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THE WOMEN'S LEGAL RIGHTS INITIATIVE

**MEMORANDUM OF UNDERSTANDING
BETWEEN MADAGASCAR'S MINISTRY OF JUSTICE
AND
THE WOMEN'S LEGAL RIGHTS INITIATIVE:
COMPLIANCE OF NATIONAL TEXTS WITH THE CONVENTIONS
REGARDING WOMEN'S RIGHTS RATIFIED BY MADAGASCAR**

October 15, 2006

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THE WOMEN'S LEGAL RIGHTS INITIATIVE

A Task Order Under the Women in Development IQC

Contract No. GEW-I-00-02-00016-00

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Memorandum of Understanding

« Compliance of National Texts with the Conventions Regarding Women's Rights Ratified by Madagascar »

Project WLR

This Memorandum of Understanding (MOU) is entered into

Between

The Ministry of Justice, represented by Mrs. Laurette LALAHARINIVO, as Director of Legislative Reforms, hereafter called MOJ

And

The Women's Legal Rights Initiative –WLR- Madagascar, represented Mrs. Vololona Razafindrainibe, National Coordinator, by Mrs. Mme Lelia Mooney, Legal Specialist, and by Mr. David Vaughn, Chief of Party

Given that:

- The Ministry of Justice (MOJ) sent to WLR a partnership request based on the collaborations developed with WLR during 2005. These collaborations consisted in the MOJ's active participation at WLR's regional training workshops on the Family Code for civil society organizations.
- The general objective of this partnership request is the «Compliance of national texts with the Conventions regarding Women's Rights ratified by Madagascar - *Mise en conformité des textes nationaux avec les Conventions relatives aux droits de la Femme ratifiées par Madagascar*».
- WLR is highly interested in developing strong collaboration ties with the MOJ in order to raise the public awareness on critical issues that affect the status of women within the Family Code and get the public's support so the MOJ can further proceed with the necessary amendments to this national code in accordance to the international human rights and women's rights conventions of which Madagascar is a signatory part. WLR also seeks to support the MOJ's efforts in promoting further training of its cadre of Magistrates and legal professionals on women's legal rights, drafting gender aware legislation, enforcement of women's legal rights and the combat of issues such as domestic violence.
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I. Background

The institution of marriage, as a natural and moral base of the Malagasy family, has been regulated by several oral and written laws steeped in custom. The Civil Code redaction committee that drafted the marriage legal dispositions has given the Malagasy laws that reflect the values and traditions of the society. However, that traditional society was patriarchal, both in lineage and in locality (*patrilinéaire et patrilocale*).

It comes as no surprise then if certain contradictions and holes still persisting in the family texts might indirectly maintain inequalities between the men and women legal rights in several sectors (great disparities in political and economical participation, access to employment, education and health)

The Malagasy Constitution, which forbids all forms of discriminations based on sex, also prescribe that “ all Conventions related to Women and Children are considered as an integral part the national legislation (‘*du droit positif national...*’)-

Madagascar had also ratified CEDAW, which mentions in particular in its Article 5. the necessity to “ take all appropriate measures to eliminate all the discriminations resulting from marriage and. in family matters in particular, ensure the same rights and responsibilities in their marriage based on the equality of men and women ...’

By ratifying that Convention, Madagascar has the obligation make its national legislation in full compliance to the spirit and principles of CEDAW. Consequently, the Ministry of Justice is seeking to bring fundamental legislative reforms that must be done to the texts that regulate the family law.

II. Objective

Compliance of national texts with the Conventions regarding Women’s Rights ratified by Madagascar

III. Project Description

- Elaborate a synthesis document of the proposed law reforms/ amendments
- Draft a law proposal
- Before drafting the proposal, the Ministry of Justice is considering to conduct several regional consultations to obtain popular buy-in of the proposed changes. The proposed reforms concern in particular spouse’s equal rights and responsibilities, parental authority, minimum legal age to contract marriage, single parenthood and other related issues raised by the public during the consultations

IV. Conclusions

The Ministry of Justice solicits a partnership with WLR to implement the activities described above.

WLR Initiative will bring its technical, logistics, material and experts to support the above project.

The parties hereto convene and agree as follows:

Article 1: Purpose of the Protocol

- The general objective of this partnership is to strengthen the “Compliance of national texts with the Conventions regarding Women’s Rights ratified by Madagascar” - «*Mise en conformité des textes nationaux avec les Conventions relatives aux droits de la Femme ratifiées par Madagascar*» to allow the Ministry of Justice to draft legislation conforming to the international conventions and initiate the

necessary activities to conduct consultations. By doing this, the MOJ will be able to gather the public's buy-in of the proposed amendments.

- This protocol constitutes the global frame of the collaborative efforts that the MOJ will undertake with WLR. The implementation of these activities will be based on the activities, timelines and WLR's results framework that both parties will discuss and jointly implement.

Article 2: Responsibilities of each Party

The Ministry of Justice agrees to:

- Facilitate the public conferences and/or debates during the regional consultations (Antananarivo, Fort Dauphin, Mahajanga, Toamasina, Fianarantsoa) and provide the logistical arrangements of the Magistrates (when it applies) and participants that will attend/facilitate these events. By doing this, the MOJ will be able to gather the public's buy-in of the proposed amendments. These series of consultations will be implemented between October 2005-February 2006.
- Increase the level of reliable information and strengthen the use and analysis of such information; prepare the reports from each one of the 5 consultative events including participants' lists. This document will compile the conclusions of both the proposed reforms and the public's comments. This final document will be concluded by February 2006 and will be disseminated at a TV public presentation that will be conducted by the MOJ at TVM on March 2006. It will also serve as the foundation for preparing the draft legislation that will be used at the National Validation Workshop that will take place on March 2006 and whose results will be sent to the Government Council in April 2006.
- Promote the information flow and exchange between the Ministry of Justice and the civil society, other concerned Ministries and both parliamentary chambers. This could also include a follow-up with the objective of raising awareness after the amendments have been passed by Congress.
- Strengthen the gender mainstreaming of the legal system among Magistrates and Legal Professionals.
- Prepare the technical contents of the messages (radio/TV) that will be used to disseminate the new amendments to the law after it has been finally passed. This activity will take place from June-September 2006.
- Identify and select up to 25 Magistrates and legal professionals (both from the MOJ and the School of Magistrates) that will attend the training of trainer workshop on women's legal rights, drafting gender aware legislation, enforcement of women's legal rights (such as domestic violence) and the application of the new law amended.
- Provide WLR with all the Monitoring and Evaluation data on a quarterly basis based on WLR's results framework.
- This group of 25 will create a cadre of Magistrates/Legal Professionals that will then replicate the methodologies among other colleagues within the MOJ, the Judicial School and other legal professional institutions and government agencies.
- The MOJ will be responsible for monitoring the way the group of 25 Magistrates/Legal Professionals use/replicate the models developed at the training workshop as part of their activities.

WLR Initiative agrees to:

- Provide all logistical and technical support needed to implement the above activities
- In the occasion of the implementation of this protocol, WLR will not transfer funds to the MOJ. The type of collaboration that WLR provides will consist of the following:
- **A- For the Consultations:** provide logistics support for the transportation of the MOJ's Magistrates to the 5 consultation sites (when needed), provide for local logistic arrangements (lunch, coffee-breaks, and materials), collaborate with the dissemination of the events with the local media; provide facilitators for the consultations. Provide logistics for the National Validation Workshop. Provide technical assistance and resources for the preparation of up to 5 radio/TV messages on the new provisions of the law that will be disseminated on a regular basis from June-September 2006.
- **B- For the Training of 25 Magistrates/Legal Professionals:** hire an international expert on women's legal rights, drafting gender aware legislation and enforcement of women's legal rights laws (domestic violence) and the application of the new law,, logistics of the event (site- to be determined with the MOJ-), hire a local expert on women's legal rights and gender mainstreaming to act as a co- facilitator of the training event, prepare a final report of the event and materials.

Article 3: Length of the protocol

This present protocol will take effect October 15, 2005 until September 30 2007.

Article 4 : Résiliation

Ce protocole peut être annulé par les parties à tout moment par lettre établie par l'une des parties initiatrices de l'annulation.

Article 5 : Actions, Plaintes ou réclamations contre les Parties contractantes

Chaque partie supportera tous les risques engendrés par la mise en œuvre des activités liées au présent Projet pour les engagements qui les concernent.

Article 6 : Règlement des différends

Sauf convention contraire entre les Parties, tout différend concernant l'interprétation ou l'application du présent Protocole sera réglé à l'amiable. Au cas où cette démarche se trouve infructueuse, le litige sera porté devant le tribunal compétent.

Article 7 : Avenant et modification du Protocole d'Accord

Le présent Protocole pourra être amendé et/ou modifié par accord écrit conclu entre les Parties.

Article 8 : Non participation à l'appui des activités terroristes et de drogues

L'institution est informée que l' "U.S Executive Orders" et les lois des Etats Unis interdisent et condamnent toutes transactions ou toutes affectations de ressources ou d'appui aux individus et organizations terroristes ou promouvant la drogue. Il incombe à la responsabilité de l'institution subventionnée de se conformer à l' « Executive Orders » et à ces Lois.

Article 9 : Modification et amendement

Le présent protocole pourrait être amendé suite à un accord entre les parties.

Fait à Antananarivo, _____ 2005

In three (3) copies.

For the Ministry of Justice:

Signature _____

Laurette LALAHARINIVO

Director of Legislative Reforms

Date _____

For WLR Initiative:

Signature _____

David Vaughn

Chief of Party

Date _____

Signature _____

Lelia Mooney

Legal Specialist

Date _____

Signature _____

Vololona Razafindrainibe

National Coordinator

Date _____

Pour USAID/Madagascar:

Yvette Malcioln

Signature:

Date _____