

# TOGO 2016 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Togo is a republic governed by President Faure Gnassingbe, whom voters re-elected in April 2015 in a process international observers characterized as generally free and fair. In 2013 the ruling UNIR (Unity) party won 62 of 91 seats in the National Assembly. International and national observers monitoring the election declared it generally free, fair, transparent, and peaceful, although there were logistical shortcomings.

Civilian authorities failed at times to maintain effective control over the security forces.

The main human rights problems included overcrowded, harsh, and life-threatening conditions in prisons; lengthy pretrial detention; and official corruption and impunity.

Other human rights abuses included executive influence on the judiciary; government restrictions on freedom of press and assembly; rape, violence, and discrimination against women; child abuse, including female genital mutilation/cutting and sexual exploitation; and trafficking in persons. Official and societal discrimination persisted against persons with disabilities, regional and ethnic groups, and lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons. Child labor, including forced child labor, was a problem.

The government took limited steps to prosecute or punish officials who committed abuses. Impunity was a problem.

### **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 the government or its agents committed arbitrary or unlawful 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 law prohibit such practices, and there were no reports that government officials employed them. In November 2015 the National Assembly passed a revised penal code. It defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for purposes such as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or intimidating or coercing a third person, or for any other reason based on discrimination of any kind.” On September 29, the National Assembly amended the penal code to remove the statute of limitation on torture. Conviction of torture is punishable by a sentence of 30 to 50 years’ imprisonment and a fine of 25 million to 100 million CFA francs (\$42,560 to \$170,242).

### **Prison and Detention Center Conditions**

Prison conditions and detention centers remained harsh and potentially life threatening due to serious overcrowding, poor sanitation, disease, and unhealthy food. There were reports prison officials sometimes withheld medical treatment from prisoners.

Physical Conditions: Overcrowding was a problem. In 2015 there were 4,427 prisoners and pretrial detainees (including 118 women) in 12 prisons and jails designed to hold 2,720. Men often guarded women. There were 27 juveniles held in the Brigade for Minors facility. Authorities placed the infants of female pretrial detainees and prisoners in the care of government-supported private nurseries. Officials held pretrial detainees with convicted prisoners. Medical facilities, food, sanitation, ventilation, and lighting were inadequate or nonexistent, prisoners did not have access to potable water, and disease was widespread.

There were 27 prison deaths from various causes, including malaria.

Administration: Recordkeeping was inadequate. No alternatives to incarceration exist, even for nonviolent prisoners. Many of those in pretrial detention qualified for release under a provision of law that provides for release of a detainee who had already served half the sentence corresponding to the charge. Because prison administrators did not maintain records of charges against detainees, officials did

not know which detainees were eligible for release. There were no ombudsmen to assist in resolving the complaints of prisoners and detainees.

Although authorities allowed prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions, they rarely investigated complaints and, when they did, did not release any findings. The government rarely monitored and investigated allegations of inhuman prison and detention center conditions.

Independent Monitoring: Local nongovernmental organizations (NGOs) accredited by the Ministry of Justice visited prisons. Such NGOs were generally independent and acted without government interference. The government required international NGOs to negotiate an agreement with the government to gain similar access. The International Committee of the Red Cross and other international human rights organizations had access. The government holds an annual “Week of the Detainee” program during which all prison and detention centers are open to the public, allowing visitors to witness the harsh, sometimes deplorable, realities of prison life.

Improvements: Authorities employed conditional release and other measures to reduce overcrowding.

For example, on September 21, the government opened a modern prison in Kpalime, 82 miles northwest of Lome. It is designed for an inmate population of 1,000 and expected to relieve overcrowding at the Civil Prison of Lome by up to 40 percent. The prison includes a sports field, dining hall, and workshops.

#### **d. Arbitrary Arrest or Detention**

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

#### **Role of the Police and Security Apparatus**

The national police and the gendarmerie are responsible for law enforcement and maintenance of order within the country, and the gendarmerie is responsible for migration and border enforcement. The National Intelligence Agency provided intelligence to police and gendarmes but did not have internal security or detention facility responsibilities. Police are under the direction of the Ministry of Security and Civil Protection (MSPC), which reports to the prime minister. The

gendarmerie falls under the Ministry of Defense but also reports to the MSPC on many matters involving law enforcement and security. The Ministry of Defense, which reports directly to the president, oversees the military. In November 2015 security forces responded to protests that turned violent in the northern city of Mango. This violence followed confrontations between local law enforcement officers and protesters that led to the deaths of at least seven protesters and the hanging of a police official. The security forces intervention lasted one day, during which time an additional protester was killed.

Police often failed to respond to societal violence. For example, on January 30, a mob in Lome burned alive a suspected motorbike thief.

Corruption and inefficiency were endemic among police, and impunity was a problem. There were reports of police misusing arrest authority for personal gain. Abuses by security forces were subject to internal disciplinary investigations and criminal prosecution by the Ministry of Justice, but such action seldom occurred. The government generally neither investigated nor punished effectively those who committed abuses. There were no training or other programs to increase respect for human rights.

### **Arrest Procedures and Treatment of Detainees**

There were no reports of persons arbitrarily detained in secret without warrants. The law authorizes judges, senior police officials, prefects, and mayors to issue arrest warrants. Detainees have the right to be informed of the charges against them, and police generally respected this right. Although the law stipulates that special judges conduct a pretrial investigation to examine the adequacy of evidence and to decide on bail, authorities often held detainees without bail for lengthy periods regardless of a judge's decision. Attorneys and family members have the right to see a detainee after 48 to 96 hours of detention, but authorities often delayed, and sometimes denied, access. All defendants have the right to an attorney, and the bar association sometimes provided attorneys for indigents charged with criminal offenses. The law gives indigent defendants the right to free legal representation, but the government has provided only partial funding for implementation.

Arbitrary Arrest: There were two reports of arbitrary arrest of participants in lawful demonstrations. On April 1, two protesters were arrested in Dapaong for criticizing the National Day celebrations and demanding justice for the seven persons killed during a November 2015 clash between security forces and

protestors in Mango. Following their arrest authorities detained two additional protesters and charged them with disorderly conduct, resisting arrest, and destruction of public property. On September 6, authorities released the four. Although charges were not dropped, the government had yet to prosecute any of the four by year's end.

Pretrial Detention: A shortage of judges and other qualified personnel, as well as official inaction, often resulted in pretrial detention for periods exceeding the time detainees would have served if tried and convicted. Pretrial detainees and persons in preventative detention totaled 2,800, or 63 percent of the total prison population.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The constitution and law provide for the right of an arrested or detained person to challenge the lawfulness of detention, regardless of whether on criminal or other grounds. An individual found to have been unlawfully detained may file for damages.

#### **e. Denial of Fair Public Trial**

Although the constitution provides for an independent judiciary, the executive branch continued to exert control over the judiciary, and judicial corruption was a problem. There was a widespread perception lawyers bribed judges to influence the outcome of cases. The court system remained overburdened and understaffed.

#### **Trial Procedures**

The constitution provides for the right to a fair public trial, but executive influence on the judiciary limited this right. The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Defendants enjoy a presumption of innocence and the right to be informed promptly and in detail of the charges against them, with free interpretation as necessary from the moment charged through all appeals. They have a right to a fair public trial without undue delay, to communicate with an attorney of their choice, and to adequate time and facilities to prepare a defense. Trials were open to the public and juries were used. Defendants have the right to be present at their trials, confront witnesses, and present witnesses and evidence on their own behalf. Defendants have the right to access government-held evidence relevant to their cases, but this right was not respected. Defendants have the right not to testify or confess guilt. Those convicted have the right to appeal. Authorities generally respected most of these

rights, which are extended to all defendants including women, members of indigenous groups, older persons, and persons with disabilities.

In rural areas the village chief or a council of elders has authority to try minor criminal and civil cases. Those who reject traditional authority may take their cases to the regular court system.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

The constitution and law provide for civil and administrative remedies for wrongdoing, but the judiciary did not respect such provisions, and most citizens were unaware of them. Some past cases submitted to the Court of Justice of the Economic Community of West African States resulted in rulings the government did not implement.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and there were no reports the government failed to respect these prohibitions.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

Although the constitution provides for freedom of speech and press, the government restricted these rights. The law imposes penalties on journalists deemed to have committed “serious errors” as defined in the media code.

Censorship or Content Restrictions: The High Authority of Audiovisuals and Communications is a constitutionally mandated body charged with allocating frequencies to private television and radio stations and providing for press freedom and ethical standards of journalism. For violations of the press code, it has the power to impose penalties, including suspending publications for up to six months, withdrawing press cards, and seizing equipment from journalists.

## **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, 7.1 percent of the population used the internet in 2015.

## **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 the freedoms of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

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

While the law provides for freedom of internal movement, foreign travel, emigration, and repatriation, the government restricted some of these rights.

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

In-country Movement: Traffic police routinely stopped motorists on fabricated charges of violating traffic laws to solicit bribes.

## **Protection of Refugees**

Access to Asylum: On March 3, the National Assembly passed a law in compliance with the Geneva Convention that defines the process for determining

refugee status and created an appeals commission. The law defines the status of refugees and grants refugees protection, rights, and duties. It also created two commissions, the Appeals Commission (CR) and the National Commission for Refugees (CNR), with the existing Office of National Coordination of Refugees being the CNR's permanent secretariat. The Ministry of Security and Civil Protection presides over the CNR, which comprises representatives from nine ministries, and heads the CR, which includes representatives from seven ministries.

Durable Solutions: The government cooperated with the Office of the UN High Commission for Refugees to assist in the safe, voluntary repatriation of refugees to their home countries. The government assisted in the repatriation of 29 refugees.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides 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**

Recent Elections: In April 2015 President Faure Gnassingbe was re-elected to a third five-year term with 59 percent of the vote. International and national observers monitoring the election declared it generally free, fair, transparent, and peaceful, although there were logistical shortcomings. Security forces did not interfere with voting or other aspects of the electoral process; they played no role and remained in their barracks on election day.

Political Parties and Political Participation: The UNIR party dominated politics and maintained firm control over all levels of government. UNIR membership conferred advantages, such as better access to government jobs.

Participation of Women and Minorities: There are no laws limiting the participation of women and members of minorities. Some observers believed cultural and traditional practices prevented women from voting, running for office, serving as electoral monitors, or otherwise participating in political life on the same basis as men. For example, only 17.6 percent of parliamentarians were women (16 of 91). Members of southern ethnic groups remained underrepresented in both government and the military.

### **Section 4. Corruption and Lack of Transparency in Government**



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

The body officially responsible for combating corruption, the National Commission for the Fight against Corruption and Economic Sabotage, continued to lack a specific anticorruption legal mandate and was inactive. Other state entities, such as the Government Accounting Office and Finances Inspectorate, investigated and audited public institutions, but their resources were limited, and they reported few results. Authorities established toll-free and text-messaging lines for citizens to report cases of corruption.

In August 2015 the National Assembly passed a law to create the High Authority for the Prevention of and Fight against Corruption. The law provides for a seven-person independent body to, among other things, hear complaints of corruption and refer them to legal authorities, work with the judiciary on strengthening countercorruption practices, educate the public, and oversee adherence of public officials to anticorruption statutes. The government had yet to appoint board members by year's end.

Corruption: Government corruption was most severe among prison officials, police officers, and members of the judiciary. For example, on August 11, the High Judicial Court convicted the president of the Lome Court of Appeals of using his position illegally to sell an oceangoing vessel.

Financial Disclosure: Only the Togo Revenue Authority requires its officers to disclose their income and assets. No provisions in the constitution, law, regulations, or codes of conduct require income and asset disclosure by appointed or elected officials.

Public Access to Information: Although the law provides for public access to government information, the government does not always respond to requests. Many documents were only available in hard copy.

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

A variety of domestic and international human rights groups operated generally without government restriction, investigating and publishing their findings on

human rights cases. Government officials often cooperated but typically were not responsive to NGO recommendations.

Government Human Rights Bodies: A permanent human rights committee exists within the National Assembly, but it did not play a significant policymaking role or exercise independent judgment. In October 2015 the Council of Ministers gave jurisdiction over internal human rights matters to the Ministry of Justice; it remained unclear whether the change came with any additional authority or resources. The National Commission for Human Rights (CNDH) is the government body charged with investigating allegations of human rights abuses. CNDH representatives visited many prisons, documented prison conditions, and advocated for prisoners, especially those in need of hospital medical attention. The CNDH also provided training in the preparation and submission of cases to the CNDH for investigation and redress.

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape, but it was rarely reported due to societal reasons and, if reported, was often ignored by authorities. The law provides for prison terms of five to 10 years for those convicted of rape and a fine of two million to 10 million CFA francs (\$3,405 to \$17,024). Conviction of spousal rape is punishable by up to 720 hours of community service and a fine of 200,000 to one million CFA francs (\$340 to \$1,702). A prison term for conviction of 20 to 30 years applies if the victim is a child under age 14; is gang-raped; or if the rape results in pregnancy, disease, or incapacitation lasting more than six weeks. The government was diligent in investigating reports of rape and prosecuting suspects, but victims were reluctant to report incidents due to the social stigma associated with being raped and fear of reprisal. Although neither the government nor any other group-compiled statistics on rape or rape arrests, some observers claimed rape was a widespread problem throughout the country.

The law does not specifically address domestic violence, and domestic violence against women continued to be widespread. Police generally did not intervene in abusive situations, and many women were not aware of the formal judicial mechanisms designed to protect them. Although there were no official efforts to combat domestic violence, several NGOs actively educated women on their rights.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C for girls and women. It was usually perpetrated a few months after birth. According to 2015 data from the UN Children’s Fund (UNICEF), FGM/C had been performed on 3 percent of girls and women between ages 15 and 49 and on 1 percent of girls and young women ages 15 to 19. The most common form of FGM/C was excision.

Penalties for those convicted of FGM/C range from five to 10 years in prison as well as substantial fines; repeat offenders face longer sentences. The law was rarely enforced, however, because most cases occurred in rural areas where awareness of the law was limited or traditional customs often took precedence over the legal system among certain ethnic groups. The practice was most common in isolated Muslim communities in the sparsely populated Central Region.

The government continued to sponsor educational seminars on FGM/C. Several domestic NGOs, with international assistance, organized campaigns to educate women on their rights and on how to care for victims of FGM/C. NGOs also worked to create alternative labor opportunities for former FGM/C perpetrators.

Sexual Harassment: Sexual harassment was a problem. While the law states harassment is illegal and may be prosecuted in court, no specific punishment is prescribed, and authorities did not enforce the law.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children, free from discrimination, coercion, or violence, but they often lacked the information and means to do so. Health clinics and local NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives, but according to the UN Population Division, only 21.4 percent of girls and women ages 15 to 49 used a modern method of contraception in 2015. The major barriers to contraceptive use were poverty and lack of education.

According to 2013 World Health Organization (WHO) data, skilled health-care personnel attended approximately 60 percent of births. Although the government provided free cesarean sections, it did not provide free childbirth services generally, and the lack of doctors meant most women used skilled midwives for childbirth as well as for prenatal and postnatal care, unless the mother or child suffered serious health complications. According to the WHO, the maternal mortality rate was 368 deaths per 100,000 live births, and a woman’s lifetime risk

of maternal death was one in 58 as of 2015. The most common causes of maternal mortality were hemorrhaging, adolescent pregnancy, and lack of access to skilled obstetric care during childbirth.

Discrimination: Although women and men are equal under the law, women continued to experience discrimination in education, pay (see section 7.d.), pension benefits, and inheritance. In urban areas women and girls dominated market activities and commerce. Harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. While formal law supersedes traditional law, it is slow, distant, and expensive to access; rural women were effectively subject to traditional law.

There are no restrictions on women signing contracts, opening bank accounts, or owning property. Women did not experience formal sector economic discrimination in access to employment (see section 7.d.), credit, or managing a business. Under traditional law a wife has no maintenance or child support rights in the event of divorce or separation. The formal legal system provides inheritance rights for a wife upon the death of her husband. Polygyny was practiced and recognized by formal and traditional law.

## **Children**

Birth Registration: By law citizenship is derived either from birth within the country's borders or, if abroad, from a Togolese parent.

Authorities registered approximately 50 percent of children at birth, but the percentage was lower in rural areas. The main obstacles were the cost and difficulty of registering births for rural families living far from government offices. Coupled with an outreach campaign to remind rural families that all children must have birth certificates, the government coordinated from time to time with NGOs to organize free delivery of birth certificates to rural areas.

Education: School attendance is compulsory for boys and girls until age 15, and the government provides tuition-free public education from nursery through primary school. Parents must pay for books, supplies, uniforms, and other expenses. Primary school education ends between the ages of 11 and 13. There was near gender parity in primary school attendance, and girls and boys were generally treated equally. Girls were more likely than boys to complete primary school but less likely to attend secondary school.

Child Abuse: Child abuse was a widespread problem. While there is no statutory rape law, by law the minimum age of consensual sex is 16 for both boys and girls. The government continued to work with local NGOs on public awareness campaigns to prevent exploitation of children.

The government maintained a toll-free telephone service for persons to report cases of child abuse and to seek help. The service provides information on the rights of the child and legal procedures and access to social workers who may intervene in emergencies. The government also established school curricula to educate children on human rights and, working with UNICEF, trained teachers on children's rights.

Early and Forced Marriage: The legal age for marriage is 18 for girls and 20 for boys, although both may marry under these ages with parental consent. According to a 2015 UNICEF report, 25 percent of women between the ages of 20 and 24 were married or in a union before age 18, and 6 percent were married or in a union before age 15. The practice significantly declined in recent years. Underage marriage rates were highest in the Savannah Region at 61 percent, followed by the Plateau Region at 37 percent, the Kara Region at 36 percent, the Central Region at 31 percent, and the Maritime Region at 29 percent.

The government and NGOs engaged in a range of actions to prevent early marriage, particularly through awareness raising among community and religious leaders. The Ministries of Education, Gender and Health led development of the National Program against Child Marriage and Teenage Pregnancy. Multiple initiatives focused on helping girls stay in school. Messages broadcast through mass media, particularly local radio, stressed avoiding early marriage and the importance of educating girls.

Female Genital Mutilation/Cutting (FGM/C): See information for girls under age 18 in women's section above.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children and provides penalties for those convicted of between one and five years' imprisonment and fines from 100,000 to one million CFA francs (\$170 to \$1,702). For conviction of violations involving children under age 15, prison sentences may be up to 10 years. The law was not effectively enforced. The minimum age of consensual sex is 16 for boys and girls.

The law prohibits child pornography and provides penalties of five to 10 years in prison for those convicted. Minors were subjected to prostitution. The government conducted a survey and assessment of reports of child sex tourism in 2013 as part of its effort to address the problem, but had yet to release the reports.

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](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

There is no known Jewish community, 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/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, mental, intellectual, and sensory disabilities in employment (see section 7.d.), education, air travel and other transportation, access to health care, the judicial system, or in the provision of other government services, but the government did not effectively enforce these provisions. The law does not mandate accessibility to public or private facilities for persons with disabilities, although some public buildings had ramps. Children with disabilities attended schools at all levels, with some attending schools specifically for those with disabilities. Information regarding possible abuse in these facilities was unavailable. The law does not restrict the right of persons with disabilities to vote and participate in civic affairs, although lack of accessible buildings and transportation posed barriers.

The Ministry of Social Action, Women's Promotion, and Elimination of Illiteracy, the Ministry of Health, and the Ministry of Education are responsible for protecting the rights of persons with disabilities. The Ministry of Social Action, Women's Promotion, and Elimination of Illiteracy held awareness campaigns to fight discrimination and promote equality; it also distributed food and clothing and provided skills training to persons with disabilities.

## **National/Racial/Ethnic Minorities**

The northern ethnic groups, especially the Kabye, dominate the civil and military services while southern ethnic groups, especially the Ewe, dominate the private commercial sector. Relative dominance has been a recurring source of political tension.

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

Article 392 of the penal code forbids “acts against nature committed with an individual of one’s sex,” widely understood as a reference to same-sex sexual activity. The law provides that a person convicted of engaging in consensual same-sex sexual activity may be sentenced to one to three years’ imprisonment and fined one million to three million CFA francs (\$1,702 to \$5,107), but the law was not enforced directly. On those occasions when police arrested someone for engaging in consensual same-sex sexual activity, the charge was usually for some other violation as justification for the arrest, such as disturbing the peace or public urination. The media code forbids promotion of immorality. LGBTI persons faced societal discrimination in employment, housing, and access to education and health care. Existing antidiscrimination laws do not apply to LGBTI persons (see section 7.d.). No laws allow transgendered persons to change gender markers on government-issued identity documents.

A revised draft of the penal code, debated by a National Assembly drafting committee in August and September 2015, did not alter Article 392. The draft included new language in a separate article that would punish anyone who offends “public morality” through speeches, writings, images, and other means. This came despite international pressure on the legislature to use the broad update of the penal code to drop discriminatory language. Several LGBTI groups were vocal in their opposition to the revision of the penal code, issuing press releases calling on lawmakers to eliminate Article 392. There were no overt reprisals against these groups by authorities.

The government allowed LGBTI groups to register with the Ministry of Territorial Affairs as health-related groups, particularly those focused on HIV/AIDS prevention. Activists reported violence against LGBTI persons was common, but police ignored complaints. Most human rights organizations, including the CNDH, refused to address LGBTI concerns.

## **HIV and AIDS Social Stigma**

The law prohibits discrimination against persons infected with HIV/AIDS, and the government continued to sponsor broadcasts aimed at deterring discrimination. Persons infected with HIV/AIDS, nonetheless, continued to face significant societal discrimination at all levels, including reports of family members refusing to share eating utensils with infected persons. The 2015 Demographic and Health Survey did not address social stigma towards persons infected with HIV/AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution and law provide workers, except security force members (including firefighters and police), the right to form and join unions and bargain collectively. Supporting regulations allow workers to form and join unions of their choosing. Workers have the right to strike, although striking health-care workers may be ordered back to work as necessary for the security and well-being of the population. While no provisions in the law protect strikers against employer retaliation, the law requires employers to get an authorizing judgment from the labor inspectorate before they may fire workers. If employers fire workers illegally, including for union activity, they must be reinstated and compensated for lost salary. The law creating the Export Processing Zone (EPZ) allows EPZ workers to form two unions but exempts companies within the EPZ from providing workers with many legal protections, including protection against antiunion discrimination with regard to hiring and firing.

The law recognizes the right to collective bargaining; representatives of the government, labor unions, and employers negotiate and endorse a nationwide agreement. This collective bargaining agreement sets nationwide wage standards for all workers in the formal sector. For sectors in which the government is not an employer, the government participated in this process as a labor-management mediator. For sectors with a large government presence, including the government-owned companies, the government acts solely as an employer and does not mediate. Individual unions could negotiate agreements more favorable to labor through sector- or firm-specific collective bargaining.

The government generally effectively enforced laws regarding freedom of association and the right to organize, particularly outside the EPZs. While the law



provides that the violation of the right to organize is a criminal offense, it does not provide for specific penalties or fines. Administrative judicial procedures were not subject to lengthy delays and appeals. Worker organizations were independent of the government and political parties. There were no reports of employers either refusing to bargain, bargaining with unions not chosen by workers, or using hiring practices (such as subcontracting or short-term contracts) to avoid hiring workers with bargaining rights. There were no reports of antiunion discrimination or employer interference in union functions. Union leaders were free from threats and violence by employers.

### **b. Prohibition of Forced or Compulsory Labor**

While the law prohibits all forms of forced or compulsory labor, the government did not enforce the law effectively. Investigations were infrequent because investigators must pay for their own travel and lodging expenses without reimbursement. Penalties for conviction of violations, including light sentences ranging from six months to two years' imprisonment for trafficking children under age 18, were insufficient to deter violations.

Forced labor occurred. Employers subjected children to forced labor on coffee, cocoa, and cotton farms, as well as in rock quarries, domestic service, street vending, and begging. Employers exploited men for forced labor in agriculture and exploited women in domestic service and forced prostitution abroad.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children under age 15 in any enterprise or type of work and children under age 18 from working at night. It requires a daily rest period of at least 12 hours for all working children. The law does not include corresponding penalties. The minimum age for employment in hazardous work, such as some types of industrial and technical employment, is 18, with two exceptions for children ages 16 and 17. The law prohibits the employment of children in the worst forms of child labor, including trafficking, prostitution, pornography, and the use of children in armed conflict. The law, however, authorizes the employment of children ages 16 and older in other sectors likely to harm their health, safety, or morals.

The Ministry of Civil Service, Labor, and Administrative Reform is responsible for enforcing the prohibition against the worst forms of child labor. The ministry funded a center for abandoned children and worked with NGOs to combat child trafficking. The ministry frequently held workshops in collaboration with UNICEF, the International Labor Organization, NGOs, labor unions, police, customs officials, and other partners to raise awareness of child labor in general and forced labor in particular.

The government did not effectively enforce child labor laws. Legal penalties were insufficient to deter violations. Ministry inspectors enforced age requirements only in the formal sector in urban areas.

Child labor was a problem. According to a 2015 UNICEF report, 28 percent of children between ages five and 14 worked full time. Some children started work at age five and typically did not attend school for most of the school year. Children worked in both rural and urban areas, particularly in family-based farming and small-scale trading, and as porters and domestic servants. In some cases children worked in factories. In the agricultural sector, children assisted their parents with the harvesting of cotton, cocoa, and coffee. Children were involved in crop production, such as of beans and corn, for family consumption.

The most dangerous activity involving child labor was in quarries, where children assisted their parents in crushing rock by hand and carrying buckets of gravel on their heads. The government did not sanction such labor, and it occurred only in small, privately owned quarries. Reputable local NGOs reported that, while quarry work was a weekend and holiday activity for most children, some left school to work full time in the quarries.

In both urban and rural areas, particularly in farming and small-scale trading, very young children assisted their families. In rural areas parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as 12,500 to 17,500 CFA francs (\$21 to \$30).

Children sometimes were subjected to forced labor, primarily as domestic servants, porters, and roadside sellers. Children were also forced to beg. Children were trafficked into indentured servitude (see section 7.b. for additional sectors). Child sexual exploitation occurred (see section 6, Children).

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

#### **d. Discrimination With Respect to Employment and Occupation**

The law prohibits discrimination in employment and occupation based on race, gender, disability, citizenship, national origin, political opinion, and language but does not specifically prohibit such discrimination based on sexual orientation, gender identity, and HIV-positive status or other communicable diseases. Evidence of hiring discrimination ranged from job advertisements that specified gender and age to requiring an applicant's photograph. Migrant workers enjoy the same legal protections, wages, and working conditions as citizens. Penalties for violations include a fine of up to one million CFA francs (\$1,702) and a sentence of up to six months in prison.

The government, in general, did not effectively enforce the law. Gender-based discrimination in employment and occupation occurred (see section 6, Women). Although the law requires equal pay for equal work, regardless of gender, this provision generally was observed only in the formal sector.

Under traditional law, which applies to the vast majority of women, a husband legally may restrict his wife's freedom to work and control her earnings.

There was no overt government discrimination against persons with disabilities, and such persons held government positions, but societal discrimination against persons with disabilities was a problem. Discrimination against migrant workers also occurred.

#### **e. Acceptable Conditions of Work**

The national collective bargaining agreement sets minimum wages for different labor categories, ranging from unskilled through professional positions. The minimum wage is 35,000 CFA francs (\$60) per month. The government set the poverty level at the internationally recognized level of \$1.25 per day (equal to 734 CFA francs), the equivalent of \$38 per month (equal to 22,321 CFA francs).

Working hours of all employees in any enterprise, except in the agricultural sector, normally are not to exceed 40 hours per week. At least one 24-hour rest period per week is compulsory, and workers are to receive 30 days of paid leave each year. Working hours for employees in the agricultural sector are not to exceed 2,400 hours per year (46 hours per week). The law requires overtime compensation, and there are restrictions on excessive overtime work. The Interprofessional Collective

Convention sets minimum rates for overtime work at 120 percent of base salary for the first eight hours, rising to 140 percent for every hour after eight, 165 percent for work at nights and on Sundays and holidays; and double pay for Sunday and holiday nights. This requirement was seldom respected in the private sector.

The Ministry of Civil Service, Labor, and Administrative Reform is responsible for enforcement of all labor laws, especially in the formal private sector. It has 109 labor inspectors for the country, which was insufficient to enforce the law effectively.

A technical consulting committee in the Ministry of Civil Service, Labor, and Administrative Reform sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and workers have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. Penalties for infractions were generally low, and there was no evidence they were strong enough to deter violations. Labor laws also provide protection for legal foreign workers. The laws do not cover workers in the informal sector and EPZ workers, who represented a large, unregistered, nontaxpaying part of the economy. According to the Delegation of the Informal Sector Organization, a government entity, 80 percent of the country's economic activity is in the informal sector, both urban and rural, which it defines as revenue-generating activity that produces goods and services but is not taxed or regulated by the government.

A health-insurance plan exists for public-sector employees. The law obliges large enterprises to provide medical services for their employees, and large companies usually attempted to respect occupational health and safety rules, while smaller ones often did not. The National Social Security Fund provides statistics on workplace accidents and fatalities once a year to the Ministry of Civil Service, Labor, and Administrative Reform.

The government did not effectively enforce the law, and formal sector employers often ignored applicable laws. Employers often paid less than the official minimum wage, mostly to unskilled workers, and the government lacked the resources to investigate and punish violators. Many workers supplemented their incomes through second jobs or by subsistence farming.

By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities did not effectively protect employees in these situations. Industrial accidents occurred, including an explosion at a cement factory in Tabligbo in June 2015 that killed six persons. The

Ministry of Justice filed involuntary homicide charges against the director of the factory in October 2015 and on October 6, sentenced the company to pay 279 million CFA francs (\$475,000) to the families of five employees killed, and two million CFA francs (\$3,400) as damages and interest, and the manager was sentenced to an eight-month suspended sentence. In addition the International Trade Union Confederation reported violations of occupational health and safety standards in EPZs.