
Comorian Woman and the New Constitution

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Abstract

The purpose of this work is to demonstrate what place the revision of the constitution in 2018 reserves for women's rights? In order to have a clear idea, it is necessary to question the progress in the field of women's rights. Women's rights are the subject of several articles in the constitution, particularly in Title II entitled Rights and Duties of Citizens and Article 61 in Title II entitled Institutions of the Union. Title II on the rights and duties of citizens defines rights for women in Chapter 2 on rights, individual freedoms, and political, social and economic rights.

Keywords: Gender; constitution; position of responsibility; woman; Comoros

INTRODUCTION

The purpose of this academic exercise is to demonstrate how the latest revision of the 2001 Constitution contains [or does not contain] innovations in the area of women's rights.

Today, the President of the Republic has launched a constitutional revision. This revision seems to me to already exist in the political agenda of the president. A new reality seems to be justified. This with the president's adherence to the request of the movement of August 11, 2015, which asked the political class to organize a national conference to take stock of the forty-two years of accession of the Union of Comoros to national sovereignty and

recommendations for an appropriate development of the country¹. His speech of March 9, 2018 launched the process of the referendum operations of July 30, 2018. This message addressed to the nation on the day of Eid-ul-Fitr commits the president to the implementation of the recommendations of the national conference.

The situation of Comorian women remains problematic. It receives particular attention from the expertise of the national conferences. In the assembly of the national assizes, women of different levels, notably teachers, diplomats, political women, young women, raised their voices, claimed their rights, "their fight finds more and more echo²". After the National Conferences resulting from the revolts of the August 11 movement, came the constitutional revision approved by the Comorian people in July 2018. The situation of women was certainly an essential indicator of the nature of the revision. With this new constitutional revision, the constituent renovates the rights of women. Before this revision, the Comoros constitution only provided for equal rights for all and the country's commitment to international human rights law.

In the preamble, it is proclaimed that the Union of the Comoros marks its attachment "to the principles and fundamental rights as defined by the charter of the United Nations, that of the Organization of African Unity, the Pact of the League of Arab States, the Universal Declaration of Human Rights of the United Nations and the African Charter on Human and Peoples' Rights, as well as the international conventions, in particular those relating to women's rights. It is also proclaimed "the equality of all in right and duty without distinction of sex...". After "this preamble which is an integral part of the constitution", the 2018 revision constitutes a progress for the situation of women. Women's rights are the subject of several articles of the constitution, particularly in Title II entitled Rights and Duties of Citizens and Article 61 in Title II entitled Institutions of the Union.

What place does the latest constitutional revision in 2018 reserve for women's rights?

To answer this question, it is appropriate to present in a first point the maintenance of women's rights by the constitutional preamble before seeing in a second point the progress in women's rights.

I. The preservation of women's rights

Women's rights are fundamental principles of human rights. The new text of the constitution reaffirms the attachment of the Comorian people to the

¹ This work of organizing the recommendations is a means of enabling the country "to face the many challenges it is currently facing in order to resolve all the socio-economic problems and gradually remove the obstacles that are holding back accelerated, inclusive, diversified and sustainable growth, capable of reducing poverty and ensuring the eventual emergence of the national economy.

² Reference document of the National Conferences of the Comoros, volume 2, p.85.

principles of the fundamental rights of international human rights law, in particular the convention on the elimination of all forms of discrimination against women.

1. The new text links the Comorian people to the principles of fundamental rights

In the aftermath of the National Conferences which allowed to take stock of the forty-two years of independence, with the participation of Comorians of all levels, men and women have established a complete diagnosis on the dysfunction of the State, and this momentum, the President of the Union of the Comoros, Azali ASSOUMANI has, on March 9, 2018, announced constitutional reforms supposed to implement, among others, recommendations from the National Conferences for the building of a new era of the Comoros.

Indeed, the assembly of the National Conferences aimed at the promotion of women and equal rights. It asked, among other things, to support the participation of women in nominative functions; to make effective the laws passed in connection with the development and blossoming of women; to encourage the registration of women in political parties, etc.

During the National Conferences, it was also noted that in the Union of the Comoros, "following the example of African and Muslim countries", women were living in a situation of inequality in several areas of daily life³. Women's access to public space remains low. Thus, the public space appears to be only a male domain in which women are in the minority or seem to be excluded. For example, in high political and elective decision-making positions, Comorian women do not exceed two percent and occupy thirty percent of public service positions⁴.

In the preamble, it is proclaimed that the Union of the Comoros is committed "to the fundamental principles and rights as defined by the Charter of the United Nations and the Universal Declaration of Human Rights of the United Nations". So women's rights are fundamental human rights. Thus, the Charter of the United Nations proclaims in its preamble the equal rights of men and women. The idea of equality is a principle aiming at the exclusion of any distinction. Men and women must be treated in the same way without any discrimination. The Universal Declaration of Human Rights states, with regard to the United Nations Charter, the equality of men and women. Article 1 states: "All human beings are born free and equal in dignity and rights". Article 2 states that "everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without

³ Teering Committee of the National Conferences, reference document of the National Conferences of Comoros February 05-12, 2018, tone2, p.85.

⁴ Steering Committee of the National Conferences, op.cit,p.87.

distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Similarly, the preamble guarantees all citizens "a range of rights, duties, and freedoms," and Comorian women are considered equal citizens in their own right. Equal rights for women can only be effective after the establishment of specific legislation on the status of women.

2. The new text links the Union of Comoros to the convention on the elimination of all forms of discrimination against women

The Union of the Comoros commits itself to the convention on the rights of women. In the preamble of the current constitution, the Union of Comoros is committed to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Comoros ratified the convention by decree n°94076/PR.

CEDAW is implemented to give effect to the fundamental principles of the United Nations reaffirming its belief in the equal rights of men and women. CEDAW recognizes a wide range of women's rights. CEDAW clearly sets out women's rights in all areas including political, social, economic and cultural. Each State party must take all necessary measures to ensure the development and advancement of women. It shall ensure to women the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Indeed, the convention speaks of discrimination and specifies that any discrimination "violates the principle of equal rights and respect for human dignity"⁵. According to article 1 of the CEDAW, discrimination is understood as:

"any distinction, exclusion or destruction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field⁶. Thus, the application of this convention to improve women's rights is the obligation of each State party.

II. Progress in the field of women's rights

The new constitutional revision of 2018 constitutes a progress in the field of women's rights.

⁵ Preamble of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in its resolution A/RES/34/180 of 18 December 1978, which entered into force on 3 September 1981, in accordance with the provisions of article 27, in Council of Europe, Human Rights in International Law: Basic Text, Council of Europe Publishing, Strasbourg, 2007, p.37.

⁶ Article 1 of the 1979 Convention on the Elimination of All Forms of Discrimination against Women

The new text contains favorable provisions for the advancement of women. In general, it includes a chapter on human rights. Citizens benefit equally from fundamental rights and freedoms. In addition to the preamble, which guarantees respect for the rights and freedoms of all citizens and marks Comoros' attachment to international human rights law, several articles contain real innovations regarding the status of women. The constitution enshrines the promotion of women's rights and their access to government representation.

1. Rights, individual freedoms, political, social and economic rights for women

In the constitutional review, the constitution contains provisions favorable to women since it addresses citizens under conditions of equality. Comorian women, who constitute a large part of the population, are full citizens.

Title II on the rights and duties of citizens defines rights for women in chapter 2 on rights, individual freedoms, political, social and economic rights.

Article 30 states that "the State guarantees the rights of women...". Article 24 stipulates that "all citizens have the right to access the public service administration under equal conditions". The new text highlights political rights for women. Article 32 provides that "all citizens have the right to access public functions and elective mandates under conditions of equality. Article 34 states that "The Union of the Comoros recognizes and guarantees women the right of access to political bodies and local and national representation. The latest constitutional revision recognizes economic and social rights for women. Under article 37, work is considered a right recognized for all citizens. In the same sense, Article 38 in its paragraph 2 stipulates that "men and women receive equal pay for equal work. The constitutionalization of women's representation in the Union's institutions is another step forward for the promotion of women.

2. Women's representation in government

Women's access to government is another step forward for women's rights. The representation of women in the government has just been enshrined in Article 61 of the 2018 constitutional revision under Title III on the institutions of the Union after announcing in Article 60 that "the President of the Union, shall appoint the ministers and other members of the government whose number shall not exceed fifteen."

Article 61 states that "the government shall be composed in such a way as to ensure a fair and equitable representation of the distribution between men and women.

Conclusion

We can demonstrate through this intervention that in Comoros, the status of women is evolving. The current constitution is undoubtedly a step forward. It enshrines, "for the first time in the constitutional history of the country", the promotion of women's rights. The Comorian constitution is new in terms of women's rights, in that it addresses men and women for the first time and refers to the terms "woman" and "women's rights". The Comorian government must act as the guardian par excellence of women's rights. One question seems to be taken into consideration. Are Comorian women satisfied with the current status of women's rights?

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