# 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).
- Anti-Trafficking Law No. 2007-038.
- Madagascar Criminal Code.

**Title Only**

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

## Legislation

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<td>The revised Constitution Constitutional Law No. 2007-001 of 27 April 2007 (Translated from French to English by Google Translate)</td>
<td><strong>Article 10</strong> - 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. <strong>Article 12</strong> - 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. <strong>Article 17</strong> - The state holds the rights for the individual to ensure the integrity and dignity of his person, his full physical, intellectual and moral.</td>
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<td>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)</td>
<td>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 &quot;sexual offenses.&quot; 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. Article 1 - 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. CHAPTER PREVENTION <strong>Art. 2</strong> - 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. <strong>Art. 3</strong> - 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.</td>
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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: "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 means 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 in 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 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: "...
In Madagascar, the Penal Code and the Labor Code criminalize various forms of human trafficking. Article 334 of the Penal Code prohibits all forms of human trafficking, though it only prescribes punishments for sex trafficking.

**Article 334**: 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.