

COMOROS 2012 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, and Moheli--and claims a fourth, Mayotte, which France governs. In November and December 2010, elections occurred to choose a new union president as well as governors for each of the three islands. Serious electoral irregularities on the island of Anjouan noted by some observers were not sufficient 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. In May 2011 former vice president Ikililou Dhoinine became president of the Comoros. Security forces reported to civilian authorities.

Official corruption, particularly bribery, was a pervasive problem in the government. Children were subject to various forms of abuse from violence to forced labor, including the worst forms of child labor, and trafficking in persons. The government did not effectively enforce laws providing protections of workers' rights.

Other human rights problems reported during the year included violence by security force members against suspects at time of arrest and questioning, 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 rarely took steps to prosecute, much less punish, officials who committed abuses.

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

a. Arbitrary or Unlawful Deprivation of Life

During the year there were no confirmed reports the government or its agents committed arbitrary or unlawful killings. On November 2, the Comoran Criminal

Court acquitted the former chief of staff of the Comoran Defense Forces, General Mohamed Amiri Salimou, and three codefendants of charges of murder, conspiracy to murder, and perjury in the case of the killing of Colonel Combo Ayouba, a senior army officer.

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. According to the Comoran Federation for Human Rights (CFHR), security service members routinely used violence against suspects at time of arrest and questioning.

Prison and Detention Center Conditions

Prison conditions remained poor. The detention facility in Moroni was known as the national prison. There were also detention facilities on Anjouan and Moheli. The military detained security personnel in its own facilities. National or island-level authorities used these various detention facilities as deemed appropriate, and detainees could be transferred from either Anjouan or Moheli to Grande Comore, depending upon the nature of the offense.

Physical Conditions: The 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; those with no relations in the area suffered. Common problems included absence of potable water, inadequate sanitation, overcrowding, insubstantial medical facilities, and poor diet. During the year there were no reports of deaths of prison inmates. Insufficient ventilation and lighting were problems. The national prison in Moroni is the only facility serving the entire country. It has a capacity of 60 persons, based on International Committee of the Red Cross standards, but accommodated up to a maximum of 120 persons under regularly crowded conditions. There were no exact data available on the number of juvenile and female prisoners. The prison had a separate section that housed female prisoners, but male minors were held with adults.

Administration: Consistent records of prisoners were not available. The authorities did not take steps during the year to improve recordkeeping. They did not use alternatives to incarceration for nonviolent offenders. Prisoners and detainees were permitted 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.

Monitoring: The government permitted visits by independent human rights observers in accordance with their standard modalities.

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 four different authorities. Union government forces include the Army of National Development and the Gendarmerie, which report to the president's cabinet director for defense (equivalent of minister); and the National Directorate of Territorial Safety (immigration and customs) under the minister of interior, information, and decentralization. Each of the three islands also has its own local police force under the authority of its minister of interior.

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

Arrest Procedures and Treatment While in Detention

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 in practice. Continued detention 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. In practice these rights were inconsistently respected. The law describes a bail system under which those who post bail are not permitted to leave the country, but the system did not operate effectively. Some detainees did not have prompt access to

attorneys or families. The law also requires the state to provide an attorney for indigent defendants, but this rarely occurred. Formal procedures described under the law were subject to unpredictable, inconsistent, and broad variations in actual practice. Many of these procedures are codified as a legacy of French colonial rule but were often not followed in practice.

Pretrial Detention: Pretrial detention was a problem. By law pretrial detainees can be held for only four months, but this period can be extended. Detainees routinely await 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.

e. Denial of Fair Public Trial

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

Trial Procedures

The law provides for the right to a fair trial for all citizens, 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; indigent defendants have the right to have one provided at public expense, although in practice this rarely happens. Defendants may be present, access government-held evidence, question witnesses, and present witnesses and evidence on their own behalf. There is an appeals process. Defendants have the right to be informed promptly and in detail of the charges against them (with free interpretation as necessary), to adequate time and facilities to prepare their defense, and not to be compelled to testify or confess guilt. The formal procedures described in the law were subject to unpredictable, inconsistent, and broad variations in actual practice.

Political Prisoners and Detainees

On November 2, a criminal court acquitted the former chief of staff of the Comoran Defense Forces, General Mohamed Amiri Salimou, and three codefendants, of charges of murder, conspiracy to murder, and perjury in the case

of the 2010 killing of Colonel Combo Ayouba, a senior army officer. The case remained unsolved. There were no other reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent but not impartial judiciary for civil matters. Officers of formal courts frequently asked for payment from parties before the court to exercise their functions. 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 in practice.

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.

Freedom of Press: The union government partially limited press freedom by publicly criticizing journalists who wrote controversial articles, and journalists on all three islands practiced self-censorship.

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 judicial oversight. According to the International Telecommunication Union, 5.5 percent of individuals used the Internet in 2011.

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.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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. In practice, although very few refugees sought asylum, the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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 exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The constitution provides for a rotating union government presidency, in which every four years each island takes a turn at holding a primary for three presidential

candidates. The constitution thus restricts, by island, those eligible to run for the presidency. However, aside from the rotation principle, anyone 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 of the three islands. Rotation for the union presidency passed to Moheli. From the original 10 candidates (all natives of Moheli), Mohelian voters selected three to run in the national election. Although some observers noted serious irregularities on the island of Anjouan in the national election, these were not sufficient to change the outcome, and the constitutional court upheld the final election results. Former vice president Ikililou Dhoinine became the union president in May 2011.

In 2009 legislative elections were held for the union national assembly (parliament) and 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 the union or island governments.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption. However, the government did not implement the law effectively, and officials often engaged with impunity in corrupt practices, such as taking money for performing routine administrative services or doing favors. 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, and the World Bank's Worldwide Governance Indicators reflected that corruption was a significant problem.

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

The union Ministry of Justice is responsible for combating corruption. Although public allegations of corruption were routine, the government did not charge, prosecute, or discipline officials.

High-level officials were subject to financial disclosure laws as of June 2011. 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.

No laws provide for public access to government information. Those who have personal or working relationships with government officials can generally access government information, but members of the public cannot.

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

The CFHR and some international nongovernmental organizations (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 UNICEF and the EU, provided a range of health services to the population. Government officials were generally cooperative and responsive to their views.

The government cooperated with international organizations and permitted visits by representatives of the UN and other organizations. Domestic human rights and other NGOs used locally based UN personnel as a means of influencing the government. No reports or criticisms were issued.

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 of five to 10 years or up to 15 years if the victim is younger than age 15. However,

the government did not enforce the laws on rape effectively. The law does not specifically address spousal rape, which occurred. Statistics were scarce, since many of these situations were settled within families or by village elders without recourse to the formal court system. Authorities believed the problem was widespread, as was overall sexual violence. For example, allegations of crimes of sexual aggression accounted for about half of all persons detained.

The law prohibits domestic violence, but fines and imprisonment were rarely implemented. No reliable data were available on the extent of the problem. The government did not take any concrete action to combat violence against women. While women can seek protection through the courts in such cases, in most cases extended family or village elders customarily addressed such problems. Domestic violence cases rarely, if ever, entered the formal court system.

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.

Sex Tourism: The country is a source for men and women subjected to sex trafficking.

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. 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. There are no legal barriers preventing 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 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. Men retain the head-of-household role in society. Throughout the country, including on Anjouan, land and homes are 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; however, few women held positions of responsibility in business, outside of members of a small number 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 the age of 12, but not tuition-free. The public education system was in severe disrepair; private schools, including madrassahs, 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: Although there were no official statistics on child abuse, it was common and often occurred when impoverished families sent their children to work for wealthier families. The abuse was most prevalent on Anjouan, where children were sent to the French department of Mayotte, where the population is ethnically related to that of Anjouan. The government did not take specific action to protect or promote children's welfare and did not enforce existing legal provisions that address the rights and welfare of children. There were also scattered reports of teachers raping students in some schools. Traditional societal

networks, rather than formal law enforcement investigations, generally handled these cases.

Sexual Exploitation of Children: Child prostitution and child pornography are illegal, with the latter punishable by fines or imprisonment. During the year, however, no cases of this nature came before the courts. The law considers unmarried children under age 18 to be minors and prohibits sexual exploitation, prostitution, and pornography. However, the age of consent is 13, meaning that a minor child age 13 to 18 is nonetheless considered able to express informed consent, allowing for widespread abuse with no recourse under formal law. 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 \$2,780). There were no official statistics regarding these matters and no reports in local media of prosecutions or convictions relating to child prostitution or child pornography. There was evidence that children sent to work within the country or to Mayotte by family members, or enrolled in madrassahs, were sometimes subject to sexual abuse. The country was a source for children subjected to domestic sex trafficking. Girls were exploited in prostitution on all three islands in rented houses, nightclubs, and hotels, often with the knowledge of their families or after being coerced by other young girls. There were reports that foreign tourists frequented these establishments.

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. On February 4, the president signed domestic legislation ratifying the

Convention on the Rights of Persons with Disabilities. Consequently, the law now mandates access to buildings, information, communication, education, air travel and other transportation for persons with disabilities. However, the government did not effectively enforce these laws.

Despite absence of appropriate accommodation for children with disabilities, such children attended schools, both public and private. There was little observed stigma or discrimination attached to most visible physical disabilities.

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.

There is no restriction on the right of persons with disabilities to participate in civic affairs.

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 (\$140 to \$2,780). During the year, however, no case of this nature came before the judges. Lesbian, gay, bisexual, and transgender (LGBT) persons generally did not publicly manifest their sexual orientation, due to societal pressure. There were no 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 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 the 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 these 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 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 union government's civil protection unit may oblige persons to respond to disasters if it is unable to obtain sufficient voluntary assistance. In September the country adopted a comprehensive new labor code that prohibits forced child labor, with specific anti-trafficking provisions. The new law was scheduled to come into force once a review of the penal code, underway at year's end, could be completed to incorporate appropriate criminal sanctions.

Forced child labor occurred in practice, particularly in agriculture (planting, weeding, harvesting), fishing, informal retail sales (selling goods on the street), and domestic service. Adult forced labor did not occur in practice.

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.

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, in the informal sector selling goods along roadsides, 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, particularly in domestic service, roadside and market selling, and agriculture. In addition some Quranic 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 were not paid 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"--comprised of representatives of unions, employers, and the Ministry of Labor--met periodically to propose enforcing a national minimum wage, as the "salaire minimum interprofessionnel garanti" of 55,000 Comoran francs (\$150) per month is only a guideline. The law provides for a 40-hour work week, except in the agriculture sector, where the maximum is set at 2,400 hours per year. 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. 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. In practice unions promoted this de facto minimum wage via their ability to strike against employers.

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.