



Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

UNION OF COMOROS

I. BACKGROUND INFORMATION

The Union of Comoros is neither a State party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, nor to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The Union of Comoros is also not party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. Moreover, Comoros has not ratified the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

To UNHCR's knowledge, there are currently no asylum-seekers, refugees, stateless persons or internally displaced persons in the Union of Comoros.

II. ACHIEVEMENTS AND BEST PRACTICES

The Government of the Union of Comoros is committed to improve civil registration and vital statistics systems (CRVS), agreed upon within the framework of the African region CRVS agenda. The Union of Comoros has a relatively high rate of registration of children under five (87% for children in urban areas, and 83% for children in rural areas).¹ The country was scored second best (after Gabon) in Sub-Saharan Africa on birth registration during the period 1999-2003.

The promulgation of a new legislation on decentralization in 2011-2012, is expected to further improve access to civil registration by the local population as well as other activities, such as training of 200 officials on civil registration; harmonization of birth certificates for the three islands as well as the printing of secured blank registration certificates by the Government.

¹ State of the World's Children 2012, UNICEF

The Government of the Union of Comoros participated in all relevant ministerial and technical meetings on the civil registration and vital statistics in Africa. It has proactively reported on the progress made (including best practices) in the implementation of the mid-term action plan on birth registration adopted by the African Ministerial Conference on civil registration and vital statistics.

The commitment and contribution of the Union of Comoros, as a member of small island developing states, to the global response to address consequences of the climate change on development deserves to be acknowledged and encouraged.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: National System for Refugee Protection

The Union of Comoros is not a State party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol relating to the Status of Refugees, or the 1969 OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa. As a non-signatory state, the Union of Comoros has neither passed legislation or administrative regulations on asylum or refugee status, nor established a formal national asylum procedure. Few refugees have sought asylum in the Union of Comoros in recent years. In practice, the Government fully respected the *non-refoulement* principle with respect to these persons.

Accession to the *1951 Refugee Convention* and its *1967 Protocol* greatly facilitates UNHCR's task of mobilizing international support to address refugee situations that may arise in any country. UNHCR believes that it is necessary to broaden the base of State support for these international refugee instruments, ensuring that the protection provided to refugees is more universal in scope, and the burdens and responsibilities of governments more equitably distributed and consistently applied.

Notwithstanding the relatively small number of asylum-seekers arriving in the country and the competing domestic priorities, accession to the *1951 Refugee Convention* and its *1967 Protocol* as well as establishment of a national legal framework would establish a clearer basis for the Government of the Union of Comoros to provide refugees with international protection.

Recommendations:

- Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Accede to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa;
- Enact a national refugee law to establish refugee status determination procedures and spell out the rights of refugees in the country.

Issue 2: Birth registration

Birth registration helps to prevent statelessness by establishing a legal record of where a child was born and who his or her parents are. As such, it serves as a key form of proof of whether a person has acquired nationality by birth or by descent. Failure to document a person's legal

existence can prevent the effective enjoyment of a range of human rights, including access to education and health care.

Despite achievements made by the Union of Comoros on this issue and on-going efforts, more remains to be done to ensure a 100% birth registration rate.

Recommendation:

- Continue to take steps to ensure that births of all children are registered in line with the regional objective of *zero child* without a birth certificate.

Issue 3: Accession to the Statelessness Conventions

The Union of Comoros is neither a State party to the *1954 Convention relating to the Status of Stateless Persons* nor the *1961 Convention on the Reduction of Statelessness*.

Accession to the Statelessness Conventions would establish a stronger framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons.

The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the 1954 Convention also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

UNHCR welcomes several safeguards against statelessness found in the 2001 Constitution and the nationality law (Loi No. 79-12 du 12 décembre 1979 portant Code de la Nationalité Comorienne). For example, the law provides for equal treatment of men and women regarding the conferral of nationality to a child, it does not contain provisions stipulating loss or withdrawal of Comorian nationality for persons who have long-term residence abroad and stipulates safeguards for the acquisition of citizenship by foundlings.

Nevertheless, there are also several gaps between the current nationality law and international standards that aim to prevent and reduce statelessness, in particular in regard to procedures for renunciation of nationality, the right to a nationality of a child born on the territory who would otherwise be stateless because he/she was born to parents who are stateless, of unknown nationality or foreign citizens who are unable to transmit their nationality to a child born abroad. Contrary to Article 9.1 of the Convention on the Elimination of Discrimination against Women

(CEDAW), the law also distinguishes between men and women in the right to acquire, change or retain their nationality.

Recommendations:

- Accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness;
- Amend legislation to include safeguards against statelessness that provides that children born in the territory, who would otherwise be stateless, acquire Comorian nationality; that nationals can only renounce their nationality, if they possess or have an assurance to acquire a foreign nationality; and that men and women are equal in the right to acquire, change or retain their nationality.

Issue 4: Trafficking in persons

The geographical location of the Union of Comoros makes it particularly vulnerable to the problem of trafficking of persons. The insufficiency of data does not enable to have an accurate and more reliable picture of the magnitude of the problem.

While the Union of Comoros has ratified the Optional Protocol to the Convention on the right of the child in the sale of children, child prostitution and child pornography (in 2007), little information appears to be available on how it intends to address, in a more effective manner the issue of trafficking more broadly. The Committee on the Elimination of Discrimination against Women has recommended that Comoros should “*Conduct assessments on the extent of trafficking in persons and exploitation of prostitution and provide information of their results in its next periodic report.*”²

Recommendation:

- Undertake a thorough assessment of the issue of trafficking in persons in Comoros and take adequate follow-up measures/actions including enactment of an adequate legislation to combat the practice.

Issue 5: Climate Change

UNHCR recognizes that climate change poses a unique set of challenges for small developing Island States. The past thirty years in the Union of Comoros have been marked by precipitation fluctuations and intervals in the season, early and prolonged droughts and a 1°C rise in the average temperature. In 2012, severe weather and flooding devastated several villages with resulting impacts of homelessness, infrastructural damage and disruption to the education of 20,000 children.

Climate change consequences result in chronic difficulties for water supply, a reduction of the agricultural production and coastal fishing, lower income, high access costs to food and an increase in food insecurity. Diseases such as malaria, dengue, cholera, hepatitis A, typhoid as

² Committee on the Elimination of Discrimination against Women, 53rd session, Concluding Observations, 24 October 2012, available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW.COM.CO.1-4.pdf>

well as blindness are rapidly increasing. In 2006, the Union of Comoros adopted a National Adaptation Programme of Action (NAPA) and identified priority activities that respond to their urgent and immediate needs to adapt to climate change.

UNHCR believes that the international community needs to ensure a stronger and better coordinated response to the displacement resulting from both sudden- and slow-onset disasters and from the effects of climate change, both within countries or across State borders.

UNHCR's engagement on the climate change issue stems from its concern about filling gaps in the international legal regime affecting forcibly displaced persons. Climate change is already driving the migration and displacement of populations around the globe. Natural disasters, natural resource scarcity, social tensions and conflict over inadequate resources can all cause population movements, both within States and across borders. Displacement can, in turn, lead to competition with host communities and result in disputes over land or the use of limited resources (e.g. potable water).

Since people displaced across international borders by environmental factors would most often not be considered 'refugees' under the 1951 Convention, there are presently no provisions for their protection and assistance. There are nonetheless clear links between environmental degradation and climate change on the one hand and displacement on the other. For this reason, UNHCR included climate change, natural disasters and displacement among the subjects considered by a series of expert roundtables on the occasion of the commemoration of the 60th anniversary of the 1951 Refugee Convention. These discussions fed directly into Norway's Nansen Conference on Climate Change and Displacement in June 2011, which generated the 'Nansen Principles'. These principles explicitly recognize that, "A more coherent and consistent approach at the international level is needed to meet the protection needs of people displaced externally owing to sudden-onset disasters."³

Recommendation:

- Contribute actively to the Nansen Initiative,⁴ launched by Switzerland and Norway to address the need for a more coherent and consistent approach to the protection of people displaced externally, i.e. across international borders, by sudden- and slow-onset onset disasters, including those triggered by climate change.

Issue 6: The situation of LGBTI persons

³ The Nansen Conference, Climate Change and Displacement I the 21st Century, Oslo, Norway, June 5-7, 2011, Principle No 9, available at:

<http://d2530919.hosted213.servetheworld.no/expose/global/download.asp?id=2280&fk=1633&thumb=>

⁴ UNHCR offered to work with States to develop a guiding framework or instrument to apply to situations of external displacement other than those covered by the 1951 Refugee Convention, in particular regarding displacement resulting from climate change and natural disasters. At the Ministerial Meeting in December 2011 several States pledged to work with all relevant stakeholders to determine how best to fill this international normative gap. This is the genesis of the Nansen Initiative. The overall goal of this State-led process is to gradually build consensus on key principles and elements regarding the protection of persons displaced across borders that then sets the agenda for future action at domestic, regional and international level.

Consensual same-sex sexual activity is illegal in the Union of Comoros and can be punished by up to five years' imprisonment and a fine of 50,000 to one million Comorian francs (\$140 to \$2,780). In 2012, no case of this nature came before the judges. Lesbian, gay, bisexual, transgender and inter-sex (LGBTI) persons generally did not publicly manifest their sexual orientation, due to societal pressure. There were no LGBTI organizations in the union of Comoros.⁵

UNHCR considers that restrictive legislation criminalizing same-sex sexual activity may lead to human rights violations and may be a cause for displacement.

Recommendation:

- Amend legislation related to consensual same-sex sexual activity and extend full protection to LGBTI individuals.

Issue 7: Capacity-Building and Technical Assistance

In accordance with UNHCR's mandate and taking into account the challenges and constraints identified above, UNHCR stands ready to provide the Government of the Union of the Comoros with timely and relevant technical advice. Such advice would cover a wide range of issues/sectors on which UNHCR has the relevant expertise and relating to its persons of concern namely refugees, asylum-seekers, returnees, internally displaced persons, stateless persons and persons at risk of statelessness.

UNHCR also stands ready to discuss with the Government of Union of Comoros any aspects of displacement that reflect the specific needs, demands and practical realities of the Comoros.

Recommendation:

- Accept UNHCR's technical support in drafting national refugee legislation, capacity-building for Government officials and assistance in the development of a national refugee status determination procedure.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
June 2013**

⁵ Bureau of Democracy, Human Rights, and Labor: *2012 Country Reports on Human Rights Practices*

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies

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We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Comoros.

Committee on the Elimination of Discrimination against Women

CEDAW/C/COM/CO/1-4, 53rd Session

24 October 2012

Trafficking and exploitation of prostitution

25. The Committee regrets the lack of information about the extent of the phenomenon of trafficking in persons and exploitation of prostitution in the State party. It expresses its concern about the lack of a legislative framework on trafficking in persons. It notes that prostitution is illegal in the State party and regrets the lack of information on the existence, if any, of a regulatory framework to combat the exploitation of prostitution.

26. **The Committee recommends that the State party:**

- a) **Conduct assessments on the extent of trafficking in persons and exploitation of prostitution and provide information of their results in its next periodic report;**
- b) **Develop and implement a national plan to combat trafficking in persons, in line with the Convention and ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol); and**
- c) **Adopt a regulatory framework to combat the exploitation of prostitution, as well as measures aimed at discouraging male demand for prostitution, provide women with economic alternatives to prostitution as well as assistance, rehabilitation and reintegration programme to women and girls exploited in prostitution.**