

COMOROS 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Union of the Comoros is a constitutional, multi-party republic. The country consists of three islands – Grande Comore (also called Ngazidja), Anjouan, and Moheli – and claims a fourth, Mayotte, which France governs. In November and December 2010, voters elected a new union president as well as governors for each of the three islands. A joint international observer mission declared the elections generally free and fair, despite certain shortcomings. In May 2011 former vice president Ikililou Dhoinine became president of the Comoros. In April security forces discovered a plot to overthrow the government and arrested 16 coup plotters now awaiting trial. Civilian authorities maintained effective control over the security forces. There were no reports that security forces committed human rights abuses during the year.

Among the most important human rights problems in the country was pervasive official corruption, particularly bribery. Children were subject to various forms of abuse from violence to forced labor and trafficking in persons. The government did not effectively enforce laws protecting workers' rights.

Other human rights problems reported during the year included poor prison conditions, long pretrial detention, restrictions on press freedom, violence and societal discrimination against women, and criminalization of consensual same-sex sexual activity.

Impunity for violations of human rights was widespread. The government discouraged and sometimes arrested or dismissed officials implicated in such violations, but rarely took steps to prosecute them. The prosecutor general was dismissed from office in October upon allegations of abuse of power by interfering in the investigation of a trafficking-in-persons case.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports the government or its agents committed arbitrary or unlawful killings. There was no mechanism to investigate security force killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and laws prohibit such practices. Mistreatment of detainees may have occurred during the year. There were no reports or documented complaints of torture or other cruel, inhuman, or degrading treatment or punishment.

Prison and Detention Center Conditions

Prison conditions remained poor. The national prison in Moroni is the largest of three facilities serving the entire country. There are small prisons in Anjouan and in Moheli. The military detained security personnel in its own facilities, as well as the 16 coup plotters arrested in April for several weeks prior to their transfer to civilian custody. National or individual island authorities used various detention facilities as deemed appropriate, and detainees could be transferred from either Anjouan or Moheli to Grande Comore, depending upon the nature of their offenses. The chief of police was arrested in late October for the fraudulent sale of passports and was formally imprisoned despite protests that a person of his stature should have been put under house arrest or in other facilities.

Physical Conditions: Limited available information indicated that prison conditions remained poor. Detainees and prisoners normally received a single meager meal per day. They depended on family members to supplement their diet and those with no relations in the area suffered. Other common problems included absence of potable water, inadequate sanitation, insufficient ventilation and lighting, overcrowding, and inadequate medical facilities. During the year, however, there were no reports of deaths of prison inmates. The Moroni prison has a capacity of 60 persons according to International Committee of the Red Cross standards but, as of October, accommodated 206 individuals (including 18 foreigners) under routinely crowded conditions.

The law provides that juveniles over the age of 13 are treated as adults in the criminal justice system. According to the government's Human Rights Commission, however, authorities routinely released juveniles under the age of 15 to the custody of their parents. In October there were six juvenile male prisoners age 15 and 16 in the country (four in Moroni and two in Moheli), and they were

held with adults. As of October the prison in Moroni held four female prisoners, none of whom were juveniles, in a separate section.

Administration: Consistent records of prisoners were not available, and authorities did not take steps during the year to improve their recordkeeping. Authorities did not use alternatives to incarceration for nonviolent offenders. Prison officials permitted prisoners and detainees reasonable access to visitors and Muslim religious observance. Prisoners could also bring complaints to the attention of authorities without censorship; however, investigations or follow-up actions almost never occurred.

Independent Monitoring: The government permitted visits by independent human rights observers in accordance with those organizations' standard procedures, but denied access to diplomatic officials in October.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Six separate security forces report to five different authorities. Union government forces include the Army of National Development and the Gendarmerie, both of which report to the president's minister-equivalent director for defense, and the National Directorate of Territorial Safety, which oversees immigration and customs and reports to the minister of interior, information, and decentralization. Each of the three islands has a local police force under the authority of its own minister of interior.

Impunity was a problem, and there was no mechanism to investigate police abuses. Police and other security forces participated in training on civil-military relations, public health, and peacekeeping operations.

Arrest Procedures and Treatment of Detainees

The law requires warrants for arrests and permits detainees to be held in custody for up to 24 hours, although these provisions were not always respected. Detention for more than 24 hours requires approval by a prosecutor. A magistrate informs detainees of their rights, including the right to legal representation. The law

provides for the prompt judicial determination of the legality of detention, and detainees must be promptly informed of the charges against them, but these rights were inconsistently respected. The law prescribes a bail system under which those who post bail are not permitted to leave the country. Some detainees did not have prompt access to attorneys or their families. The law also requires the state to provide an attorney for indigent defendants, but this rarely occurred.

Rules of criminal procedure codified as a legacy of French colonial rule were often not followed. According to the Comoros Human Rights Commission, arrest procedures were generally respected for minor crimes but may not be followed closely in high-profile cases. For example, military officials did not observe procedural safeguards in arresting and detaining 16 accused coup plotters, both foreign and local, before turning them over to civilian authorities.

Pretrial Detention: Lengthy pretrial detention was a problem. By law pretrial detainees can be held for only four months, but a magistrate or prosecutor can extend this period. Detainees routinely awaited trial for extended periods due to a variety of reasons, including administrative delays, case backlogs, and time-consuming collection of evidence. Some extensions lasted several months. Inefficiencies in the judicial process were occasionally the subject of protest by defense attorneys and, in one instance during the year, occasioned intervention by the president. As of October only 17 of 206 prisoners in the Moroni jail had been convicted; the rest were awaiting trial.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence. Judicial inconsistency, unpredictability, inadequate salaries, and corruption were problems.

Trial Procedures

The law provides all citizens with the right to a fair trial, but lengthy delays were common. Under the legal system, which incorporates French legal codes and sharia (Islamic law), trials are open to the public and defendants are presumed innocent. Juries deliberate in criminal cases. Defendants have the right to consult an attorney and indigent local defendants have the right to counsel provided at public expense, although the latter was rarely observed in practice. Defendants have the right to be present at their trials, access government-held evidence, question witnesses, and present witnesses and evidence on their own behalf. There

is an appellate process. Defendants have the right to be informed promptly and in detail of the charges against them (with free interpretation as necessary), to be given adequate time and facilities to prepare their defense, and not to be compelled either to testify against themselves or confess guilt.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees. Following an April coup attempt, 16 accused coup plotters were awaiting trial as of September. Neither the government nor counsel for the accused considered these individuals to be political prisoners.

Civil Judicial Procedures and Remedies

There is an independent but not impartial judiciary for civil matters. Court officers frequently solicited bribes from parties before adjudicating cases. Administrative remedies were rarely available, although citizens with influence had access to such alternatives. Court orders were inconsistently enforced.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, but there were some limitations of press freedom in practice.

Press Freedoms: The union government hampered press freedom by publicly criticizing and otherwise intimidating journalists who wrote controversial articles. Journalists on all three islands practiced self-censorship. In September a private radio station, which regularly aired programs on government corruption and abuse, was burned down by unknown persons. The government promised a prompt investigation of the incident.

Internet Freedom

There were no government restrictions on access to the internet or reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. According to the International Telecommunication Union, 6 percent of individuals used the internet in 2012.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country and foreign travel, and the government generally respected these rights in practice. No specific constitutional or legal provisions deal with emigration and repatriation.

Protection of Refugees

Access to Asylum: According to the Office of the UN High Commissioner for Refugees, there were no registered refugees, returning refugees, asylum seekers, or other persons of concern in the country. The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. During the year a group of 10 individuals who claimed they were escaping political and economic disruptions in their home country requested asylum in the Comoros. The group, primarily women and children, were on their way to the neighboring French island of Mayotte to seek work. Their request for asylum was denied without a refugee status determination

hearing, and they were repatriated to Tanzania (the country from which they had entered the Comoros).

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections based on universal suffrage. In April security forces discovered a plot to overthrow the government and arrested 16 alleged coup plotters who were awaiting trial at year's end.

Elections and Political Participation

The constitution provides for a rotating union government presidency, in which each of the country's three islands takes a turn, once every five years, at holding a primary to select three presidential candidates for national election. The constitution thus restricts those eligible to run for the presidency to those residing on a particular island or arguably, irrespective of residency, those elected by just that island's citizens. Aside from the rotation principle, anyone meeting constitutional requirements of age, residency, citizenship, and good moral character is free to run for office.

Recent Elections: In 2010 elections were held to choose a new union government president as well as governors for each island. Rotation for the union presidency passed that year to the island of Moheli. From a ballot of 10 candidates (all natives of Moheli), Mohelian voters selected three to run in the national election. Some observers noted serious electoral irregularities on the island of Anjouan, but they were not serious enough to change the outcome of the national contests and the constitutional court upheld the results of the elections. A joint international observer mission from the African Union, the League of Arab States, the Organization of the Islamic Conference, and the International Organization of La Francophonie declared the elections generally free and fair, despite shortcomings relating to the electoral commission, opaque vote tallying, and reports of fraud on Anjouan. Former vice president Ikililou Dhoinine thus became the union president in May 2011.

In 2009 legislative elections were held for the union national assembly or parliament and each of the three island assemblies. These elections were also considered generally free and fair.

Participation of Women and Minorities: There were three women in the 33-member national assembly and two women in the 10-member cabinet. No minorities held national assembly seats or ministerial posts in either the union or three island governments.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption. The government did not implement the law effectively, however, and officials often engaged with impunity in corrupt practices, such as taking money for performing routine administrative services or doing favors.

Corruption: Resident diplomatic, UN, and humanitarian agency workers reported petty corruption was commonplace at all levels of the civil service, despite the government's anticorruption campaign. Businessmen reported corruption and a lack of transparency, while the World Bank's Worldwide Governance Indicators reflected that corruption was a significant problem. President Dhoinine dismissed the telecommunications minister in June after allegations of corruption surfaced. As of October the Anti-Corruption Agency was investigating those allegations.

Corruption continued in the security forces. Citizens paid bribes to evade customs regulations, avoid arrest, and falsify police reports. Some police paid bribes to receive promotions.

The independent Anti-Corruption Commission, a national body, is responsible for combating corruption. Although public allegations of corruption were routine, the government investigated 80 cases of corruption during the year and referred 15 cases for prosecution. One official was convicted and sentenced to six months in jail for taking a bribe.

Whistleblower Protection: The law does not specifically provide protection to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality.

Financial Disclosure: High-level officials became subject to financial disclosure laws in 2011 when a presidential decree implemented a 2008 law requiring all such officials at union and island levels to declare their assets prior to entering office. Officials subject to the law submitted written declarations on taking office.

Public Access to Information: No laws provide for general public access to government information. Those who have personal or working relationships with government officials, however, can generally access government information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

UN and Other International Bodies: The government cooperated with international organizations and permitted visits by representatives of the United Nations and other organizations. Domestic human rights and other nongovernmental organizations (NGOs) used locally-based UN personnel as a means of influencing the government. No reports or criticisms were issued.

Government Human Rights Bodies: The Comoros Foundation for Human Rights (CFHR) and some international and domestic NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Domestic NGOs largely supplanted government ministries in the provision of some functions, especially in health and education. The Comoran Association for Family Well-Being, a large domestic NGO that received funding from the UN Children's Fund (UNICEF) and the EU, provided a range of health services to the population. Government officials generally were cooperative and responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits discrimination based on race, gender, disability, language, or social status, there were reports of discrimination against women and persons with disabilities.

Women

Rape and Domestic Violence: Rape is illegal and punishable by imprisonment for five to 10 years or up to 15 years if the victim is younger than 15. The government enforced the laws on rape effectively. In the first six months of the year, the Morals Brigade investigated and charged 61 individuals with child rape. Statistics on adult rape investigations were not readily available. The law does not specifically address spousal rape, which was a problem. Statistics were scarce, and there were reports that many of these situations were settled within families or by village elders without recourse to the formal court system.

The law prohibits domestic violence, but fines and imprisonment were rarely imposed. No reliable data were available on the extent of the problem. The government did take action to combat violence against women when that violence was reported; however, women rarely filed official complaints. During the year there were two cases of spousal killing. The husbands in both cases were charged and convicted for murder and were serving prison sentences at year's end. While women can seek protection from domestic violence through the courts, most cases were addressed through extended family or the village. Domestic violence cases rarely entered the court system, but officials took action (usually the arrest of the spouse) when necessary.

Sexual Harassment: Sexual harassment is illegal and punishable by up to 10 years' imprisonment. Although rarely reported due to societal pressure, such harassment was nevertheless a common problem, and the government did not effectively enforce penalties against it.

Reproductive Rights: Couples and individuals are generally free to choose the number and spacing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. The prevalence of modern contraceptive use among married women and girls ages 15-49 was approximately 19 percent, according to the UN Population Fund (UNFPA). Existing health resources (including personnel, facilities, equipment, and drugs) were inadequate, making it difficult for the government to respond to the health needs of the population. According to the Population Reference Bureau, skilled personnel attended approximately 62 percent of births. The UNFPA estimated maternal mortality in 2008 to be 340 deaths per 100,000 live births. A general lack of adolescent reproductive health information and services led to unwanted pregnancies and increased morbidity and mortality among adolescent girls. These incidents were generally concealed for social and cultural reasons. No legal barriers prevent women from receiving treatment for sexually transmitted infections, but many hesitated to do so due to social and cultural concerns.

Discrimination: The law provides for equality of persons and, in general, inheritance and property rights practices do not discriminate against, but rather favor women. The Ministry of Health, Solidarity, and Gender Promotion is responsible for promoting women's rights. The local cultures on Grande Comore and Moheli are traditionally matrilineal, and all inheritable property is in the legal possession of women. This cultural practice leads, at times, to what might be seen as discrimination against men in the inheritance of homes and land. Notably, men retain the head-of-household role in society. Throughout the country, including on

the nonmatrilineal island of Anjouan, land and homes were usually awarded to women in case of divorce or separation. Societal discrimination against women was most apparent in rural areas where women were mostly limited to farming and child-rearing duties, with fewer opportunities for education and wage employment. In urban areas, growing numbers of women were employed and generally earned wages comparable with those of men engaged in similar work. Few women held positions of responsibility in business, however, outside of elite families.

Children

Birth Registration: Any child having at least one Comoran parent is considered a citizen, regardless of where the birth takes place. Any child born in the country is considered a citizen unless both parents are foreigners, although these children can apply for citizenship if they have lived in the country for at least five years at the time of their application. An estimated 15 percent of children were not officially registered at birth, although many of these situations were regularized subsequently. No public services were withheld from children who were not officially registered.

Education: Universal education is compulsory until age 15, but tuition-free education was not always available. The public education system was in severe disrepair and private schools supplemented public education. When families paid private-school tuition, boys generally were more likely to attend schools than girls. An approximately equal number of girls and boys attended public schools, which were largely dilapidated and functioned poorly.

Child Abuse: Official statistics disclosed some cases of abuse when impoverished families from the island of Grand Comore sent their children to work for wealthier families elsewhere in the hope of their obtaining better education. The NGO Services d'Ecoute, funded by the government and UNICEF, has offices on all three islands to provide support and counseling for abused children and their families. The NGO routinely referred child abuse cases to the police for prosecution. The police investigated child abuse cases and, on Grand Comore, a Morals and Minors Brigade had primary responsibility to investigate and prosecute reported cases of child abuse. Through June, the Brigade investigated 74 child abuse cases. Where evidence was sufficient, cases were routinely prosecuted.

Sexual Exploitation of Children: The law considers unmarried persons under age 18 to be minors and prohibits their sexual exploitation, prostitution, and involvement in pornography. Consensual sex outside of marriage is illegal and the

legal age for marriage is 18. Anyone convicted of luring a child into prostitution is subject to a prison term of two to five years and a fine of 150,000 to one million Comoran francs (\$415 to \$2,767). Child pornography is punishable by fines or imprisonment. There were no official statistics regarding these matters and no reports in local media of cases, prosecutions, or convictions relating to either child prostitution or child pornography.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There was no known Jewish population and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and applicable laws, particularly the labor code, prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities. Following the 2012 ratification of the Convention on the Rights of Persons with Disabilities, local law now mandates – but the government does not effectively enforce – improved access to buildings, information, communication, education, air travel, and other transportation for persons with disabilities. Despite the absence of appropriate accommodation for children with disabilities, such children attended mainstream schools, both public and private.

Handicap Comores, the country's nongovernmental center for persons with disabilities on Grande Comore, was run by a local NGO called Shiwe, or "Pillar." The center, which was recently renovated with help from Australian and other donors, also imported wheelchairs and prostheses.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Consensual same-sex sexual activity is illegal and can be punished by up to five years' imprisonment and a fine of 50,000 to one million Comoran francs (\$138 to \$2,767). During 2012 the Morals and Minors Brigade investigated two cases of same-sex activity involving a minor and referred the cases for prosecution.

Through October the Brigade investigated one additional case of same-sex activity where both participants were minors. The status of these cases was unclear, but it was common practice to jail the accused pending trial. Lesbian, gay, bisexual, and transgendered (LGBT) persons generally did not publicly manifest their sexual orientation due to societal pressure. There were no local LGBT organizations.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements. It provides for the right to strike, requiring an eight-day notification period and specification of the reason for and duration of the strike. The law includes a system for resolving labor disputes. Unions have the right to bargain collectively. The government, especially the ministries of finance and labor, sets wages in the large public sector, and imposes a minimum wage in the small, formal private sector. The law allows unions to conduct their activities without government interference. The law does not prohibit antiunion discrimination by employers in hiring practices or other employment functions. There are no laws protecting strikers from retribution. There are no groups of workers excluded from legal protections.

The law was not applied in the settlement of private-sector disputes, but it was invoked unpredictably and inconsistently in labor disputes in the public sector. Worker organizations were independent of the government and political parties.

Workers exercised their labor rights in practice. There were no reports of instances of retribution against strikers. Common problems included failure to pay salaries

regularly or on time, mostly in the government sector, and unfair and abusive dismissal practices, such as firing employees without giving proper notice or paying the required severance pay. There were no reported incidents of antiunion discrimination during the year.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor by adults and children, with certain exceptions for obligatory military service, community service, and during accidents, fires, and disasters. The government's civil protection unit may oblige persons to respond to disasters if it is unable to obtain sufficient voluntary assistance. In September 2012 the country adopted a comprehensive labor code that prohibits forced child labor, with specific antitrafficking provisions. The new law was scheduled to come into force once the new penal code, under deliberation by the National Assembly in October, is ratified.

Forced child labor occurred in practice, particularly in family-based agriculture (planting, weeding, harvesting), fishing, and domestic service. Adult forced labor did not occur.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

Laws exist to protect children from exploitation in the workplace. The law establishes 15 as the minimum age for employment; however, the minimum age for dangerous jobs (as defined by the International Labor Organization) is 18.

The government did not enforce such laws. The Ministry of Labor is responsible for enforcing child labor laws, but it did not actively or effectively do so. There were three labor inspectors (one for each island). These inspectors were responsible for all potential violations of labor law and did not focus only on child labor cases.

Children worked in subsistence farming, fishing, and extracting and selling marine sand. Children worked on food crops such as manioc and beans and also on cash crops such as vanilla, cloves, and ylang-ylang (a flower used to make perfume). Some children worked under forced labor conditions, primarily in domestic service. In addition, some Koranic schools arranged for indigent students to

receive lessons in exchange for labor, which sometimes was forced. Some families placed their children in the homes of wealthier families where they worked in exchange for food, shelter, or educational opportunities. Many children did not receive payment for their work.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

A committee called the Collectif de Travail – consisting of representatives of unions, employers, and the Ministry of Labor – met periodically to propose enforcing a national minimum wage, as the existing minimum wage scale of 55,000 Comoran francs (\$152) per month is only a guideline. The law provides for a 40-hour workweek, except in the agriculture sector, where the maximum is set at 2,400 hours per year (i.e., equivalent to 46 hours per week). The weekly rest minimum is set at 24 consecutive hours. The law provides for paid annual leave accumulated at the rate of 2.5 days per month of service. There are no provisions to prohibit compulsory overtime; this is left to collective bargaining. Negotiations with the banking sector and the pharmacy sector did not yield a collective bargaining agreement. There are no sectors or groups of workers specified as not covered by these laws. The official estimate for the poverty income level is 250,000 Comoran francs (\$700) per year. There are few credible occupational safety and health standards.

Although the union government and local governments did not enforce the minimum wage law and workweek standards, unions had adequate influence to negotiate de facto minimum wage rates for different skill levels for unionized jobs. These provisions applied to all workers, regardless of sector or country of origin. Unions promoted this de facto minimum wage in practice via their ability to strike against employers.

The Labor Code includes a chapter on occupational safety and health requirements. Fishing was considered the most hazardous work. Most fishermen were self-employed, working from their often unsafe canoes. There was no credible data on the number of occupational accidents.