



General Assembly

Distr.: General
7 November 2013
English
Original: English/French

Human Rights Council
Working Group on the Universal Periodic Review
Eighteenth session
27 January–7 February 2014

Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Comoros*

The present report is a summary of three stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

1. The National Commission on Human Rights and Freedoms (CNDHL) observes that Comoros has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. The Commission recommends the signature and ratification of the Second Optional Protocol as soon as possible.²

2. The Joint Submission (JS) recommends that Comoros should ratify the international legal instruments and bring its domestic law into line with the ratified conventions.³

2. Institutional and human rights infrastructure and policy measures

3. JS notes that the Government adopted the Act on the establishment of the CNDHL in 2012 and that it was inaugurated in October 2012. JS considers it to be a major step forward that requires the effective involvement of the Government and civil society in order to tackle the frequently noted weaknesses of the judiciary and all forms of impunity. It points out, however, the need to improve the necessary logistical, material and financial resources.⁴

4. JS recommends that Comoros guarantee genuine independence for the CNDHL and provide it with sufficient logistical resources to make its action more visible.⁵ To make the Commission fully operational, it also recommends that Comoros set up offices in the islands, establish human rights focal points in Government departments to interact with it, and respect the legally defined status of its members and staff.⁶

5. The CNDHL takes note of the establishment of institutions promoting good governance, such as the Anti-Corruption Commission and the Procurement Authority. However, it points out that these institutions do not have sufficient logistical, human and financial resources to operate effectively.⁷

6. JS states that civil society in Comoros has not achieved an effective capacity to influence public opinion and have a bearing on Government decisions as a source of proposals and as a counterbalancing power. It has not been able to fully play its role as a force for better governance against poor public administration and corruption owing to the shortage of permanent staff, and shortcomings in the mobilization of funds and the ability to be self-supporting. JS recommends that Comoros involve civil society more fully in political dialogue and in any process for designing and implementing development programmes.⁸ The CNDHL recommends promoting and encouraging the formation of civil society organizations to carry out activities in the general interests of the population.⁹

B. Cooperation with human rights mechanisms

Cooperation with treaty bodies

7. The CNDHL observes that the instruments of ratification of treaties have not been submitted to the United Nations bodies concerned in line with the relevant procedures.¹⁰

C. Implementation of international human rights obligations

1. Equality and non-discrimination

8. JS notes that the access of women in Comoros to justice, electricity, drinkable water supplies and microfinance remains a problem, particularly in rural areas.¹¹ JS recommends that Comoros promote income-generating activities for women.¹²

2. Right to life, liberty and security of the person

9. The CNDHL observes that the death penalty is provided for under article 7 of the Criminal Code, which establishes that “severe penalties are: the death penalty, forced labour for life or for a specific term and imprisonment”. The CNDHL notes that the death penalty is due to be repealed under the Criminal Code reform. The bill on the reform of the Criminal Code should be adopted during the next parliamentary session (October to December 2013).¹³

10. The CNDHL also notes that conditions of detention are intolerable. The control mechanisms seem insufficient and prison conditions are deteriorating owing to an increase in the number of inmates and a failure to plan expansions of the current premises in the face of an increasingly explosive situation. Prison cells are thus overcrowded and worryingly insalubrious, while food rations stand at no more than \$2 per day. The lack of control and medical care for prisoners should also be emphasized.¹⁴

11. The CNDHL and JS recommend that Comoros improve detention conditions for the benefit of prisoners’ health, diet, human dignity and level of information.¹⁵ The CNDHL also recommends testing alternative approaches to imprisonment, such as social reintegration, criminal mediation and other similar methods aimed at limiting the number of inmates.¹⁶

12. The CNDHL notes that deprivation of liberty is an area that sparks debate between professional personnel in the legal system, lawyers and civil society organizations. Not only are the legal procedures often breached, but also and above all the right of an individual to be assisted by a lawyer from the moment he or she is taken into custody is still not effective.¹⁷

13. Similarly, the duration of custody in excess of the legal limit and the increasing practice of pretrial detention: (a) are violations of the right to the presumption of innocence; and (b) demonstrate the difficulties faced by the judiciary in confronting criminality, partly owing to the slow course of justice and the inadequate resources available for investigation and prosecution.¹⁸

14. In addition, prisoners do not receive education aimed at promoting their social reintegration, which means that, on leaving prison, they fail to reintegrate into society.¹⁹

15. Furthermore, in the context of the reform of the Criminal Code and the Code of Criminal Procedure, the CNDHL advocates that a special provision for legal aid should be approved, so that a lawyer is involved from the first hour of deprivation of liberty.²⁰

16. The CNDHL recommends strengthening the independent and most effective institutions so as to ensure that investigations are reliable and objective and can serve as a genuine basis for punishing the abuse of prisoners by prison officers.²¹

17. JS draws attention to an increase in juvenile delinquency and acts of sexual violence mainly against women and children. There has accordingly been a sharp increase in the number of murders in recent years; newborn babies abandoned in dustbins; women and men raped and/or murdered; and sometimes political assassinations.²²

18. JS notes that measures have been taken to tackle violence against women and the family (Family Code, criminalization of sexual violence). Nevertheless, the lack of victim protection measures (measures to remove a woman battered by her husband from the home, measures to relocate vulnerable or mistreated children) presents a challenge.²³

19. JS adds that, although the establishment of platforms for NGOs and associations campaigning against violence reinforces the efforts of the Government and partners to combat all forms of violence effectively, technical and financial assistance is also necessary to tackle the problem.²⁴

20. JS recommends that Comoros should publicize and implement national laws on the rights of children and women and ensure the sustainability of initiatives to promote and protect those rights.²⁵ JS also recommends improving the counselling units for child victims of abuse and ill-treatment established since 2004, and creating an agency to provide assistance and temporary care for women victims of violence and a fund to provide them with medical, psychological and legal support.²⁶ JS also recommends setting up a legal committee on case files for all forms of violence.²⁷

21. JS also notes a new form of exploitation of children from poor families. The same is the case for children placed in foster-families, who are often subjected to violence; that certainly has harmful consequences, such as increased delinquency and the disruption of schooling at a young age.²⁸

22. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) states that corporal punishment of children is lawful in Comoros, despite the Government's acceptance of recommendations to prohibit it in the home and other settings made during the UPR in 2009²⁹ and the recommendations of the Committee on the Rights of the Child.³⁰

23. GIEACPC indicates that corporal punishment of children in the home, schools, penal institutions and alternative care settings is not prohibited. The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a "right" to physically punish children could challenge efforts to achieve prohibition. This situation also means that corporal punishment — at least to some degree — is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence: prohibiting laws, as well as recommendations to enact them, would be effective only when they explicitly refer to corporal punishment.³¹

24. GIEACPC hopes that the UPR Working Group will note with concern the legality of corporal punishment in Comoros and urges the members of the UPR Working Group to specifically recommend, as a matter of priority, prohibition of corporal punishment by enacting legislation.³²

3. Administration of justice, including impunity, and the rule of law

25. JS notes that the judiciary still suffers from a lack of independence owing to political and social factors. The judiciary appears, however, to lack credibility in the eyes of the public.³³

26. The CNDHL also draws attention to the serious obstacles and difficulties impeding access to justice: (1) institutional or formal justice is often ignored, and even openly defied, a fact which accordingly inspires little public trust in its credibility, impartiality and independence; (2) the institution is too remote from litigants, access to it is excessively rigid and the price is unfairly inflated by certain judicial officials over and above any legal framework; (3) there are many dismissals of hearings and blatant delays in trials for an excessive length of time, with decisions executed only at the end of the process; (4) the necessary structures for the judiciary to work effectively and rationally are lacking; (5)

executive power takes precedence over judicial power through judges under the hierarchical authority of the Ministry of Justice; and (6) the right to legal aid and to the presumption of innocence is a dead letter.³⁴

27. JS recommends that Comoros should guarantee the independence and credibility of the judiciary and train and raise the awareness of court officials.³⁵ JS and the CNDHL recommend setting up and operating a judicial service commission.³⁶

28. The CNDHL also recommends taking steps to expedite justice and bring it closer to the public. In the opinion of the CNDHL, the draft code of criminal procedure and the draft criminal code should include provisions to speed up justice for citizens and bring the system closer to them.³⁷

29. Furthermore, the CNDHL considers that the lack of staff — both judges and court officials — should be remedied as a matter of urgency through regular and full training.³⁸ There is also an urgent need to revive the official gazette and encourage the publication of reviews of national jurisprudence.³⁹ Similarly, the installation of internal computer networks in and between courts should make it possible to circulate digital versions of court decisions more smoothly.⁴⁰

30. JS notes that the majority of murder cases go unpunished. Civil society has observed weaknesses in the judicial police: insufficient, unqualified and ill-equipped staff, haphazard recruitment and irrational promotions.⁴¹ The CNDHL also notes that a number of homicides committed over the past two years have been investigated but not led to any charges.⁴² These failings are principally due to a lack of human, technical and financial resources. JS recommends setting up a police department specializing in the science of criminology.⁴³

31. JS also states that there is no criminal policy for preventing and combating violence against women, and punishing it.⁴⁴

32. The CNDHL welcomes the Government's initiative in constructing a young offenders' section in the short-stay prison at Koki, Anjouan, but points out that there is still a patent lack of such facilities at Moroni and Fomboni. Criminals are held in the same cells with no separation of minors and adults.⁴⁵

33. JS states that, after the 2010 presidential and legislative elections, out of a concern for free and transparent elections, independent national electoral commissions were established, an electoral code was adopted, and national and international observation missions were conducted. Irregularities were nevertheless recorded in some polling stations.⁴⁶ The Government subsequently introduced a new counting system on the basis of biometric electoral cards, although the process has not been completed. JS recommends that Comoros finalize the biometric card counting system.⁴⁷

34. JS states that the Government adopted the Anti-Corruption Act in June 2011 and set up an Anti-Corruption Commission in 2012. It notes with regret, however, that some flagrant cases go unpunished and the rules and procedures are often flouted.⁴⁸ JS recommends that Comoros conduct an ethics inquiry among the commissioners making up the anti-corruption unit; scrupulously apply the laws in force in order to end impunity; ensure that the Anti-Corruption Commission has genuine independence; provide it with the means necessary for it to operate effectively; and publish the assets of leading politicians, senior State officials, and executives of public enterprises and companies.⁴⁹

4. Freedom of expression, association, and peaceful assembly, and right to participate in public and political life

35. JS states that progress has been made in recent years with regard to the right to strike and demonstrate and freedom of expression. Nevertheless, JS notes that some individuals

may be deprived of their freedom of expression, the most flagrant case being that of a lawyer. JS recommends that Comoros draft a bill on the judicial immunity of lawyers.⁵⁰

36. JS also takes note of the low percentage of women at decision-making levels. Coverage of women's specific needs is not totally effective, and greater equality between the sexes is a sine qua non for successfully combating poverty.⁵¹ JS recommends that Comoros draft and adopt laws raising the quota of women at decision-making levels, and increase the percentage of women in decision-making posts.⁵²

5. Right to work and to just and favourable conditions of work

37. JS states that the problems linked to employment and working conditions are harmful and recurrent. Comoros is going through a period of economic crisis which brings with it high unemployment, especially among young people, and increased poverty. The civil service, which is the country's main employer, is currently saturated. Civil servants complain of disturbing working conditions in particular: wretched wages; no social protection; a lack of health, safety and security in the workplace; non-guaranteed jobs; and non-compliance with international standards and social legislation.⁵³

38. JS also notes that recruitment procedures are not always respected. Consequently, a large number of people work without contracts, with all the consequences which that implies.⁵⁴

6. Right to social security and to an adequate standard of living

39. JS notes that, even for an agrarian country, the conditions and standard of living of the people of Comoros remain alarming. The majority of families live below the poverty line. Agricultural practices are still traditional and inadequate. The country imports basic foodstuffs, and yet monitoring of the quality of these products is substandard. Civil society notes a lack of political will to improve the quality of life of the majority of the population.⁵⁵

40. JS recommends that Comoros should disseminate the Poverty Reduction Strategy Paper, adopt sustainable modes of production and consumption, and ensure food security for women, children and persons with disabilities.⁵⁶ In addition, it recommends speeding up implementation of the recommendations of December 2012 to reach completion point of the Heavily Indebted Poor Countries (HIPC) Initiative of the International Monetary Fund.⁵⁷ The CNDHL recommends taking into consideration the gender and human rights dimensions when allocating HIPC funds.⁵⁸

7. Right to health

41. The CNDHL observes that the national health system has been strengthened and the health platform improved in 2011 by establishing a dialysis centre at the national hospital with emphasis on free emergency health care. The CNDHL also takes note of the redevelopment of the maternity ward of the Domoni medical-surgical centre in Anjouan and the construction of an operating theatre in Mbeni (Grande Comore) in June 2013. With regard to maternal and child health, the State has undertaken measures to reduce the mortality rate by launching the Campaign on Accelerated Reduction of Maternal Mortality in Africa and allocating funds from the Unique Administrative Fee to help reduce the cost of Caesarean sections from 20,000 to 10,000 Comorian francs.⁵⁹

42. The CNDHL notes, however, that there is not always effective access to health care due to staff shortages and overcrowding at facilities. In addition, some services (e.g. birth, emergency) are often free in theory, but the families of those treated are frequently obliged to pay additional fees and buy the various consumables used for the treatment. What is more, the CNDHL deplores the non-imposition of penalties for chronic absenteeism and the

unprofessionalism among medical personnel.⁶⁰ The CNDHL recommends improving access to health care for vulnerable persons, including persons with disabilities, pregnant women, children and older persons.⁶¹

43. The CNDHL draws attention to infanticides due to unwanted pregnancies and the lack of shelters for unwanted children.⁶²

8. Right to education

44. JS notes that there remain problems with children's access to education and the supervision of children in difficult circumstances. The Ministry of Education has recorded a drastic drop in pupil numbers. Each year, the pass rate has been falling for many reasons, including the fact that children are dropping out of primary school or their schooling is not provided for.⁶³ JS recommends that Comoros should facilitate children's access to primary schools, promote the return to school of children who drop out, and accelerate the implementation of the 2013–2015 Interim Education Plan.⁶⁴

9. Persons with disabilities

45. The CNDHL notes that efforts have been made by the Ministry of Islamic Affairs to allocate three-monthly grants of 10,000 Comorian francs (equivalent to \$28) per person. The Directorate-General for Islamic Affairs carried out a study in 2012 to update the list of persons with disabilities entitled to the grant.⁶⁵ However, updating is still not complete. The CNDHL recommends that Comoros should update the list of persons with disabilities on the basis of the 2012 study and increase the grant.⁶⁶

46. The CNDHL also recommends implementing the Interim Education Plan with emphasis on access to education for children with disabilities.⁶⁷

10. Right to development and environmental issues

47. The CNDHL takes note of the introduction of a number of policies on the environment, such as the national environmental policy, the national plan of action on the environment and multilateral agreements on the environment. Despite these efforts, the CNDHL takes note of a failure to comply with administrative and legal instruments in practice; serious difficulties with sustaining projects over time; a serious land issue because there was no land survey section; no land management plan; and no budgetary provisions for the environment.⁶⁸

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submission

GIEACPC Global Initiative to End All Corporal Punishment of Children, London, United Kingdom of Great Britain and Northern Ireland

Joint submission

JS Joint submission by: HIFADHU, Moroni, Comoros; SUBUTI WAMBE; FECODEV (Réseau Comores); L'ONG HIFADHU de lutte contre les violences faites aux femmes et aux enfants; la Fondation Comorienne des Droits de l'Homme; La Confédération des travailleuses et travailleurs des Comores; Avocats sans frontière; la Maison des Organisations de la Société Civile; Le Réseau femme et développement; le Croissant Rouge Comorien; la Fédération Comorienne des Organisations de la Société Civile (FECOSC)

National human rights institution

- CNDHL Commission Nationale des Droits de l'Homme et des Libertés, Moroni, Comoros
- ² CNDHL, para. 62.
- ³ JS, para. 25.
- ⁴ JS, para. 9.
- ⁵ JS, paras. 30 and 34.
- ⁶ CNDHL, paras. 56, 57 and 58.
- ⁷ CNDHL, paras. 41, 42, and 44.
- ⁸ JS, paras. 5 and 26.
- ⁹ CNDHL, para. 52.
- ¹⁰ CNDHL, para. 10.
- ¹¹ JS, para. 19.
- ¹² JS, para. 47.
- ¹³ CNDHL, paras. 13–14.
- ¹⁴ CNDHL, para. 20.
- ¹⁵ CNDHL, para. 54.
- ¹⁶ CNDHL, para. 54.
- ¹⁷ CNDHL, paras. 15–16.
- ¹⁸ CNDHL, para. 17.
- ¹⁹ CNDHL, para. 18.
- ²⁰ CNDHL, para. 19.
- ²¹ CNDHL, para. 51.
- ²² JS, para. 13.
- ²³ JS, para. 18.
- ²⁴ JS, para. 21.
- ²⁵ JS, paras. 37 and 62.
- ²⁶ JS, paras. 56, 57 and 61.
- ²⁷ JS, para. 35.
- ²⁸ JS, para. 11.
- ²⁹ Recommendation 65.31. See A/HRC/12/16, p. 16.
- ³⁰ GIEACPC, p. 1.
- ³¹ GIEACPC, para. 1.3.
- ³² GIEACPC, p. 1. and para. 1.3.
- ³³ JS, para. 10.
- ³⁴ CNDHL, para. 23.
- ³⁵ JS, paras. 36 and 42.
- ³⁶ JS, para. 38 and CNDHL, para. 53.
- ³⁷ CNDHL, para. 47.
- ³⁸ CNDHL, para. 47.
- ³⁹ CNDHL, para. 49.
- ⁴⁰ CNDHL, para. 50.
- ⁴¹ JS, para. 13.
- ⁴² CNDHL, para. 12.
- ⁴³ JS, para. 43.
- ⁴⁴ JS, para. 22.
- ⁴⁵ CNDHL, para. 22.
- ⁴⁶ JS, para. 7.
- ⁴⁷ JS, para. 27.
- ⁴⁸ JS, para. 8.
- ⁴⁹ JS, paras. 28, 29, 30, 32 and 33.
- ⁵⁰ JS, paras. 12 and 39.
- ⁵¹ JS, para. 18.
- ⁵² JS, paras. 58 and 60.
- ⁵³ JS, para. 16.
- ⁵⁴ JS, para. 11.
- ⁵⁵ JS, para. 14.

⁵⁶ JS, paras. 46, 48, and 49.

⁵⁷ JS, para. 54.

⁵⁸ CNDHL, para. 55.

⁵⁹ CNDHL, paras. 25–27.

⁶⁰ CNDHL, para. 28.

⁶¹ CNDHL, para. 59.

⁶² CNDHL, para. 12.

⁶³ JS, para. 15.

⁶⁴ JS, paras. 50, 51 and 53.

⁶⁵ CNDHL, paras. 37 and 38.

⁶⁶ CNDHL, para. 60.

⁶⁷ CNDHL, para. 61.

⁶⁸ CNDHL, paras. 39–40.