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## الجمعية العامة



## مجلس حقوق الإنسان

## الدورة الثالثة والأربعون

٢٤ شباط/فبراير - ٢٠ آذار/مارس ٢٠٢٠

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى جزر القمر

تقرير المقرر الخاص المعني بمسألة التعذيب وغيره من ضروب المعاملة أو العقوبة  
القاسية أو اللاإنسانية أو المهينة

موجز

أجرى المقرر الخاص المعني بمسألة التعذيب وغيره من ضروب المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة، في الفترة من ١٢ إلى ١٥ حزيران/يونيه ٢٠١٩، زيارة رسمية إلى جزر القمر. وللأسف، اضطر المقرر الخاص إلى تعليق زيارته في منتصف الطريق، بسبب العراقيل التي حالت دون الوصول الكامل إلى أماكن الاحتجاز وبسبب عدم توافق الطرائق مع اختصاصات الولاية. وقدم المقرر الخاص تقريراً، على الرغم من تعليق الزيارة، نظراً للحاجة الملحة إلى الإصلاحات والاستثمارات. ورغم أن زيارات أماكن الاحتجاز كانت قصيرة، فإن المعلومات التي جمعها المقرر الخاص والأمور التي تمكن من ملاحظتها تؤيد ما توصل إليه من نتائج مفادها أن الظروف في أماكن الاحتجاز تصل إلى حد المعاملة أو العقوبة القاسية أو اللاإنسانية أو المهينة. وكانت هناك أيضاً مؤشرات موثوقة بما على أن بعض الموظفين المكلفين بإنفاذ القانون يشاركون في ممارسات تصل إلى حد التعذيب وسوء المعاملة في سياق أنشطة الشرطة أثناء المظاهرات وعند التوقيف وخلال الاستجواب.

\* أُنشئ على نشر هذا التقرير بعد تاريخ النشر الاعتيادي لظروف خارجة عن إرادة الجهة التي قدّمته.

\*\* يعمّم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيعمّم باللغة التي قدّم بها وباللغة الفرنسية فقط.



الرجاء إعادة الاستعمال

GE.20-01012(A)



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## Annex

### **Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to the Comoros**

#### **I. Introduction**

1. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment conducted, at the invitation of the Government, an official visit to the Comoros, which was scheduled from 12 to 18 June 2019. On 15 June, he decided to suspend his visit because after three attempts, and an ad hoc emergency meeting with the authorities, he had been unable to access all persons deprived of their liberty in accordance with the terms of reference of his mandate.

2. The Special Rapporteur expresses his appreciation to the Government of the Comoros for extending an invitation to him, only the second visit to the country by an independent expert. However, the responsible authorities had regrettably not fully appreciated the requisite preparatory measures and resources required to ensure that a visit could be carried out in full compliance with the applicable revised terms of reference for country visits by special procedure mandate holders of the United Nations Human Rights Council,<sup>1</sup> which had been formally submitted in advance to the Government.<sup>2</sup>

3. Apart from a few preselected facilities, the authorities in charge of places of detention had clearly not been informed or properly instructed by the responsible ministries and therefore were not in a position to provide the Special Rapporteur with the required access and modalities.

4. It is essential for the credibility of the mandate, and the special procedures mechanism of the Human Rights Council, to be able to conduct unannounced visits to any place where persons may be deprived of their liberty, including prisons, custody cells of the police and gendarmerie, and places used to keep persons under house arrest.

5. The Comorian authorities offered to facilitate access to each place of detention, if notified in advance; however, these terms were unacceptable, not only for reasons of efficiency but, more importantly, because it impeded the credibility, objectivity and independence of the mandate.

6. The Special Rapporteur held an ad hoc meeting with the Ministry of Foreign Affairs and International Cooperation to try to resolve the issue, but regrettably the necessary instructions were not communicated. Four days into the visit, the Special Rapporteur concluded that the integrity of the visit had been compromised to such an extent that it had to be suspended. After three unsuccessful visit attempts, his team had lost too much time trying to secure unimpeded access and it was no longer possible to carry out a comprehensive evaluation of the situation in the country. Despite this significant setback, the Special Rapporteur held an exit meeting with the Ministry of Foreign Affairs and International Cooperation to express his hope that a meaningful dialogue could be established with the Government.

7. Many interlocutors, in particular victims, reportedly took personal risks to meet with the Special Rapporteur. A genuine dialogue between the Government, civil society and the outside world is very much needed for human rights to begin to take hold in the Comoros.

8. The Special Rapporteur wishes to express his gratitude for the assistance provided by the United Nations country team before and throughout his visit, including by organizing a debrief with United Nations and diplomatic representatives in Moroni.

<sup>1</sup> The terms of reference submitted to the Government can be found at [www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf](http://www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf).

<sup>2</sup> The letters sent to the Government were dated 14 March and 27 May 2019.

9. In Moroni, the Special Rapporteur met with officials from the Ministry of Foreign Affairs and International Cooperation, the Ministry of Justice, the Ministry of the Interior (and its gendarmerie and the National Police Intervention Unit (*Groupe d'intervention de la Police Nationale*)), the Ministry of Health, the Prosecutor's Office in Moroni, the Office of the Commissioner for Gender, and the National Commission for Human Rights and Freedoms, as well as representatives from civil society organizations and victims. The Special Rapporteur also met with the prosecutor of Anjouan. The Government cancelled the meeting with representatives of the Supreme Court. Due to the suspension of the visit, the Special Rapporteur was not able to have the envisaged joint meeting with civil society in Anjouan.

## II. Legal framework

### A. International and regional levels

10. The Comoros follows a monist system that establishes the primacy of international law. The ratification of any international legal instrument thus implies its automatic incorporation into domestic legislation.

11. The Comoros has ratified a number of core international human rights treaties<sup>3</sup> relevant to the prohibition and prevention of torture and other cruel, inhuman or degrading treatment or punishment. The State has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (25 May 2017) and has signed but not yet ratified the International Covenant on Civil and Political Rights and the International Convention for the Protection of All Persons from Enforced Disappearance. In 2012, the Comoros ratified the United Nations Convention against Corruption. The State is a party to the Rome Statute of the International Criminal Court (1 November 2006) and it adopted Law No. 11-042/AU of 13 December 2011 on the implementation of the Rome Statute. On 13 January 2007, the Comoros adopted Law No. 07-002/AU on cooperation with the International Criminal Court.

12. At the regional level, the Comoros has ratified a number of instruments, including in 2004 the African Charter on Human and Peoples' Rights and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. In 2003, the State ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, thereby accepting the competence of the Court to receive and examine cases from individuals and non-governmental organizations, in accordance with article 5 (3) of the Protocol.

### B. National level

13. The Human Rights Delegation, under the Ministry of Justice, was established in 2001 and formally took up its duties in 2011 (Decree No. 11-139/PR) to promote and implement the Government's human rights policies, including the implementation of relevant legislation.

14. In 2014, a new Penal Code (containing amendments to strengthen procedural safeguards and including the abolishment of the death penalty) was submitted to the parliament, but it has not yet been adopted and it needs to be promulgated by the President.

15. The National Commission for Preventing and Fighting Corruption was an independent administrative authority established to combat corruption. In September 2016 the President repealed the provisions of the law that had created the Commission, citing its failure to produce any results. The Constitutional Court subsequently invalidated this decision, noting that a presidential decree may not overturn a law. Nevertheless, the President neither renewed the Commissioners' mandates nor appointed replacement

<sup>3</sup> For a list of the international treaties ratified by the Comoros, see [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN).

members, and in the Constitutional referendum of July 2018, the Commission was abolished altogether.<sup>4</sup>

16. In 2018 a presidential decree abrogated the Constitutional Court. Its dissolution eliminated a jurisdiction that had operated as a check and balance to the executive power that had existed in the Constitution of 2001–2009, prior to the amended Constitution of 2018.

### C. Definition of torture

17. The Comoros has an overlapping system of both Union (national) law and Island (provincial) law. There is no national legislation or draft law aimed at criminalizing torture. However, pursuant to the Constitution, all international treaties ratified by the Government are an integral part of national legislation and can theoretically be invoked in court. This includes the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its definition of torture as given in article 1.

18. The Constitution of the Comoros has been in force since 23 December 2001, with subsequent amendments. The Constitution and laws prohibit such practices as torture and other cruel, inhuman or degrading treatment or punishment.

## III. Assessment of the situation

19. In 1975, the Comoros emerged from its colonial past. Until the constitutional referendum of 2018, the Presidency had rotated every five years between the State's three islands, namely Grande Comore, Anjouan and Moheli. The Constitution was amended in 2018, effectively removing the provisions guaranteeing a Presidency rotating among the three islands (*la tournante*) and now allowing the elected President to hold office for two consecutive terms.

20. In 2019, President Assoumani was re-elected, which sparked mass protests among opposition groups, in particular on the island of Anjouan, which, under the Constitution from before 2018, had been scheduled to hold the next Presidency. These protests were quelled by the Government, mainly through arrests and intimidation and further restrictions on freedoms of expression and association. Several persons were deprived of their liberty for political reasons (former President Sambhi, the former Governor of Anjouan and several detainees in Moroni Prison are detained on charges of involvement in an attempted coup d'état).

21. This appears to have had a chilling effect on civil society, as the Special Rapporteur observed an atmosphere of fear and tension when meeting with civil society representatives. It was also evident during meetings with government officials, including high-level ministers, that all decisions came from the Office of the President. There seems to be little room in Comorian society to discuss civil or political rights, and doing so may well result in the deprivation of liberty and the risk of torture or ill-treatment.

### A. Allegations of torture and ill-treatment

#### 1. Gendarmerie and police force

22. The gendarmerie reports to the Minister of Defence (and when the gendarmerie serves as the judicial police, it reports to the Ministry of Justice). The National Directorate of Territorial Safety oversees the national police force, while the National Police Intervention Unit is an elite police force under the authority of the Ministry of the Interior.

23. The Juvenile Division (*Brigade des mineurs*) is part of the national police force, with 15 employees in Moroni, but it lacks training and resources. It has no vehicles or cells in which to place detainees during custody (*garde à vue*).

<sup>4</sup> United States of America, Department of State, "2018 country reports on human rights practices: Comoros". Available at [www.state.gov/reports/2018-country-reports-on-human-rights-practices/comoros/](https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/comoros/).

24. The Special Rapporteur received accounts of the excessive use of force by the gendarmerie and the National Police Intervention Unit, primarily during the policing of demonstrations. There were reports of one death and dozens wounded by gunshots in protests during the presidential referendum on 25 March 2019. The National Commission for Human Rights and Freedoms confirmed the number of wounded above, but it could not ascertain if the injuries were caused by security forces or opposition protestors.

25. The Penal Code does not contain a specific definition of sedition but criminalizes speech that can lead to public disorder (arts. 178–181). Furthermore, article 91 prohibits unarmed gatherings that could disturb the public peace. Articles 247 and 253 criminalize offences against the President through the media or other forms of speech. These vague and broad laws with severe penalties have the cumulative effect of legitimizing a heavy police presence in the lives of civil society, political opponents and journalists.

## **2. Police violence during apprehension and interrogation**

26. The Special Rapporteur heard some allegations of torture and ill-treatment at the hands of the gendarmerie and the National Police Intervention Unit, almost always occurring at the time of apprehension and interrogation during custody. Most detainees reported that such treatment (threats, insults, kicking and beating) was used by investigative officers to intimidate them or to force them to confess to an alleged crime.

27. Furthermore, some detainees who were interviewed claimed to have been held and ill-treated for several days in unofficial places of detention before being officially apprehended by the police. Similar reports were also submitted from civil society, concerning incommunicado detention in various locations, including the basement of the Ministry of the Interior building and by the National Police Intervention Unit, where persons were held in isolation and subjected to threats and psychological ill-treatment.

28. The culture of the police appears to imply that ill-treatment is acceptable. In particular, there is an overreliance on confession-based evidence at the investigation stage of criminal cases, which constitutes one of the main incentives for law enforcement officials to resort to torture and ill-treatment.

29. The Special Rapporteur heard consistent allegations of the excessive use of physical force (mainly beatings) during the period of arrest and sometimes during interrogation by the gendarmerie and the national police force.

## **3. Excessive use of force and intimidation and arbitrary arrest**

30. Under article 91 of the Penal Code of 1981 (as amended), the police or other law enforcement agency may use force to disperse an unlawful assembly if violence is used against them or if they cannot defend by other means the area they occupy or for which they are responsible. The amount of force that may be used is not restricted.

31. According to the Director General of the national police force, officers are not formally trained either in human rights or in general police work due to a lack of funds, but they are guided by their colleagues with “on the job training”. In the past three years, the Director General has received only one serious complaint of physical abuse, which led to the officer’s termination and sanction. Contrary to the gendarmerie and the National Police Intervention Unit, the national police are unarmed; they carry truncheons, but no firearms.

32. In official meetings, the gendarmerie and the National Police Intervention Unit both stated that there were no cases of torture. However, the Special Rapporteur received a number of consistent reports of the excessive use of force during the policing of assemblies and of physical and psychological torture upon arrest, primarily at the hands of the gendarmerie and the National Police Intervention Unit.

## **4. Death penalty**

33. There is a moratorium on the death penalty, and the last known execution was in 1997. Those on death row are held in small, overcrowded, dark and poorly ventilated cells and denied educational or recreational activities, except for 10 minutes of exercise per day. At the time of the visit, there were seven people on death row.

## **B. Inadequate legal and procedural safeguards**

34. The Constitution contains important provisions such as article 15, which guarantees citizens access to justice and defence, and that decisions are made within a reasonable length of time. Furthermore, the Constitution states that citizens enjoy the right to freedom and security, and that no one may be deprived of his or her freedom in whole or in part except by law or by a court decision.

35. The Penal Code states that detention is the exception; however, in practice, it seems to be almost automatic.

36. The Special Rapporteur learned that, for the past five years, an amended Penal Code has been pending, which has not yet been resubmitted to the parliament. This must be a priority for the Ministry of Justice in order to ensure that legal procedures are respected, which is currently not the case in practice.

37. During his meeting with the Prosecutor's Office both in Moroni and in Anjouan, the authorities explained to the Special Rapporteur the different provisions regarding detention. Before being brought before the court, suspects can be held for up to 48 hours in detention (24 hours x 2) for regular crimes. For terrorism charges, the maximum period of time is 10 days, which can be extended up to one month before the case is brought before the courts.

38. The national law requires judicial arrest warrants and prosecutorial approval to detain persons longer than 48 hours (24 hours x 2). However, there is no legal provision that provides detainees with access to a lawyer in the 48 hours before being brought before the court (court of first instance). Thus, this is a high-risk window of time for police abuse. This, compounded by the fact that many detainees whom the Special Rapporteur interviewed had been subjected to lengthy pretrial detention – beyond the maximum statutory limit of eight months (4 months x 2) as stipulated in the Penal Code – further increases the risk of ill-treatment.

39. In fact, the Special Rapporteur met with some detainees who had been held after pretrial detention orders had expired. These individuals had been effectively forgotten and neglected due to the poor state of the judicial administration.

### **1. Prolonged custody (gendarmerie and national police force)**

40. Many of the detainees held in the gendarmerie station in Moroni and Anjouan said that they had been held in custody by the national police or gendarmerie for over a week with no access to a lawyer, well beyond the maximum duration of 48 hours to be brought before a judge, as mandated by national law.

41. The Special Rapporteur learned that, in the vast majority of cases, the police or gendarmerie obtain a confession while the detainee is in custody, as prosecutors rely heavily on confessions to secure a conviction. The prosecutor assured the Special Rapporteur that the accused was brought before the court or prosecutor to confirm if his or her confession was "voluntary". Experience shows, however, that the effectiveness of such a practice for the prevention of torture and ill-treatment depends largely on whether victims can be confident that their allegations will be taken seriously and systematically investigated and prosecuted.

42. Several detainees claimed to have been held in prolonged detention without ever having seen a prosecutor, judge or lawyer, thus strongly suggesting the arbitrariness of their detention. This included four of the five detainees at the gendarmerie station in Anjouan, held under the authority of the pretrial judge for 42 days in an "annex" to Koki Prison, reportedly for their own protection due to their alleged crimes (rape and murder). None of them had seen a prosecutor, judge or lawyer.

43. The Special Rapporteur received information about alleged corruption by judges who detain suspects without a court hearing or any legal basis or take no action to order their release after the expiration of a detention order or the completion of a sentence.

44. The Special Rapporteur's team was prevented from completing interviews with four of the five detainees held at the main station of the gendarmerie in Anjouan, as guards interrupted the interviews as soon as the detainees said that they had been ill-treated during and after their arrest.

45. The interviews were stopped on the basis that, formally, the four detainees were no longer being held in custody by the gendarmerie but were under the authority of the pretrial judge, and the Special Rapporteur therefore needed to receive authorization by the investigative judge regarding each individual detainee before being permitted to interview them (a requirement clearly incompatible with the agreed terms of reference).

## **2. Excessive use of pretrial detention**

46. Despite the requirements laid out in the Penal Code, the Special Rapporteur noted that pretrial detention was applied almost automatically, even for minor offences.<sup>5</sup> Furthermore, it also appears to be used to target political opponents and journalists.

47. Lawyers informed the Special Rapporteur that they had tried to denounce the excessive use of pretrial detention of accused persons who posed no real threat to public order or a risk of collusion.

48. Once detained, individuals are reportedly denied visits or telephone calls from family or friends. While lawyers are allowed to meet with their clients after some difficulty, such legal visits are reportedly kept under permanent surveillance with a guard present, contrary to international standards.<sup>6</sup>

49. Furthermore, detainees are reportedly held in pretrial detention beyond the statutory maximum duration of eight months, without any meaningful procedural steps being taken (investigation, court hearing or any judicial action).

## **3. Ineffective investigation of complaints of torture and ill-treatment**

50. During interviews with detainees, the Special Rapporteur noted their perceptible reluctance to speak about ill-treatment, in large part because of their distrust towards the authorities, and also because of their fear of reprisals.

51. A number of detainees claimed that they had complained about police torture and/or ill-treatment to the judge before whom they had been brought after apprehension, but that the judge had simply ignored their complaint, even when they displayed visible injuries.

52. Of those interviewed, only a few had seen a lawyer, and these persons often complained that their lawyers had made no real effort to present their case. Detainees received no routine medical examination or documentation and no access to their legal records.

53. There is no independent civilian police oversight body in the Comoros tasked with initiating criminal investigations into allegations of torture or ill-treatment by law enforcement officials.<sup>7</sup> The prosecutor in Moroni said that there had been only one case of torture in the past 20 years and the responsible officer had been suspended. The prosecutor in Anjouan said that, in 2016, a police officer had been convicted, but that, in his years in office, he had never seen any detainees with injuries transferred by the police to appear before the courts. The Special Rapporteur requested, but did not receive, any case documentation confirming these convictions or statistics on past or current investigations of torture, ill-treatment or abuse of power.

54. The Special Rapporteur found that lawyers, police officers and prosecutors (he was unable to meet with judges as the Government had cancelled that meeting) lacked the requisite knowledge of how to investigate and document allegations of ill-treatment and torture. Consequently, victims of torture or other ill-treatment are confronted with inaction from State authorities, which seems to be rooted in a marked lack of both technical capacity and political will.

<sup>5</sup> A study by the International Centre for Prison Studies lists the Comoros with the highest proportion of the total prison population in pretrial/remand imprisonment in the world, at 92 per cent. See Roy Walmsley, *World Prison Population List*, 11th ed. (Institute for Criminal Policy Research, 2015). Available at [www.prisonstudies.org/sites/default/files/resources/downloads/world\\_prison\\_population\\_list\\_11th\\_edition\\_0.pdf](http://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_11th_edition_0.pdf).

<sup>6</sup> See Basic Principles on the Role of Lawyers, para. 8.

<sup>7</sup> See [www.policinglaw.info/country/comoros](http://www.policinglaw.info/country/comoros).

55. Regarding the role of health professionals in the prevention and detection of torture, the forensic expert accompanying the visit noted that medical personnel did not appear to inquire about injuries or probe further for explanations.

56. Doctors have no forensic expertise and were unfamiliar with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and thus have no specific knowledge on the identification, adequate description, documentation and interpretation of physical and psychological symptoms.

57. In fact, in the Comoros, there are no forensic medical experts, institutions or infrastructure, and no autopsies appear to be conducted in cases of death in custody.

58. The Special Rapporteur requested, but did not receive, any statistics on the causes of deaths occurring in detention, and the consequent liability, and is seriously concerned that such incidents do not receive a thorough investigation.

59. Furthermore, there are essentially no State rehabilitation services. Consequently, victims of torture or ill-treatment and their families are dependent on donor-funded programmes operated by civil society.

#### **4. Monitoring of detention conditions**

60. The National Commission for Human Rights and Freedoms was promulgated on 18 February 2012 (Decree No. 12-042/PR) but only became operational in July 2017.<sup>8</sup> It has a broad mandate to promote and protect human rights. In addition, the composition of the members is robust, with lawyers, doctors and social workers, in addition to government representatives. However, in practice, the Commission lacks an independent budget and resources (for example, they lack vehicles) to undertake meaningful independent monitoring.

61. The Commissioner stated that she had carried out visits to three prisons and prepared reports, which first had to be shared with the Government before becoming public. The Special Rapporteur requested but has not received copies of these reports. The Commission has not been accredited under the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles); it is generally perceived to be a government institution rather than an independent national preventative mechanism.

62. The Ministry of Foreign Affairs and International Cooperation and the International Committee of the Red Cross signed an agreement in October 2014 to establish prison visits in accordance with the standard procedures of the International Committee of the Red Cross. Regular visits were undertaken at the Moroni and Koki prisons until 2018, when the International Committee of the Red Cross concluded its monitoring programme in the Comoros.<sup>9</sup>

### **C. Places of detention**

63. Official places of detention in the Comoros consist of holding cells in the nine regional stations under the authority of the gendarmerie and the National Police Intervention Unit and three prisons (holding remand and convicted inmates) on the islands of Grande Comore, Anjouan and Moheli.

64. The Special Rapporteur and his team were able to carry out only one pre-scheduled visit, arranged by the Government, to Moroni Prison, which is the largest prison in the country.

65. Of the nine gendarmerie stations, the Special Rapporteur was able to conduct only a partial visit of the gendarmerie station in Anjouan.

<sup>8</sup> The United Nations Children's Fund funded the establishment and equipment of the National Commission for Human Rights and Freedoms.

<sup>9</sup> International Committee of the Red Cross, *ICRC Annual Report 2018* (Geneva, 2019), p. 134. Available at [www.icrc.org/data/files/annual-report-2018/icrc-annual-report-africa\\_2018.pdf](http://www.icrc.org/data/files/annual-report-2018/icrc-annual-report-africa_2018.pdf).



66. Several high-level opposition leaders and other political prisoners have been placed under house arrest in private houses. The Special Rapporteur formally requested access to the assigned residence of former President Sambi, but his request was denied.

67. Due to the serious obstruction of full access to places of detention and the subsequent suspension of the visit, the Special Rapporteur was unable to inspect the main station of the gendarmerie in Moroni, the Juvenile Division, Nkoki Prison or the gendarmerie station in Dormoni, Anjouan.

68. In the places of detention visited, the occupancy rate was lower than the official maximum capacity of the institution. However, the official capacity of places of detention appears to be calculated on the basis of available beds rather than available space per inmate, which in some facilities results in available surface areas as small as 2 m<sup>2</sup> or less per inmate, thus clearly falling short of the universally recommended minimum standards of 3.4 m<sup>2</sup> per inmate in collective accommodation and 5.4 m<sup>2</sup> in single cells.<sup>10</sup>

## 1. Prison service

69. The overall responsibility for correctional facilities, the implementation of judicial decisions and the treatment of prisoners lies with the Ministry of Justice. According to the Minister of Justice, at the time of the visit, the prison in Anjouan held 90 detainees (no female detainees) with 16 guards, and the prison in Moheli held 17 detainees (1 female) with 6 guards.

70. The Special Rapporteur visited Moroni Prison, the largest of the three prisons, but the tour had been prearranged by the Government. According to the director of the prison, the official capacity of the prison was 95 to 100 detainees. At the time of the visit, there were 86 inmates, including 50 convicted prisoners (8 serving life sentences and 2 serving 20-year sentences). There were 36 inmates in pretrial detention, including 3 minors and 3 females. There were six guards, as well as private guards for external security.

71. At the time of the visit, contrary to earlier reports received by the Special Rapporteur, he did not observe overcrowding in relation to capacity. It remained unclear whether this was an exceptional situation resulting from the recent presidential pardons after the Eid al-Fitr holiday, or because of the escape of 32 prisoners on 19 March 2019, or the reflection of a policy aimed at avoiding unnecessary detention. During that escape one inmate had died, and only one had been recaptured. Prison authorities admitted that they did not know who had escaped as there were no accurate records of those detained. The Special Rapporteur examined the registry, which was handwritten and did not contain all data, as relevant information was not maintained.

## 2. Conditions of detention

### (i) Moroni Prison

72. All the relevant authorities (the Ministry of Justice, the Prosecutor's Office, the National Commission for Human Rights and Freedoms and the director of Moroni Prison) made it clear that they were acutely aware of the insufficient material conditions and were open to improvements as required, but had no funds.

73. The Special Rapporteur was informed that, under a project of the European Union for the justice sector, studies had been conducted and there were pending measures to improve the current conditions of detention, including a full-scale renovation of Moroni Prison and the construction of a new detention facility (on the condition that additional reforms were undertaken, which to date, the Government has not agreed to). Furthermore, there is a bill pending adoption in the parliament on the organization of prisons, which prioritizes prisoner rehabilitation and the training of prison officers.

74. All of the above actions are urgently needed, as the detention infrastructure is from colonial times and is in dire need of renovation or replacement. The ceilings are not waterproof, and when it rains water collects on the concrete surface of the sleeping area.

<sup>10</sup> International Committee of the Red Cross, *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance* (Geneva, 2013), p. 33.

There were only improvised electrical installations and almost a complete absence of natural or artificial light.

75. Moroni Prison consists of three pavilions with courtyards (one for women and two for men), each with adjacent communal cells. The pavilion for women was slightly more bearable than those for men due to the fact that it accommodated only three detainees at the time of the visit. The women were detained for non-violent crimes of theft and forgery. One had been awaiting trial for eight months, the other two for over a month. The most distressing condition raised by the female detainees, and imposed on all inmates, is the fact that children are prohibited from visiting the prison because, according to the authorities, the conditions are too disturbing and therefore not a suitable environment for children.

76. The cells were poorly ventilated, dark and extremely damp; the floor and walls were wet and covered with mould. After rainfall, which occurs daily in the wet season, the roof leaked and puddles of stagnant water were everywhere, thus entailing a plague of mosquitoes. There were no beds at all, but some blankets and thin mattresses that had been provided by the families, not by the prison. The National Commission for Human Rights and Freedoms said that it had ordered 95 mattresses but they had not yet arrived.

77. The sanitary conditions were unacceptable. The hygiene level was inhumane. Most notably, piles of garbage were spread throughout the facilities (detainees told the Special Rapporteur that the piles were usually much higher but that some garbage had been removed the day before his visit) and inhabited by rats and insects. The team saw several rats in bright daylight crawling out of holes in the open area used by the inmates to prepare food. During the night, inmates are locked into their communal cells with no access to water or toilets, so they have to use buckets and plastic bottles instead.

78. The sanitary facilities in the outdoor common area were of very poor quality and were not accessible at night. Toilets consisted of broken huts around three holes in the ground, infested with insects and rats, and one had no door.

79. There were no proper showers; detainees had access to a bucket of water that contained a plastic bottle so they could pour water over themselves. All hygiene products, including toilet paper and soap, and medicines and drugs had to be provided by the family as the administration reportedly did not have the necessary budget.

80. Detainees reported limited access to drinkable water and received only one meal a day (500 g of rice and sometimes a small quantity of chicken), which most inmates described as inedible. As a consequence, detainees reportedly rely almost exclusively on supplementary food received during family visits.

81. Family visits for the convicted inmates were three times per week for 10 minutes. Visits to pretrial detainees required the authorization, either temporary or permanent, of a judge.

82. There was no system for detainees to make phone calls to family members. The director of the prison said he permitted detainees to use his mobile phone on Sundays to contact their families.

83. Alternative measures to detention appear to be used only in exceptional cases, even for minor offences. There is a complete absence of the concept of rehabilitation; there are no work opportunities, nor access to education or recreational facilities. The only entertainment was a television in each collective cell, which inmates paid for by selling part of their food rations.

84. While the Special Rapporteur did not hear detainees complain of ill-treatment by prison staff, the observed conditions of detention clearly failed to meet the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) in various respects, including due to poor sanitation, hygiene and food, insufficient space, a lack of medical care, restricted access to legal counsel and family, and the absence of opportunities for work, education and recreation. In the view of the Special Rapporteur, the cumulative effect of these shortcomings is clearly incompatible with human dignity and amounts to cruel, inhuman and degrading treatment or punishment.

(ii) *Gendarmerie station in Anjouan*

85. At the gendarmerie station in Anjouan, the Special Rapporteur was able to make only a partial assessment of the conditions, as he had to suspend his visit after confidential interviews were interrupted. The Special Rapporteur had received information that, just before his visit, up to nine detainees had been held in the same cell; however, at the time of his visit, there were four detainees in a cell of 15 m<sup>2</sup>, with no artificial light and only minimal natural light from a small opening above a brick wall. The authorities shoved food – provided by the family, not the gendarmerie – through a hole. There was no running water or sanitary installations. Detainees remained in the cell 24 hour per day, seven days per week with no exercise or fresh air. Only once a day in the early morning were they allowed to go to the toilet, wash and fill a plastic bottle with water. During the rest of the day detainees had to urinate in plastic bottles and defecate in plastic bags. There was no bedding; inmates slept on concrete benches to avoid the wet floor. No family visits were permitted.

86. In the view of the Special Rapporteur, the conditions of detention at this gendarmerie station clearly amount to cruel, inhuman or degrading treatment. Moreover, the practice of keeping inmates in cells located in gendarmerie or police stations beyond 48 hours, even if held under the authority of the pretrial judge, contravenes national law as these cells are not designed for long-term custody.

(iii) *Solitary confinement*

87. In Moroni Prison, there were six cells for solitary confinement, each measuring approximately 1.5 m<sup>2</sup>, which is in clear violation of the Nelson Mandela Rules and even the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines). In these cells, there was no artificial and virtually no natural light, no bedding, very limited ventilation, and, according to the director of the prison, inmates were held there for disciplinary reasons from between 24 hours and 10 days. However, during his visit, the Special Rapporteur spoke to two political detainees (suspected of an attempted coup d'état) who had reportedly been held for up to 55 days in prolonged solitary confinement in two of these cells, 24 hours a day, with only one toilet/hygiene outing of 15 minutes per day. The Special Rapporteur also heard several other allegations of solitary confinement for up to eight days in gendarmerie cells measuring 1 m<sup>2</sup> or less (approximately 0.8 by 1.2 m). It must be emphasized that, in the view of the Special Rapporteur, the practice of solitary confinement for disciplinary or punitive purposes under the observed, grossly inadequate conditions amounts not only to cruel, inhuman or degrading treatment or punishment, but also to torture.

**3. Lack of access to medical care**

88. The Special Rapporteur met with officials from the Ministry of Health who openly acknowledged the lack of adequate health care in detention. The Special Rapporteur notes with serious concern that there are no routine medical examinations upon arrest or for new arrivals in the prison system. Health professionals have no specific training in illnesses or diseases that are common in prison populations. There are no regular medical check-ups of detainees, and no regular screening programmes are implemented (for AIDS, tuberculosis, hepatitis and so forth).

89. A doctor (a general practitioner) from the national health system reportedly visits detention facilities once a week, but there are no specific and registered procedures for accessing medical care. The Special Rapporteur was informed that a doctor examined a detainee only if requested, and many requests remained pending indefinitely. Reportedly, a detainee can be treated by a private doctor, but this could not be confirmed. No special screening or treatment programmes, such as breast cancer screening or vaccinations, are implemented for particular categories of detainees, such as women and children.

90. Medical rooms in the detention facilities are absolutely insufficient with no adequate equipment or even minimum basic medication and sanitary conditions. There is no budget for drugs and medical treatment. The hospitalization of a detainee is possible only upon the prescription of a doctor, although the Special Rapporteur was unable to confirm this.

91. Although the authorities claimed that dental care was provided to detainees by the military health facilities, the Special Rapporteur observed detainees with significant dental problems needing care. There is no psychiatric treatment or hospitalization possible and there is only one psychiatrist in the entire country.

92. There are no reliable health statistics regarding the delivery of health services or types of cases treated in the prison system.

## **D. Persons in vulnerable situations**

### **1. Women**

93. The Constitution guarantees the right of women, children, young people and persons with disabilities to be protected by the public authorities against all forms of abandonment, exploitation and violence.

94. The Comoros has made some significant steps towards better protecting women's rights with the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (1994) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2004). The National Policy on Gender Equality and Equity of 2008 has subsequently been updated. A national strategy to combat violence against women and minors has been adopted. The Gender Commissariat stated that there was a network of 702 "femmes de la paix" who worked for prevention and mediation in cases of physical and sexual violence. In 2017, this network set up two free helplines that victims can use to report violence and seek legal and medical advice. The Special Rapporteur welcomes these services, but he was alarmed to learn of the high rate of spousal and post-divorce violence.<sup>11</sup>

95. There are no dedicated detention facilities for women, but in the Moroni Prison women are housed in a cell block (guarded by female guards) that is separated from male detainees. There were three women in the prison at the time of the visit. They had some outdoor space but the common cell was very damp. Family visits are permitted but, as stated above, children are prohibited from entering the prison.

### **2. Juveniles**

96. The Comoros has ratified the Convention on the Rights of the Child. In 2017, the Government initiated the National Child Protection Policy and the National Youth Policy to protect children from violence, trafficking, exploitation and abuse. However, limited resources and reported corruption have compromised the effective enforcement of the protection programmes. The Special Rapporteur is not even certain that a hotline set up for children is operational. Of grave concern are reports that, in some cases, judges and police had allegedly accepted bribes to return children to traffickers.

97. In the criminal justice system, there are no dedicated institutions for minors. The Government said it ensured that juveniles were separated from adults in detention facilities; however, during the Special Rapporteur's visit to Moroni Prison, he found three 15-year-old boys who had been sentenced to six months of imprisonment for eating during Ramadan and who were being held in a common cell with adult detainees. Some detainees said that a 12-year-old boy had been detained there for six months in the same cell, but he was reportedly moved on the day the Special Rapporteur visited the facility. In the view of the Special Rapporteur, holding juvenile offenders together with adult inmates in the same unacceptable conditions of detention not only violates the prohibition of cruel, inhuman or degrading treatment or punishment, but displays a level of discriminatory neglect that may well amount to torture. Juvenile offenders are adjudicated by a special judge for minors but there are no education programmes or recreation facilities whatsoever, thus rendering any deprivation of liberty of minors fundamentally incompatible with the best interests of the child.

98. Regarding child labour, the official government response is that it does not exist. However, the Special Rapporteur received reports and allegations of *wapambe*, that is, the

<sup>11</sup> In 2017, 82 per cent of the violent acts registered by counselling and helpline services were committed against women and girls (A/HRC/WG.632/COM/3, para. 26).

practice of poor children, primarily from the islands of Anjouan and Moheli, being placed in the homes of wealthy families in Grande Comore to work in the house and in fields, or being sent to Qur'anic teachers. While some may receive care and education, the alleged reality is that many are exploited, subjected to forced labour and routinely abused, and this includes the risk of sexual abuse.

### **3. Lesbian, gay, bisexual, transgender and intersex persons**

99. Homosexuality continues to be considered as “improper” and “unnatural” and is criminalized in the Comoros. Article 318 of the Penal Code provides that “whoever will have committed an improper or unnatural act with a person of the same sex will be punished by imprisonment of between one and five years and by a fine of 50,000 to 1 million francs”.

100. This issue was not raised by the Special Rapporteur in meetings, as the Government's position has remained unchanged during three cycles of the universal periodic review (A/HRC/41/12). Despite encouragement to decriminalize same-sex relations, the Government has, to date, rejected recommendations regarding the rights of lesbian, gay, bisexual, transgender and intersex persons.

101. The Special Rapporteur is concerned that the current law and the Government's view puts lesbian, gay, bisexual, transgender and intersex persons at high risk of violence, intimidation, harassment and imprisonment. Once deprived of their liberty, their vulnerability exposes them to an even higher risk of physical and mental harm.

### **4. Nationals in transit**

102. Unfortunately, due to the suspension of the visit, the Special Rapporteur was not able to investigate reports of several thousands of nationals per year trying to flee Anjouan for Mayotte (an overseas department of France) in unsafe boats operated by private transport companies. It is reported that, due to the reluctance of the Government of the Comoros to accept the returnees and assume responsibility for their well-being after their expulsion by the French authorities (a process with few legal procedural safeguards), they are at high risk of being exploited or trafficked upon their return.

## **IV. Conclusions and recommendations**

### **A. Conclusions**

103. The Special Rapporteur welcomes the efforts of the Human Rights Delegation and Ministerial Committee for its engagement with the United Nations human rights system through its reporting for the universal periodic review. Despite this positive step, there remains an unfortunate perception, in light of the obstacles encountered during the Special Rapporteur's visit, that the Government is not yet in a position to cooperate fully with international mechanisms. This engagement is, however, crucial if the Government is to deliver tangible results in line with its international commitments on human rights and fundamental freedoms.

104. While torture does not appear to be a generalized problem in the Comoros, in practice the country faces numerous challenges to its criminal justice system. Legal procedures are not respected and there is a lack of procedural safeguards concerning the liberty, security and dignity of the person. The Special Rapporteur received credible reports of excessive force during politically motivated arrests and violence (kicking and beating) and intimidation during interrogations to extract confessions by both the gendarmerie and the National Police Intervention Unit. Furthermore, the Special Rapporteur noted the frequent practice of incommunicado detention due to the obstructed access to legal assistance and lengthy pretrial detention resulting in a heightened risk of ill-treatment.

105. The conditions in detention (police cells and prisons) observed by the Special Rapporteur amount to cruel, inhuman and degrading treatment or punishment in clear violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The prison system lacks the most basic medical

provisions. Overcrowding did not appear to be a major factor; however, due to the suspension of the visit, the Special Rapporteur was unable to obtain an accurate overview of all places of detention.

106. The much needed project to renovate Moroni Prison, which was to be funded by the European Union, was reportedly cancelled because the Government was not prepared to implement the necessary reforms (in particular the reinstatement of both the Constitutional Court and the National Commission for Preventing and Fighting Corruption).

107. The Comoros lacks an effective independent monitoring or reporting system to guarantee the detection and documentation of situations of torture and ill-treatment. Furthermore, despite requests, no statistics were provided regarding formal investigations into allegations. The prohibition of torture and ill-treatment is one of the most fundamental norms of international law and allows for no exceptions under any circumstances.

## **B. Recommendations**

108. The Special Rapporteur believes that there is no better deterrent to torture and other cruel, inhuman or degrading treatment or punishment than the unambiguous expression and determined implementation of a strong political will to prevent, investigate and prosecute such abuse.

109. In the spirit of engagement, the Special Rapporteur recommends that the Government take decisive steps to implement the recommendations set out below, with appropriate financial and logistical assistance from the international community, including the United Nations and other actors. Hopefully these recommendations can be a useful road map for much-needed legal, institutional and infrastructural reforms.

110. With regard to international human rights treaties and engagement with United Nations mechanisms, the Government should:

(a) Prioritize the ratification of the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Submit reports to the relevant United Nations treaty bodies in relation to the international treaties it has ratified, in line with its international obligations, in particular the Committee against Torture and the Committee on the Rights of the Child;

(c) Implement the recommendations that it accepted during the universal periodic review (A/HRC/41/12);<sup>12</sup>

(d) Develop institutional capacity in order to report to the relevant treaty bodies where it has ratified human rights treaties, in line with its international obligations.

111. With regard to the Constitution, legislation and the judiciary, the Government should:

(a) Reform the judiciary and reinstate the Constitutional Court;

(b) Incorporate clear provisions into the Constitution and national laws to the effect that the prohibition of torture is absolute and non-derogable, in accordance with article 2 (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) Take the measures necessary to ensure that torture is established as an offence in national law and adopt a definition of torture that includes all the elements contained in article 1 of the Convention against Torture, including the infliction of torture by or at the instigation of or with the consent or acquiescence of a public

<sup>12</sup> The Comoros was reviewed on 25 January 2019.

official or other person acting in an official capacity. The Government should also ensure that such offences are made punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 (2) of the Convention against Torture;

- (d) Promulgate the new Penal Code;
- (e) Ensure the section of the Penal Code concerning evidence to be admitted in judicial proceedings is in line with the provisions of article 15 of the Convention against Torture and explicitly excludes any evidence obtained as a result of torture;
- (f) Review all legal provisions that impede freedom of expression or freedom of association and assembly, as they are broad and subject to abuse by law enforcement agencies, in particular the gendarmerie and the National Police Intervention Unit, resulting in the detention and interrogation of persons, in particular journalists, human rights defenders and opposition leaders, all of whom are at risk of torture or ill-treatment during interrogation;
- (g) Amend national legislation to restrict the use of force and firearms by the police and to ensure that the powers of all law enforcement officials are stipulated and are subject to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (that the use of firearms can be lawful only where it is necessary to confront an imminent threat of death or serious injury or a grave and proximate threat to life);
- (h) Conduct a systematic review of criminal legislation and sentencing policies on drug offences and other lesser, non-violent offences with a view to reducing lengthy sentences;
- (i) Adopt the bill pending adoption in the parliament on the organization of prisons, which prioritizes prisoner rehabilitation and the training of prison officers;
- (j) Reinstate the National Commission for Preventing and Fighting Corruption to independently and effectively combat corruption.

112. With regard to safeguards and prevention, the Government should:

- (a) Improve data management to ensure the prompt official registration of all persons deprived of their liberty and periodically inspect custody records at police and prison facilities to make sure that they are maintained in accordance with the procedures established by law;
- (b) Guarantee detainees the right to a lawyer in all circumstances and without exception and ensure that they have access to a lawyer from the moment of deprivation of liberty and are brought before a magistrate within 48 hours of apprehension;
- (c) Ensure that all detained persons are guaranteed the possibility to challenge effectively and expeditiously the lawfulness of their detention with the assistance of a lawyer, in particular those held in prolonged pretrial detention who may be eligible for bail;
- (d) Ensure that statements or confessions taken from persons deprived of their liberty, other than those made in the presence of a judge and with the assistance of legal counsel, have no probative value in proceedings against those persons, and that confessions and testimonies that may have been obtained through torture or other ill-treatment are not used in any proceedings;
- (e) Ensure that fundamental safeguards are granted to all persons deprived of their liberty without exception, such as the right to be informed of their rights and about the reasons for their arrest, the right to inform their family of their arrest and whereabouts, the right to a lawyer, the right to see a medical doctor and the right not to self-incriminate and not to sign documents of unknown content;
- (f) Establish a single national register of detention that includes factual details about detention, including transfers, and ensure that it contains the exact date, time and place of detention from the outset of deprivation of liberty and not only from the time of writing of the detention record;

(g) Approve the bill on legal aid pending with the parliament and financially invest in a legal aid programme so that it has a robust capacity to operate independently and a sufficient number of qualified lawyers to provide essential services to persons charged with any offence from the moment of apprehension through all stages of criminal proceedings, including investigation, detention, interrogation, arrest and incarceration;

(h) Make video recordings of all statements made to law enforcement agencies during the investigation and interrogation processes as standard procedure. Such measures should be considered complementary to the provision of legal representation during all stages of the interrogation process;

(i) Ensure the right of detainees to an independent medical examination;

(j) Ensure that photographic documentation of trauma injuries becomes an obligatory routine practice and provide all medical services with adequate equipment for this purpose;

(k) Ensure that any allegations of torture or ill-treatment are admitted at any stage of the trial and that courts are obliged to launch ex officio investigations whenever there are reasonable grounds to suspect torture or ill-treatment;

(l) Develop capacity-building to ensure that law enforcement (gendarmerie and National Police Intervention Unit) officers are properly supervised and trained in science-based non-coercive interviewing techniques rather than confession-based coercive interrogations;

(m) Ensure that general prison staff receive adequate training on how to deal with particularly vulnerable categories of detainees and how to identify signs of torture and ill-treatment;

(n) Financially invest in national human rights institutions and mechanisms so that they have a robust capacity to operate independently to ensure proper monitoring, reporting, compliance with the rule of law and to demand improved safeguards as necessary;

(o) Seek technical assistance to strengthen the independence of the judiciary and improve the training of judges so they can have a more effective role in safeguarding detainees' rights at all stages of the proceedings and post-sentencing matters, such as the conditions imposed after sentencing, in particular in cases involving life imprisonment or the death penalty.

113. With regard to the prompt, thorough and impartial investigation of allegations of torture or ill-treatment, the Government should:

(a) Establish an effective and independent mechanism (such as a national preventive mechanism upon ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) that promptly and effectively investigates all allegations of torture or ill-treatment, prosecutes those responsible and, if they are found guilty, imposes administrative and judicial penalties that take into account the grave nature of their acts;

(b) Ensure that perpetrators of torture or other cruel, inhuman or degrading treatment or punishment are held criminally responsible and that adequate penal sanctions and disciplinary measures are imposed on convicted perpetrators;

(c) Ensure that medical staff are able to conduct independent examinations that meet the recommendations of the Istanbul Protocol, at the time of arrest, upon transfer to another place of detention or upon request;

(d) Train law enforcement officials and prison authorities in international human rights law to ensure that national procedures are compliant and that preventive measures to eliminate torture and ill-treatment are integrated into their respective working methods, and ensure that individuals who engage in freedom of expression, association or peaceful assembly are not targeted through tactics of intimidation, harassment or violence;



(e) Seek investment and technical assistance to establish a training programme for forensic experts on the assessment of torture and ill-treatment, in accordance with international standards, including the Istanbul Protocol, and train the prosecution and the judiciary on how to evaluate forensic reports;

(f) Ensure that victims of torture or ill-treatment obtain redress and fair and adequate compensation for violations of their rights, including the means for the fullest rehabilitation possible, establish mechanisms within the national health system to provide all victims with rehabilitation, and fund programmes administered by non-governmental organizations that provide medical, psychological and social rehabilitation and ensure they are not subject to reprisals.

114. With regard to the monitoring and inspection of places of detention, the Government should:

(a) Take concrete measures to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to create a national system of regular prison monitoring by independent experts and to establish an effective complaints mechanism;

(b) Ensure the National Commission for Human Rights and Freedoms is an independent and impartial institution, established in accordance with the Paris Principles;

(c) Accelerate the designation of the National Commission for Human Rights and Freedoms as the national mechanism for the prevention of torture, in accordance with article 17 of the Optional Protocol to the Convention against Torture, and request technical assistance to ensure that the Commission has an independent operating budget and sufficient financial and human resources so it can inspect all places of detention regularly, including pretrial detention facilities, based on the principles of unrestricted and unannounced access to all places of detention and private and confidential interviews with all detainees. In addition to making unannounced visits, it should provide detailed reports (including data collection), receive complaints, initiate or promote prosecutions, produce findings and implement recommendations;

(d) In addition to national monitoring, permit regular, independent and impartial regional and international monitoring (by, for example, the International Committee of the Red Cross and the Subcommittee on Prevention of Torture) based on the principles of unrestricted and unannounced access to all places of detention and private and confidential interviews with all detainees;

(e) In particular, allow non-governmental organizations to undertake regular monitoring of places of detention and deliver much-needed medical and educational services;

(f) Provide training for law enforcement, health and legal professionals on international human rights standards and on detecting, reporting and preventing torture and ill-treatment.

115. With regard to conditions of detention, the Government should:

(a) As a matter of high priority, commit the funds necessary for institutional reform to repair and upgrade or replace outdated detention facilities in order to improve the physical conditions;

(b) Recall that, regardless of the level of development of the country, it is obliged to ensure minimum standards of conditions of detention, in accordance with the Nelson Mandela Rules;

(c) Provide each detainee with the minimum acceptable amount of floor space, sufficient cubic quantity of air and ventilation, a separate mattress, adequate sanitary conditions (including proper latrines that meet minimum hygiene standards) and provide physical exercise;

(d) Allocate adequate resources to prison health services and ensure that doctors and all medical services in detention centres are under the administration of the Ministry of Health and independent of the Ministry of Justice;

(e) Urgently improve access to, and the quality of, health care to provide a minimum standard of medical care, and employ a sufficient number of qualified doctors, including for psychiatric and dental care, in addition to medical assistants and nurses;

(f) Establish an independent body under the Ministry of Health to regulate and improve the quantity and quality of prison food, for example by establishing a farming programme in prisons to offset food costs and provide better variety and nutrition;

(g) Use solitary confinement only as an absolute measure of last resort and adhere to the limitations (length of time, adequate space and regime, including one hour of outdoor exercise) in accordance with the Nelson Mandela Rules;

(h) Seek donations from civil society to increase opportunities for education, recreation and training programmes;

(i) Once adopted, implement the bill on prisoner rehabilitation and move away from a purely punitive penal system to a more modern approach that includes the rehabilitation and reintegration of inmates, in accordance with international human rights standards.

116. To address any overcrowding in prisons, the Government should:

(a) Develop and implement, with the assistance of the Prosecutor's Office, the Minister of Justice and the judiciary, a programme to reduce the levels of overcrowding;

(b) Review the cases of non-violent and low-risk offenders with the aim of releasing them unconditionally or under reasonable conditions so that bail and effective monitoring becomes a standardized practice to reduce the number of remand prisoners;

(c) Ensure that time spent in custody on remand is taken into account during sentencing;

(d) Provide the judiciary with further training in case management, implement a fast-track system for less serious cases and ensure that all detainees are tried within a reasonable period of time;

(e) Provide a swift appeal process for the review of convictions and sentences;

(f) Divert some of the funds used for incarceration to support a project to identify low-risk offenders and divert or release them using alternative measures.

117. With regard to the death penalty, the Government should:

(a) Abolish the death penalty;

(b) Pending the abolition of the death penalty, maintain the official moratorium and commute all outstanding death sentences to term sentences, particularly in light of the conditions of detention, and ensure that these prisoners are allowed visits by lawyers and family members.

118. With regard to juveniles, the Government should:

(a) Expedite the ratification of the optional protocols to the Convention on the Rights of the Child;

(b) Ensure the separation of juveniles from adults by creating juvenile quarters in prisons, in compliance with international standards;

(c) Provide additional training to the judiciary and the Prosecutor's Office so that bail or other alternatives to detention (such as community service) are considered for juveniles in conflict with the law, and ensure that imprisonment, particularly pretrial detention, is used only as an exceptional measure of last resort and for the shortest possible period of time;

(d) Where detention is absolutely necessary, introduce alternative regimes in the best interests of the child and ensure any punishment is proportionate to the circumstances of both the offender and the offence;

(e) Ensure that all juveniles benefit from regular family contact and educational and recreational opportunities.

119. With regard to women, the Government should:

(a) Take the steps necessary to ensure that the national laws, including the act on violence against women and children, and the national strategy to combat violence against women and minors and the accompanying road map, which has been adopted, are fully implemented in order to eradicate gender-based violence;

(b) Uphold the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and implement alternative measures, especially for women who are pregnant or have dependents;

(c) Ensure that female inmates are protected from all gender-based violence and sexual harassment.

120. With regard to lesbian, gay, bisexual, transgender and intersex persons, the Government should repeal laws that target and criminalize lesbian, gay, bisexual, transgender and intersex persons and take action to combat violence, threats and intimidation on the basis of sexual orientation and gender identity.

121. With regard to assistance by regional and international mechanisms, the Government could consider:

(a) Inviting the Special Rapporteur on Prisons and Conditions of Detention in Africa of the African Commission on Human and Peoples' Rights to follow up on the findings and recommendations in the present report;

(b) Extending a standing invitation to the special procedure mandate holders, in particular the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and ensure full cooperation with any future visits;

(c) Engaging with the European Union, which has not released funds earmarked for projects because a precondition to releasing those funds is for the Government to undertake the stipulated reforms regarding the human rights situation in the Comoros;

(d) Seeking assistance from the Convention against Torture Initiative<sup>13</sup> regarding the implementation of the Convention against Torture;

(e) Seeking financial support from partners to implement the recommendations accepted during the universal periodic review;

(f) Encouraging donations from the international community to support the United Nations Voluntary Fund for Victims of Torture so that it can consider requests for assistance from non-governmental organizations that work to ensure that persons who have been tortured have access to medical care and legal redress.

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<sup>13</sup> Launched in 2014, the Convention against Torture Initiative is focused on the universal ratification and implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.