

COMOROS 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Union of the Comoros is a constitutional, multiparty republic. The country consists of three islands--Grande Comore (also called Ngazidja), Anjouan (Ndzواني), and Moheli (Mwali)--and claims a fourth, Mayotte (Maore), that France administers. In 2015 successful legislative elections were held. In April 2016 voters elected Azali Assoumani as president of the union, as well as governors for each of the three islands. Despite a third round of voting on Anjouan--because of ballot box thefts--Arab League, African Union, and EU observer missions considered the elections generally free and fair.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: endemic judicial and official corruption; limitations on freedom of expression and criminalization of defamation; interference in freedom of assembly; trafficking in persons; criminalization of same-sex sexual conduct, and ineffective enforcement of laws protecting workers' rights.

Impunity for violations of human rights was widespread. Although the government discouraged officials from committing human rights violations and sometimes arrested or dismissed officials implicated in such violations, they were rarely tried.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibit such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions remained poor. The national prison in Moroni is the largest of three prisons in the country. The other two are in Anjouan and Moheli. Military detainees were held in military facilities. National or individual island authorities used various detention facilities as deemed appropriate, and detainees could be transferred from either Anjouan or Moheli to the national prison in Moroni, depending upon the nature of their offenses.

Physical Conditions: Overcrowding was a problem. As of November the Moroni prison held 191 inmates, but according to International Committee of the Red Cross (ICRC) standards, the capacity was 60 inmates.

The law on child protection provides for juveniles ages 15 to 18 to be treated as adults in the criminal justice system. According to the governmental National Commission for Human Rights and Liberties (CNDHL), however, authorities routinely released juveniles ages 15 to 18 to the custody of their parents if they were not recidivists. Juveniles and adult prisoners were held together. As of November there were 10 juvenile male inmates in the Moroni prison held with adults. That prison also held two adult female prisoners in a separate cellblock. Detainees and prisoners normally received a single meal per day. Those who did not receive additional food from family members suffered. Other common problems included inadequate potable water, sanitation, ventilation and lighting, and medical facilities.

Administration: Prisoners could submit complaints without censorship, but investigations or follow-up actions almost never occurred.

Independent Monitoring: The government permitted the ICRC and the CNDHL to monitor prisons. CNDHL representatives made regular and unannounced prison visits during the year without interference. Authorities required nongovernmental organizations (NGOs) to request a visit permit from the prosecutor general.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of arrest or detention in court, and the government generally observed these provisions.

Role of the Police and Security Apparatus

The National Development Army and the Federal Police have responsibility for law enforcement and maintenance of order within the country. The National Development Army includes both the gendarmerie and the Comorian Defense Force, and reports to the president's cabinet director for defense. The National Directorate of Territorial Safety, which oversees immigration and customs, reports to the minister of interior, information, and decentralization. The Federal Police report to the minister of interior. The Gendarmerie's rapid reaction Intervention Platoon also may act under the authority of the interior minister. When the gendarmerie serves as the judicial police, it reports to the minister of justice.

Each of the three islands has a local police force under the authority of its own minister of interior.

Civilian authorities generally maintained effective control over police, and the government had mechanisms to investigate and punish abuse and corruption. Nevertheless, police used excessive force, and impunity was a problem. The ability of the army to investigate abuses by its personnel was uncertain.

In February the Ma-mwe electricity company shut off power to a high school in Moroni pending the payment of 800,000 Comorian francs (\$1,800) it owed as the result of alleged fraud by the school. This led teachers and students to protest the closure and demand the release of the headmaster, who had been arrested. When gendarmes arrived, scuffles broke out and seven students were injured, including one who was shot and wounded. The government condemned this use of excessive force and stated that it would hold the gendarmes involved accountable.

Arrest Procedures and Treatment of Detainees

The law requires judicial arrest warrants as well as prosecutorial approval to detain persons longer than 24 hours without charge. The law provides for the prompt judicial determination of the legality of detention and for detainees to be informed promptly of the charges against them. A magistrate informs detainees of their rights, including the right to legal representation. These rights were inconsistently respected. The bail system prohibits those for whom bail is posted from leaving

the country. Some detainees did not have prompt access to attorneys or their families.

Pretrial Detention: Lengthy pretrial detention was a problem. By law pretrial detainees may be held for no more than four months, although many were held longer. A magistrate or prosecutor may extend this period. Detainees routinely awaited trial for extended periods for reasons including administrative delay, case backlog, and time-consuming collection of evidence. Some extensions continued for several years. Defense attorneys occasionally protested such judicial inefficiencies.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: A person arrested or detained may challenge the legal basis of their detention, and the law provides for monetary damages if a court finds a detention improper.

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, and corruption were problems.

Trial Procedures

The law provides all defendants with the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants have the right to be informed promptly of charges and to a timely trial, but lengthy delays were common. The legal system incorporates French legal codes and sharia (Islamic law). Trials are open to the public, and defendants are presumed innocent. Trials are by jury in criminal cases. Defendants have the right to consult an attorney, and indigent defendants have the right to counsel provided at public expense, although the latter right was rarely observed. Defendants have the right to be present at their trials, question witnesses, and present witnesses and evidence on their own behalf. Although the law provides for the assistance at no charge of an interpreter for any defendant unable to understand or speak the language used in court, none was provided. Defendants have the right to adequate time and facilities to prepare a defense, and not to be compelled to testify or confess guilt. There is an appellate process.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations through an independent, but corrupt court system. By law individuals and organizations may appeal adverse domestic decisions to regional human rights bodies. Court orders were inconsistently enforced.

f. Arbitrary or Unlawful 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 Expression, Including for the Press

The constitution and law provide for freedom of speech including for the press, but there were some limitations on press freedom.

Press and Media Freedom: The constitution provides for freedom of expression, including for the press, but the government did not always respect these rights. Some journalists on all three islands practiced self-censorship.

In December 2016 Abdallah Abdou Hassan, owner of private radio station La Baraka FM in the Itsandra region, was arrested and found guilty of defamation after the prosecutor of the republic charged him with insulting the country's judicial and other authorities. The Court of First Instance convicted him of defamation and sentenced him to nine months' imprisonment and a fine of 75,000 Comorian francs (\$167). The court suspended the sentence. On February 15, the Court of Appeals reversed the verdict. Nevertheless, the prefect of Itsandra region issued an order prohibiting the radio station from broadcasting, and police confiscated all its equipment, forcing the station to shut down.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private

online communications without appropriate legal authority. According to the International Telecommunication Union, 8 percent of individuals used the internet in 2016.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for the freedoms of peaceful assembly and association, but the government did not always respect these rights.

Freedom of Peaceful Assembly

In May, after four weeks of public school strikes, the teachers' union called for a peaceful march to express its dissatisfaction with authorities for refusing to respond to their demands. The prefect of Moroni refused to authorize the march. Police dispersed the teachers when they gathered to begin the march. On December 9 and 10, the government banned opposition parties from meeting in Anjouan without explanation.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

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

Protection of Refugees

Access to Asylum: 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. 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.

Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage, and citizens exercised that ability.

Elections and Political Participation

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

Recent Elections: In 2015 free and fair legislative elections were held. In April 2016 presidential and gubernatorial elections were held. Incumbent candidates claimed some irregularities, including the theft of ballots on Anjouan. They filed complaints at the Constitutional Court requesting the vote be repeated for both presidential and gubernatorial candidates. They alleged that the opposition stole and destroyed approximately 3,000 ballots in Anjouan. The Constitutional Court ruled in favor of the plaintiffs, and a third round of voting was conducted successfully at 13 polling stations in Anjouan.

Participation of Women and Minorities: No laws limit participation of women, members of minorities, or both in the political process, and they did participate. Some observers believed that traditional and cultural factors prevented women from participating in political life on an equal basis with men. For example, only two of the 33 seats in the national legislature were filled by women in the 2015 election.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for conviction of corruption by officials, but the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

The National Commission for Preventing and Fighting Corruption (CNPLC) was an independent administrative authority established to combat corruption, including through education and mobilization of the public. In September 2016 the president repealed the provisions of the law that 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 members during the year.

Corruption: Resident diplomatic, UN, and humanitarian agency workers reported petty corruption was commonplace at all levels of the civil service and security forces. Businesspersons reported corruption and a lack of transparency, while the *World Bank's Worldwide Governance Indicators* reflected that corruption was a significant problem. Citizens paid bribes to evade customs regulations, to avoid arrest, and to obtain falsified police reports.

On April 14, former administrative and financial director of the state-owned Comorian Hydrocarbons Company Mariama Mhoudine was charged by an investigating judge with involvement in the embezzlement of nearly two billion Comorian francs (\$4.5 million). The investigation continued at year's end. Mhoudine was released pending trial.

Financial Disclosure: The law requires high-level officials at national and island levels to declare their assets prior to entering office. The submission of a disclosure is made public, but the disclosure itself is not. Officials subject to the law did so upon taking office. Conviction of failure to comply is punishable by fines and up to two years' imprisonment. In 2016 the CNPLC reported that all officials subject to the law filed financial disclosures. The CNPLC does not verify the accuracy of the disclosures.

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

A few domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: Domestic NGOs largely supplanted government ministries on human rights issues. By law the governmental CNDHL

is mandated to investigate human rights abuses and to make recommendations to concerned authorities.

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

Women

Rape and Domestic Violence: Rape regardless of age or gender is illegal and punishable if convicted by five to 10 years' imprisonment or up to 15 years if the victim is younger than 15. Authorities prosecuted perpetrators if victims filed charges. There were reports that families or village elders settled many allegations of sexual violence informally through traditional means and without recourse to the formal court system.

The law treats domestic violence as an aggravating circumstance that includes crimes committed by one domestic partner against an existing or former partner. Penalties for conviction include prison sentences up to five years and fines up to two million Comorian francs (\$4,500). Courts rarely sentenced or fined convicted perpetrators. No reliable data were available on the extent of the problem. Women rarely filed official complaints. Although officials took action (usually the arrest of the spouse) when reported, domestic violence cases rarely entered the court system.

Sexual Harassment: Sexual harassment is illegal, and conviction is punishable by fines and imprisonment. It is defined in the labor code as any verbal, nonverbal, or bodily behavior of a sexual nature that has the effect of creating an intimidating, hostile, or humiliating work environment for a person. Although rarely reported due to societal pressure, such harassment was nevertheless a common problem, and authorities did not effectively enforce the law.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The law provides for equality of persons without regard to gender, creed, belief, origin, race, or religion. Nevertheless, inheritance and property rights practices favor women. Local cultures are traditionally matrilineal, and all inheritable property is in the legal possession of women. 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.

Children

Birth Registration: Any child having at least one Comorian parent is considered a citizen, regardless of where the birth takes place. Any child born in the country is a citizen unless both parents are foreigners, although these children may apply for citizenship if they have at least five years' residency at the time they apply. Authorities did not withhold public services from unregistered children. For additional information, see Appendix C.

Education: Universal education is compulsory until age 12. No child under age 14 may be prevented from attending school. An approximately equal number of girls and boys attended public schools at the primary and secondary levels, but fewer girls graduated.

Child Abuse: Official statistics revealed cases of abuse when impoverished families sent their children to work for relatives or wealthy families, usually in the hope of obtaining a better education for their children. The NGO Listening and Counseling Service, funded by the government and UNICEF, had offices on all three islands to provide support and counseling for abused children and their families. The NGO routinely referred child abuse cases to police for investigation. Police conducted initial investigations of child abuse and referred cases to the Morals and Minors Brigade for further investigation and referral for prosecution if justified by evidence. If evidence was sufficient, authorities routinely prosecuted cases.

Early and Forced Marriage: The legal minimum age of marriage is 18 for both boys and girls. In the sole reported case of attempted forced marriage involving a minor, the police Morals and Minors Brigade investigated and intervened to stop the marriage before it took place. For additional information, see Appendix C.

In October as part of the implementation of the *2017 National Child Protection Policy Action Plan*, the National Commission for Solidarity, Social Protection, and Gender Promotion, with the financial support of UNICEF, organized awareness-raising and training workshops on child marriage for religious leaders.

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. Anyone convicted of facilitating the sex trafficking of children is subject to a prison term of two to five years and a fine of 150,000 to one million Comorian francs (\$338 to \$2,250). Conviction of 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 sex trafficking 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. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

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/rls/tiprpt/.

Persons with Disabilities

The constitution and applicable laws, particularly the labor code, prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities. The law mandates access to buildings, information, communication, education, and transportation for persons with disabilities. The government did not effectively enforce the law. Despite the absence of appropriate accommodation for children with disabilities, such children attended mainstream schools, both public and private. In October the Ministry of National Education, Research, and Arts held a workshop to validate and adopt the *Basic Education Action Plan for Children with Disabilities for 2017-26*. In June 2016 the National Assembly ratified the UN Convention on the Rights of Persons with Disabilities and a government policy on persons with disabilities for integration into the *National Action Plan*.

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

Consensual same-sex sexual activity is illegal, and conviction is punishable by up to five years' imprisonment and a fine of 50,000 to one million Comorian francs (\$113 to \$2,250). Authorities reported no arrests or prosecutions for same-sex sexual activity during the year. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons generally did not publicly reveal their sexual orientation due to societal pressure. There were no local LGBTI organizations.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions of their choice without previous authorization or excessive requirements. It provides for the right to strike but requires an eight-day notification period and a declaration of the reason for the strike and its duration. The law includes a system for resolving labor disputes. Unions have the right to bargain collectively. 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 are independent of the government and political parties. Resources, inspections, and remediation were inadequate. Penalties for violations, including ordering employers to pay indemnities and damages to the employee, were sufficient to deter violations. Labor disputes may be brought to the attention of the Labor Tribunal.

Workers exercised their labor rights. There were no reports 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 dismissing employees without giving proper notice or paying the required severance pay. There were no reported incidents of antiunion discrimination during the year. All labor NGOs were designated as labor organizations.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, with certain exceptions for military service, community service, and during accidents, fires, and disasters. During times of national emergency, the government's civil protection unit may compel persons to assist in disaster recovery efforts if it is unable to obtain sufficient voluntary assistance. The labor code prohibits forced child labor, with specific antitrafficking provisions.

Resources, inspections, and remediation were inadequate. Financial penalties, however, for those who violated the law served as an effective deterrent. Penalties for conviction include from one to six months in prison, a fine of from 50,000 to 200,000 Comorian francs (\$113 to \$450) for those who abuse their authority to compel someone to work for them or for someone else, or both imprisonment and a fine. Penalties for conviction of trafficking a minor are 10 to 20 years' imprisonment and a fine of 30 million Comorian francs (\$67,600). The government did not make tangible efforts to prosecute traffickers and protect victims.

Trafficking in persons, specifically forced child labor, occurred, particularly in family-based agriculture (planting, weeding, harvesting), fishing, and domestic service (see section 7.c.). There were no reported cases of adult forced labor.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law establishes 15 as the minimum age for employment, with a minimum age for hazardous work of 18.

Labor inspectors were responsible for monitoring all potential violations of labor law and did not focus only on child labor cases. Penalties for violations were not sufficient to deter violations. Regulations permit light apprentice work by children under age 15 if it does not hinder the child's schooling or physical or moral development. The labor code, however, does not specify the conditions under which light work may be conducted or limit the number of hours for light work, as defined by international child labor standards. In accordance with the labor code, labor inspectors may require the medical examination of a child by an accredited physician to determine if the work assigned to a child is beyond his or her physical capacity. Children may not be kept in employment deemed beyond their capacity.

If suitable work cannot be assigned, the contract must be nullified and all indemnities paid to the employee. The labor code also identifies hazardous work where child labor is prohibited. Child labor infractions are punishable by fines and imprisonment, but available evidence did not indicate whether the penalties were sufficient to deter violations.

The government did not enforce the law. The Ministry of Labor is responsible for enforcing child labor laws, but it did not do so actively or effectively. In addition child labor laws and regulations do not provide children working in unpaid or noncontractual work the same protections as children working in contractual employment. Children worked in subsistence farming, fishing, and extracting and selling marine sand. Children worked in growing subsistence food crops such as manioc and beans and in the cultivation of 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 and family-based agriculture and fishing. Additionally, some Koranic schools arranged for indigent students to receive lessons in exchange for labor that 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.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The preamble to the constitution provides for equality regardless of sex, origin, religion, or race. Article 2 of the labor law forbids employers from discriminating on the basis of race, color, sex, religion, political opinion, national ancestry or social origin, or actual or presumed state of health (such as HIV/AIDS). The law does not address sexual orientation. In rural areas women tended to be relegated to certain types of work, and the UN Development Program reported women were underrepresented in leadership roles. There were no reports of discrimination, however.

e. Acceptable Conditions of Work

A committee called the Labor Collective--consisting of representatives of unions, employers, and the Ministry of Labor--met periodically regarding an enforceable national minimum wage, as the existing minimum wage of 55,000 Comorian francs (\$124) per month is only a guideline. The law provides for a 40-hour

workweek, except in the agriculture sector, where the maximum hours of work is set at 2,400 per year (equivalent to 46 hours per week). The minimum weekly rest period 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; overtime is determined through collective bargaining. Negotiations with the banking and pharmacy sectors, however, did not yield a collective bargaining agreement. There are no sectors or groups of workers excluded from these laws. The official estimate for the poverty income level is 250,000 Comorian francs (\$563) per year.

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. Although the unions, national government, and local governments did not enforce the minimum wage law and workweek standards, unions had adequate influence to negotiate 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 via their ability to strike against employers.

There were three labor inspectors (one for each island), but they did not have enough resources to perform their duties. The number of labor inspectors was insufficient to enforce compliance.

The labor code includes a chapter on occupational safety and health requirements, but these were seldom enforced. Fishing was considered the most hazardous work. Mostly self-employed, fishermen worked from often-unsafe canoes. There was no credible datum on the number of occupational accidents. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively protected employees in this regard.