

Slavery in Domestic Legislation

Madagascar

Trafficking

- [The revised Constitution Constitutional Law No. 2007-001 of 27 April 2007 \(Translated from French to English by Google Translate\)](#)
- [LAW N ° 2007 - 038 OF 14 January 2008 amending and supplementing certain provisions of the Penal Code on the fight against human trafficking and sex tourism \(Translated from French to English by Google Translate\)](#)
- [Anti-Trafficking Law No. 2007-038](#)
- [Madagascar Criminal Code](#)

Title Only

ACT No. 2008 - 008 against Torture and Other Cruel, Inhuman or Degrading

Legislation

Provision	Text
The revised Constitution Constitutional Law No. 2007-001 of 27 April 2007 (Translated from French to English by Google Translate)	<p>Article 10 - Freedom of opinion and expression, communication, press, association, assembly, movement, conscience and religion are guaranteed to all and can not be limited by respect for rights and freedoms of others and the need to safeguard public order.</p> <p>Article 12 - Any national Malagasy has the right to leave the country and to return the conditions set by law. Everyone has the right to move and settle freely throughout the territory of the Republic respecting the rights of others and the requirements of the law.</p> <p>Article 17 - The state holds the rights for the individual to ensure the integrity and dignity of his person, his full physical, intellectual and moral.</p>
LAW N ° 2007 - 038 OF 14 January 2008 amending and supplementing certain provisions of the Penal Code on the fight against human trafficking and sex tourism (Translated from French to English by Google Translate)	<p>EXPLANATORY MEMORANDUM For the compliance of legislation with the provisions of Malagasy various international instruments ratified by Madagascar, aimed at protecting children from different forms of physical and moral violence, violations of the customs should be subject to prevention and punishment severe and effective. Indeed, it was found in Madagascar now, sexual exploitation and tourism Sexual grow at breakneck speed, in fact, children are particularly vulnerable the widespread and continuing practice of child prostitution and sex tourism, hence the need to punish those who sexually exploit children who are then treated as and commercial sexual objects. Thus, given this, a national action plan relating to the fight against all forms of violence against children including sexual exploitation, should be established. And to complement the existing provisions of the Penal Code, it is necessary to expressly provide in the Malagasy legislation specific offenses of trafficking in sexual exploitation, sex tourism and incest with penalties thereon. This Act, with 11 items is therefore to: - To regulate all forms of trafficking, sale, abduction and exploitation of persons; - Prevent and combat human trafficking, sex tourism and incest; - To take sanctions against traffickers; - Regarded as accomplices who fail to report the facts constituting violations of the customs; - To protect and assist victims of human trafficking, with full respect their human rights, especially women and children; - To involve partners and civil society in prevention efforts. Chapter I is on preventive measures. CHAPTER II concerns the amendments to the Penal Code in Section IV of Chapter I of Title II of Book III, entitled "sexual offenses." Chapter III is on final provisions. It should be noted that this Act provides for the principle of extra territoriality, which provides that person may be prosecuted in Madagascar under these provisions, even if one of offenses under the act was committed abroad and that also if the author is abroad, the principle of extradition can be applied. In addition, for better protection of child victims, specific provisions state that: - Limitation periods begin to run until the age of majority of the child, thereby derogating from the law; - The sentences can not be subject to suspension or amnesty;- The security deposit can not be accepted. These provisions therefore complement those of the Penal Code, including those relating infringements of the customs and specifically those providing and penalizing pimping. This is the purpose of this Act.</p> <p>Article I - This Act aims to: - Setting up preventive measures against human trafficking, exploitation sex and sex tourism; - Amend and supplement certain provisions of the Criminal Code to: • regulate all forms of trafficking, sale, abduction and exploitation of persons; • prevent and combat trafficking in persons; • impose sanctions against traffickers; • protect and assist victims of human trafficking, with full respect their human rights, especially women and children against a revictimization.</p> <p>CHAPTER PREVENTION</p> <p>Art. 2 - In order to fight against trafficking, sale, abduction or the exploitation of people including children, programs, initiatives and other measures of social campaigns information, education and communication and media campaigns to spread throughout the national territory by the authorized structures and measures supported by the State are determined by decree of the Council of Government.</p> <p>Art. 3 - The cooperation of NGOs, Agencies and multi bilateral, the Governments of foreign countries and civil society with the state must be for the effective implementation of programs and measures established.</p>

Art. 4 - A service, conducted under the conditions set by a decree of the Council of Government is responsible for determining the types of valid travel documents and necessary detecting means and methods used by any person or organized group for trafficking people.

CHAPTER II

CRIMINAL CODE CHANGES

Art. 5 - It is inserted after

section 331 a numbered

article 331 bis states: "

Art.331 bis: Anyone who has attempted to morals by inciting, promoting or easier to satisfy the passions of another, debauchery, corruption and child prostitution in one or the other sex is punishable by hard labor. "

Art. 6 - It is inserted after

Article 333 bis, three items numbered 333 ter, 333 quater and 333 quinto read as follows: "

Art. 333 ter: 1. A child means every human being below the age of eighteen years. 2. The term "trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons by threat or use to force or other forms of coercion, of abduction, fraud, deception, abuse of authority or 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 for exploitation or illegal full adoption of a child by a person known trafficker. 3. The operation includes the operation of the prostitution of others or other forms sexual exploitation, unpaid work, labor or forced services, work home of a child, slavery or practices similar to slavery, servitude or the removal of organs. 4. Sexual exploitation of a child of one sex or the other, for commercial purposes understood as the act by which an adult receives the services of a child to sex in return for remuneration, compensation or compensation in cash or in kind paid to a child or a third person or persons provided for in

Articles 334 to 335 bis of the Penal Code with or without the consent of the child. 5. Sex tourism is the fact that a domestic or foreign travel for any reason whatsoever and to have sex against remuneration or other financial benefits with children or prostitutes, looking for their own sex to get any benefit. 6. The pornography of children is defined as any representation, by any means whatsoever, of a child engaged in explicit sexual activities, real or any representation or simulated sexual organs of a child, for primarily sexual. 7. The term "sale of children" means any act or transaction involving the transfer of a child of any person or group of persons to another person or another group against payment or other benefit. The removal or the retention of a child is considered wrongful where it is in

breach of rights of custody attributed to a person, institution or other body, either alone or jointly by the laws of the State in which the child was habitually resident immediately before its removal or return. " "

Art. 333 cc: Human trafficking, including children and the sex tourism and incest are crimes. Is considered child trafficker: 1. Anyone who recruits a child, transports, transfers it, the harboring or receipt in exchange for remuneration or other benefit or promise of remuneration or more, to put at the disposal of another, even if not identified, to allow commission of offenses against the children of procuring defined and punishable under the

Articles 334 and following, assault or sexual abuse, exploitation of begging, working conditions and accommodation contrary to his dignity, even if they involve any of the means set out in

Article 333 ter; 2. Whoever makes the illegal transportation and sale of children in any form whatsoever and for any purpose whatsoever, including sexual exploitation, forced labor, slavery, practices similar to slavery and servitude, with or without the consent of the victim; 3. Whoever, knowing the existence of pimping, sexual exploitation or sex tourism, has not denounced or reported the incident to the appropriate authorities

accordance with

Articles 69 and 70 of Law No. 2007-023 of 20 August 2007 rights and the protection of children is considered an accomplice. Acts of participation are considered separate offenses. " "

Art. 333 quinto: Consent of the victim of trafficking in persons operation is deemed null and void, when one of the means set forth in

Article 333 quater was used. "

Art. 7 - It is inserted after

Article 334 bis, three items numbered 334 ter, 334 quater and 334 quinto read as follows: "

Art. 334 ter: Whoever procures, entices or away for the prostitution, even with the consent a person is punished by sentence of two (2) to five (5) years and a fine of 1,000,000 to 10,000,000 Ar Ar If the offense is committed in the person of a child, the one or the other sex, below the age of fifteen, the author is punishable by hard labor. "

"

Art. 334 c: Sexual exploitation is defined by

Article 333 ter, is punished by the penalty of five (5) to ten (10) years imprisonment and a fine of 4,000,000 to Ar 20,000,000 Ar

Sexual exploitation is punishable by hard labor if it was committed on the person of a child, the one or the other sex below the age of fifteen years. If sexual abuse was committed for commercial purposes on a child of eighteen, the perpetrator is punished with hard labor. "

"

Art. 334 quinto: Anyone who used sex with a children against all forms of remuneration or other benefit is punishable imprisonment for two (2) to five (5) years imprisonment and a fine of 1 million to Ar 10 million or one of these penalties. The attempt is punished the same penalties. "

Art. 8 - It is inserted after

section 335, nine (9) numbered sections 335.1, 335.2, 335.3, 335.4, 335.5, 335.6, 335.7, 335.8, 335.9 read as follows: "

Art. 335.1: Sex tourism is defined by

Article 2, item 4 of this Act, shall be punished the sentence of five (5) to ten (10) years imprisonment and a fine of 4,000,000 to Ar 20,000,000 Ar Sex tourism is punished with hard labor if it was committed against a child of one sex or the other, below the age of fifteen years. The pornography of children, for any representation by any means whether or possession of pornographic material involving children is punishable by the penalties under **Article 334** of the Penal Code. " "

Art.335. 2: The parents or other ancestors, which encourage, directly or child prostitution indirectly by leaving a complete lifestyle liberal and independent, promoting the exploitation and / or sex tourism in respect both nationally and in the international framework, is punished by the penalty of five (5) to ten (10) years imprisonment and a fine of 4,000,000 to 20,000,000 Ar Ar or one of these two penalties. The same penalties applied if the perpetrator is either the brother or sister of the victim minor or any person occupying a similar position within the family or any person regularly or occasionally cohabiting with him and who has authority over her. " "

Art. 335. 3: Sexual intercourse between close relatives or to third degree inclusive, in direct or collateral line, whose marriage is prohibited by law or abuse committed by a parent or other relative or a person having parental authority over a child is called incest. Incest is punished with hard labor if it was committed against a child. In other cases, incest is punishable by five (5) to ten (10) years imprisonment and a fine of 4,000,000 to 20,000,000 Ar Ar " "

Art.335. 4: Anyone who violated the rules laid down by the provisions of law on adoption to an illegal adoption, trafficking is constitutive, the work will be punished hard labor. " "

Art. 335.5: Any attempt to trafficking, sexual exploitation in any form whatsoever, sex tourism and incest that has been shown by a commencement of execution, if it has not been suspended or has failed in its effect by circumstances beyond the will of its author, is considered the act itself and will be subject to the same sentences. " "

Art.335. 6: Child victims of crimes related to trafficking, exploitation sex, sex tourism and incest may, at any time point or enter the public prosecutor or other competent authority acts committed against them and compensation for injury. " "

Art.335. 7: When it comes to offense of trafficking, sexual exploitation, sex tourism and incest committed against a child, the statute of limitation for public begins to run only from the day the child victim reaches the age of eighteen years. If preventive detention of the author, the security provided by sections 346 and of the Code of Criminal Procedure can not be used. " "

Art. 335. 8: Penalties for offenses of trafficking, exploitation sex, sex tourism and incest committed against a child are pronounced regardless of the means used to exploit or abuse the victim. " "

Art.335. 9: Sentences for crimes relating to violations of the trafficking, sexual exploitation, sex tourism and incest committed against a child may be subject to suspension. " "

Art. 9 - It is inserted after

Article 335 bis, two articles numbered 335 ter, 335 quater and written: "

Art.335 ter: Nationals and persons habitually resident in Madagascar who engage in trafficking, sexual exploitation, sex tourism in other countries are prosecuted and punished in accordance with the Penal Code. " "

Art. 335 c: Requests for extradition of persons wanted for proceedings in a foreign state are executed for offenses under this Act or for the purpose of enforcing a sentence for such an offense. The procedures and principles set by the extradition treaty in force between the applicant and Madagascar are applied. In the absence of an extradition treaty or legislation, extradition is executed accordance with the procedure and the principles defined by the Model Treaty on Extradition adopted by the UN General Assembly in Resolution 45/116. "

Article 262 of
the Labor
Code

criminalizes labor trafficking

Anti-
Trafficking
Law No. 2007-
038,

prohibits all forms of human trafficking, though it only prescribes punishments for sex trafficking.

Madagascar
Criminal Code

Article 354 Whosoever by deception or violence kidnaps a minor or causes a minor to be kidnapped, lured, abducted or removed from a location where he was placed by persons in authority or persons to whose authority he had been submitted or entrusted shall be liable to a term of imprisonment of from five to ten years.

Article 334 (1) Procuring by assisting or protecting the prostitution of another person or soliciting with a view to prostitution; (2) Procuring by sharing the proceeds of prostitution; (3) Procuring through life companionship with a person habitually engaged in prostitution; (4) Procuring by recruiting, inveigling or maintaining with a view to debauchery; (5) Procuring by giving another person over to prostitution or debauchery; (6) Procuring by acting as an intermediary (canvassing, written or oral mediation, soliciting, procuring, touting for custom, etc). Procuring is a criminal offence punishable by the following: - without aggravating circumstances: a term of imprisonment of from six months to two years and a fine of from 300,000 to 3,000,000 FMG; - With aggravating circumstances (minor victim, crime accompanied by violence, etc); a term of imprisonment of from two to five years and a fine of from 750,000 to 7,500,000 FMG.

Article 335 The keeping of a Brothel. All acts or attitudes of any owner, manager or person placed in charge of a hotel, boarding house, bar, club or dance hall who does not oppose the habitual presence of one or more persons engaging in prostitution in the premises are deemed to be criminal, whether or not the prostitute is a client, tenant.



The Database was created by Dr. Jean Allain and Dr. Marie Lynch, School of Law, Queen's University, Belfast, through funding provided by The Leverhulme Trust. The Database is up to date as of October 2011.



The Leverhulme Trust