The act, with a view to its dissemination, of fixing, recording or transmitting the image of a minor when this image is pornographic in nature is punishable by two to five years' imprisonment and a fine of ten million to fifty million francs. The dissemination of such an image by any means whatsoever is punishable by the same penalties.

The penalties are increased from three to ten years of imprisonment and a fine of twenty million to one hundred million francs when the person is a minor under fifteen years of age.

The act of manufacturing, transporting, distributing by any means whatsoever and whatever the medium a message of a violent or pornographic nature or of a nature likely to seriously harm human dignity, or of trading in such a message, is punishable by two to five years of imprisonment and a fine of fifty million to one hundred million francs when this message is likely to be seen or perceived by a minor.

Where the offences provided for in Article 346 and this Article are committed through the written or audiovisual press, the specific provisions of the laws governing these matters shall apply with regard to the determination of the persons responsible.

Article 14

The recruitment, use, offering and employment of children of either sex for the production and trafficking of narcotics is prohibited. "Drug trafficking" means any offer, offering for sale, distribution, brokerage, sale, delivery for any purpose whatsoever, sending, dispatching, transporting, purchasing, possession or use of drugs.

Article 15

All forms of forced or compulsory labor, including the sale and trafficking of children, the use of children as collateral to pay family debts, slavery, forced or compulsory recruitment for the use of children in armed conflict, are prohibited. Children should under no circumstances be subject to compulsory recruitment into the armed forces.

For the purposes of this article: the term forced or compulsory labor, other than the definition defined under Carrying the Labor Code, Article 4, it also refers to the recruitment, transportation, transfer, the accommodation or reception of a child for the purpose of exploitation.

Article 16

The employment of children as domestic servants or housekeepers is strictly prohibited.

Law No. 2007-038 of January 14, 2008 - amending and supplementing certain provisions of the Penal/Criminal Code on the fight against trafficking in persons and sex tourism

Article 5 - An article numbered 331 bis is inserted after Article 331, worded as follows:

331 bis - Anyone who offends morality by exciting, encouraging or facilitating, to satisfy the passions of others, debauchery, corruption or child prostitution of either sex, shall be punished with forced labor for a period of time.

Article 6 - Three articles numbered 333 ter, 333 quater and 333 2 are inserted after Article 333 bis.

333 ter - The term “trafficking or smuggling in persons” means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation or illegal full adoption of a child by a person known as a trafficker.

Exploitation includes the exploitation of the prostitution of others or other forms of sexual exploitation, unpaid work, forced labour or services, child domestic labour, slavery or practices similar to slavery, servitude or the removal of organs.

The sexual exploitation of a child, of either sex, for commercial purposes is understood to be the act by which an adult obtains the services of a child to engage in sexual relations in return for remuneration, compensation or payment in kind or in cash paid to the child or to one or more third parties provided for in Articles 334 to 335 of the Penal/Criminal Code with or without the consent of the child.

Penal/Criminal Code, 1972

Article 334

Any person who:

1. Who, in any way, knowingly aids, assists, or protects the prostitution of order or soliciting in view of prostitution;
2. Who, in any form, shares the proceeds of another's prostitution or receives subsidies from a person habitually engaged in prostitution;
3. Who, knowingly living with a person habitually engaged in prostitution, cannot justify sufficient resources to enable them to support themselves alone;
4. Who hires, trains, or maintains, even with their consent, a person, even an adult, for the purpose of prostitution, or delivers them to prostitution or debauchery;
5. Who acts as an intermediary, in any capacity, between persons engaged in prostitution or debauchery and individuals who exploit or remunerate the prostitution or debauchery of others.
6. (Law No. 98-024 of 25.01.99) which makes it easier for a pimp to justify fictitious resources.

7. (Law No. 98-024 of 25.01.99) who hinders the action of prevention, control, assistance or rehabilitation undertaken by qualified organizations with regard to persons at risk of prostitution or engaged in prostitution.

Article 335

Any individual who owns, directly or through an intermediary, manages, directs, or operates a prostitution establishment or who habitually tolerates the presence of one or more persons engaged in prostitution within a hotel, furnished house, boarding house, drinking establishment, club, dance hall, or entertainment venue or their annexes, or any place open to the public or used by the public and of which they are the owner, manager, or agent shall be punished with the penalties provided for in the preceding article. The same penalties apply to any person who assists the said owners, managers, or agents. In the event of a new offence within ten years, the penalties incurred shall be doubled.

It is unclear which preceding article was being mentioned in Article 335, but Articles 331 to 333 outline the following penalties:

Article 331

Indecent assault committed or attempted without violence on the person of a child of either sex aged under 14 years, will be punished by five to ten years of imprisonment and a fine of ten million to fifty million francs (Order 62-013 of 10.08.62) Indecent assault committed by any ascendant on the person of a minor of 21 years, even aged over 14, but not emancipated by marriage, will be punished by the penalty provided for in the first paragraph.

(Law No. 98-024 of 25.01.99) Without prejudice to the more serious penalties provided for in the preceding paragraphs or in Articles 332 and 333 of this Code, anyone who commits an indecent or unnatural act with a minor of the same sex under the age of 21 shall be punished by imprisonment of two to five years and a fine of ten million to one hundred million francs.

Article 332

Whoever commits the crime of rape on the person of a child under the age of 15 years shall be punished by forced labor for a period.

In other cases, the person guilty of rape or attempted rape will be punished with five to ten years of imprisonment.

Anyone who commits an indecent assault, commits or attempts to commit it with violence against a child under the age of 15 years will be punished with forced labor for a period of time. In other cases, the penalty will be two to five years of imprisonment.

Article 333

If the guilty parties are the ascendants of the person against whom the attack was committed, if they are of the class of those who have authority over them, if they are their teachers or their paid servants, or paid servants of the persons designated above, if they are civil servants or ministers of a religion, or if the guilty party, whoever they may be, was aided in their crime by one or more persons, the penalty shall be that of forced labor for life in the case provided

for in the first paragraph of Article 332, that of forced labor for time in the cases provided for in the first paragraph of Article 331, in paragraph 3 of Article 332, that of five to ten years of imprisonment, in the cases provided for in paragraphs 3 of Article 331 and 4 of Article 332.

Continuing Article 6

Continuing 333 ter - Sex tourism means the act of a national or foreigner traveling, for any reason whatsoever, and having sexual relations for financial remuneration or other benefits with children or prostitutes, themselves seeking sexual relations to obtain any benefit.

The term “sale of children” means any act or transaction involving the transfer of a child from any person or group of persons to another person or group for remuneration or any other benefit.

333 quater - Trafficking in persons, including children, as well as the sex tourism and incest are crimes. The following are considered child traffickers:

1. Anyone who recruits, transports, transfers, shelters or receives a child in exchange for remuneration or any other benefit or a promise of remuneration or benefit, to place them at the disposal of a third party, even if unidentified, in order to enable the commission against that child of the offences of procuring provided for and punishable by Articles 334 et seq., sexual assault or abuse, exploitation of begging, working or accommodation conditions contrary to their dignity, even if they do not use any of the means set out in Article 333 ter;
2. Anyone who carries out the illegal transport and sale of children in any form and for any purpose, including sexual exploitation, forced labour, slavery, practices similar to slavery and servitude, with or without the consent of the victim;
3. Anyone who, knowing full well the existence of pimping, sexual exploitation or sex tourism, has not reported or denounced the facts to the competent authorities, in accordance with the provisions of Articles 69 and 70 of Law No. 2007-023 of 20 August 2007 on the rights and protection of children, is considered an accomplice. Acts of participation are considered separate offenses.

Article 7 - Three articles numbered 334 ter, 334 quater and 334 are inserted after Article 334 bis. quinto, worded as follows:

334 ter - Whoever hires, trains, or diverts for the purpose of prostitution, even a consenting person, is punished by a penalty of two to five years and a fine of 1,000,000 AR to 10,000,000 Ar. If the offense was committed against a child, of either sex, under the age of 15, the perpetrator shall be punished with forced labor for a period of time.

334 quater - Sexual exploitation is punishable by a penalty of five to ten years of imprisonment and a fine of Ar 4,000,000 to Ar 20,000,000. Sexual exploitation is punishable by forced labor if it is committed on the person of a child, of other sex, under the age of 15 years. If the sexual exploitation was committed for commercial purposes on a child under 18 years of age, the perpetrator is punished with forced labor for a period of time.

334 quinto - Anyone who has sexual relations with a child in exchange for any form of remuneration or any other advantage is punishable by imprisonment of two to five years and

a fine of 1,000,000 to 10,000,000 Ar or one of these two penalties only. The attempt is punishable by the same penalties.

Article 8 - Nine articles numbered 335.1, 335.2, 335.3, 335.4, 335.5, 335.6, 335.7, 335.8, 335.9 are inserted after Article 335, worded as follows:

335.1 - Sex tourism is punishable by a penalty of five to ten years of imprisonment and a fine of Ar 4,000,000 to Ar 20,000,000. Sex tourism is punishable by forced labor if it is committed against a child, of either sex, under the age of 15.

335.2 - Fathers and mothers or other ascendants, who directly or indirectly encourage child prostitution by allowing them to lead a liberal and independent lifestyle, promoting exploitation and/or sexual tourism in their regard both nationally and internationally, are punished by a penalty of five to ten years of imprisonment and a fine of Ar 4,000,000 to Ar 20,000,000 or one of these two penalties only. The same penalties are applied if the perpetrator is either the brother or sister of the minor victim or any person who occupies a similar position within the family, or any person who usually or occasionally cohabits with them and who has authority over them.

335.5 - Any attempt at trafficking, sexual exploitation in any form whatsoever, sex tourism and incest which has been manifested by the beginning of execution, if it has not been suspended or if it has only failed to take effect due to circumstances independent of the will of its author, is considered as the act itself and will be punished with the same penalties.

335.8 - The penalties provided for offenses relating to trafficking, sexual exploitation, sex tourism and incest committed against a child are imposed regardless of the means used to exploit or abuse the victim.

335.9 - Sentences imposed for offenses relating to trafficking, sexual exploitation, sex tourism and incest committed against a child cannot be suspended.

- **Female Genital Mutilation (FGM)/ Female Genital Circumcision**
No legislation was found.

[*Note:* The [Country of Origin Information Report](#) noted that the Harvard's Annual Law Review found that a decree was promulgated on December 4, 1998 establishing the Code of Medical Ethics. Additionally, the [Inter-Parliamentary Union](#) noted that FGM is reportedly not practiced in Madagascar. However, they had "no first-hand official information on the subject" and could not find information on the "existence of specific legislation" on FGM. No other information could be found.]

- **Child/Early/Forced Marriage**
[Law No. 2007-022 of August 20, 2007 - relating to marriage and matrimonial property regimes](#)
Article 3

The President of the Court of First Instance may authorise marriage before 18 years of age with parental or guardian consent as well as the consent of the individual.

[Law No. 2007-023 of August 20, 2007 - on the rights and protection of children](#)

Articles 14 and 46

Parental authority is the set of rights and duties attributed to parents over their child until they reach the age of majority or are emancipated through marriage. Full legal capacity is acquired by the child upon marriage.

Articles 50 and 61

As long as the educational assistance measure [consisting of handing over to the parents or any person having authority over the child in return for certain commitments concerning the child's education; temporary guidance, support and accompaniment; registration of the child in official educational establishments and compulsory attendance; or placement in another family, approved institution or a trustworthy person] is applied, the child cannot be authorized to marry.