

# **DJIBOUTI 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Djibouti is a republic with a strong elected president and a weak legislature. In 2010 parliament amended the constitution to remove term limits, facilitating the April 2011 reelection of President Ismail Omar Guelleh for a third term. The president won, with 80 percent of the vote, against one independent candidate, who had the support of one of two opposition coalitions that boycotted the election until April 2011; the other coalition did not participate in the election. International observers characterized the election as free and fair, although they criticized preelection planning and the presence of security forces at polling stations. Security forces reported to civilian authorities.

The most serious human rights problem was the government's abridgement of the right of citizens to change or significantly influence their government. The government did so by harassing, abusing, and detaining government critics; denying the population access to independent sources of information; and restricting freedom of speech and assembly.

Other human rights problems included the use of excessive force, including torture; harsh prison conditions; arbitrary arrest and prolonged pretrial detention; denial of fair public trial; interference with privacy rights; restrictions on freedom of press and association; lack of protection for refugees; corruption; discrimination against women; female genital mutilation/cutting; trafficking in persons; discrimination against persons with disabilities; and government denial of worker rights.

Impunity was a problem. The government seldom took steps to prosecute or punish officials who committed abuses, whether in the security services or elsewhere in the government.

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

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were reports that the government or its agents committed arbitrary or unlawful killings, at least one of which resulted from torture.

On July 7, police detained and beat a man, who subsequently died from his injuries at the Central Police Station in Djibouti City. According to the Belgium-based opposition Web site *La Voix de Djibouti*, police tortured the man. The State Prosecutor's Office and the National Human Rights Commission stated that police took the victim, who had mental disabilities, into police custody at the request of his family. An autopsy revealed that he died under violent circumstances that remain unclear. Although the family took no legal action against the police, the State Prosecutor's Office was investigating the death at year's end.

On December 30, a teenage boy was killed during an altercation between demonstrators and members of the Mobile Gendarmerie Squadron in Obock. According to preliminary accounts, a tear gas canister misfired and struck the boy; other demonstrators reportedly also sustained tear gas injuries, as did several members of the Mobile Gendarmerie Squadron after demonstrators threw rocks. On December 31, senior government officials traveled to Obock to express condolences, after which the Ministry of Interior opened an official investigation.

During the year the government released the results of its investigation into the April 2011 death of Balbala resident Dirir Ibrahim Bouraleh. Although Reporters Without Borders (RSF) claimed that Bouraleh died as a result of injuries inflicted during torture conducted by Sergeant Major Abdourahman Omar Said at a gendarmerie unit, the investigation ruled Dirir's death a suicide and exonerated Sergeant Major Abdourahman.

## **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; however, there were reports that security forces beat and tortured detainees.

On March 21, RSF provided a detailed report to UN Special Rapporteur on Torture Juan E. Mendez regarding its "deep concern about the persecution of journalists in Djibouti." Specifically, RSF asked Mendez to intervene on behalf of Farah Abadid Hildid, a contributor to the opposition Web site *La Voix de Djibouti*. Hildid claimed that in February he was abducted, blindfolded, stripped naked, and beaten on his feet for 24 hours for criticizing the security services, and that he was asked

to supply the names of his colleagues. In 2011 security services held Hildid for “participating in an insurrectional movement.” According to RSF, unspecified medical examinations confirmed that he had been tortured. RSF called for the prosecution of those responsible and asked the government to drop legal proceedings against the journalist. The National Human Rights Commission visited Hildid during his detention in 2011 and found no evidence of torture.

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

While there have been some improvements in recent years, prison conditions remained harsh. The country has one central prison and a number of small jails supervised by local police or gendarmes that served as holding cells before detainees moved to the central prison. Nagad Detention Facility primarily held undocumented immigrants, but it was not part of the prison system. There were reports that police and gendarmes abused and tortured prisoners during the year.

Physical Conditions: Gabode Prison in Djibouti City had a maximum capacity of 350 inmates but often held 550, of whom an average of 18 were female.

Conditions of detention for women were similar to those of men. There were generally fewer than 20 juvenile prisoners. Authorities allowed young children of female prisoners to stay with their mothers. Due to space constraints, authorities did not always hold pretrial detainees separately from convicted prisoners, nor were violent offenders separated from nonviolent offenders.

Inmates in Gabode had adequate access to potable water and sanitary facilities and received three meals a day, with meat served on alternate days. Prisoners’ families could bring food to the prison each day. The prison had an infirmary, and medication was available. A medical doctor was available on Sundays and Wednesdays, and four other medical staff were at the prison. Prisoners with serious health problems received treatment at the main Djibouti City public hospital. Authorities held seriously ill prisoners separately and segregated prisoners with communicable diseases from prisoners with other health problems. There were 21 HIV-positive prisoners who received treatment from a specialized center under the Ministry of Health. During the prisoner intake process, prison officials tested for and documented serious health conditions.

Conditions in jails, which held detainees until their summary release or transfer to the central prison, were poor. Jails had no formal system to feed or segregate prisoners and did not provide medical services. Most detainees remained in jails for a few weeks before either release or transfer to Gabode Prison.

Conditions at Nagad Detention Facility were poor, although detainees had access to potable water, food, and medical treatment. Authorities deported most detainees within 24 hours of arrest. On August 9, a riot at Nagad resulted in injuries to 25 detainees, one of whom was hospitalized after a rubber bullet penetrated his leg; six police officers also were injured.

Administration: The prison had both written and electronic procedures to track prisoner names, thumbprints, and dates of detention and release. Statistics were updated daily and included age, gender, citizenship, legal status, and cellblock assignment. While the law provides for alternative sentencing of nonviolent offenders, this did not occur. There was no prison ombudsman, but prisoners and detainees could submit complaints to judicial authorities to request investigation of inhumane conditions, which authorities did in cases where the allegations were deemed credible. Authorities permitted prisoners and detainees visitors each Friday afternoon and religious observance regardless of religion.

Monitoring: The government granted prison access to foreign embassies and the International Committee of the Red Cross (ICRC), which could inspect prisons every six months. Authorities allowed ICRC regional representatives based in Nairobi to visit Nagad Detention Facility quarterly and conduct visits in accordance with standard modalities. A small group of prisoners of war, captured during the 2008 border skirmish with Eritrea, received quarterly visits from ICRC staff, and government authorities accepted ICRC recommendations with regard to medical concerns for one of the prisoners.

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

The law prohibits arbitrary arrest and detention; however, the government did not respect these prohibitions.

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

Security forces included the National Police under the Ministry of Interior, the army and National Gendarmerie under the Ministry of Defense, and an elite Republican Guard that protects the president. The National Police are responsible for internal security and border control. The National Gendarmerie is responsible for external security but also has some domestic responsibilities.

Security forces were generally effective, although corruption was a problem in all three services, particularly in the lower ranks where wages were meager. The gendarmerie is responsible for investigating allegations of police misconduct, and the Ministry of Justice is responsible for prosecution, however, no allegations of police misconduct came to trial during the year.

The National Police had a Human Rights Office and integrated human rights education into the police academy curriculum. During the year the local police academy coordinated with the National Human Rights Commission to host a workshop to train police.

### **Arrest Procedures and Treatment While in Detention**

The law requires arrest warrants and stipulates that the government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the government generally did not respect the law, especially in rural areas. Detainees may be held another 48 hours with the prior approval of the public prosecutor. The law provides that law enforcement promptly notify detainees of the charges against them, although there were delays. The law requires that all persons, including those charged with political or national security offenses, are tried within eight months of arraignment; however, the government did not respect this right. The law contains provisions for bail, but authorities rarely made use of it. Detainees have the right to prompt access to an attorney of their choice, which generally occurred, although there were exceptions (see section 1.c.). In criminal cases the state provides attorneys for detainees who cannot afford legal representation. In instances of unlawful detention, detainees could get court-ordered release, but not compensation.

Arbitrary Arrest: During the year government officials arbitrarily arrested numerous persons, including journalists, union members, and a human rights activist, often without warrants (see sections 1.a., 1.c., 5, and 6). Unlike in the previous year, however, the government did not arrest opposition leaders.

On May 25, Mohamed Souleiman Sheikh Moussa, who was arrested without charge in November 2011 for writing a leaflet calling for a "Day of Anger," was released, and proceedings against him were discontinued.

Pretrial Detention: Lengthy pretrial detention was a problem, and approximately half of the prison population was in pretrial detention. Statistics were unavailable,

and prisoners often waited two or three years--and in two cases eight years--for their trials to begin. Judicial inefficiency contributed to the problem.

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

The constitution and law provide for an independent judiciary; however, the judiciary lacked independence and was inefficient. Authorities often did not respect constitutional provisions for a fair trial.

### **Trial Procedures**

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Sharia), and nomadic traditions.

The law states that the accused is innocent until proven guilty; however, trials did not proceed in accordance with the presumption of innocence. Trials generally were public. A presiding judge and two associate judges hear cases. The judge receives assistance from three lay assessors, who are not members of the bench but considered sufficiently knowledgeable to comprehend court proceedings. The government chooses lay assessors from the public. In criminal cases the court is composed of the presiding judge of the court of appeal, two lay assessors, and four jurors who are selected from voter registration lists. The law provides that detainees be notified promptly of the charges against them. Although the law does not provide interpretation free of charge, it was available. Detainees have the right to prompt access to an attorney of their choice. In criminal cases the state provides attorneys for detainees who cannot afford legal representation. Defendants have the right to be present, consult with an attorney in a timely manner, confront witnesses, and present witnesses and evidence on their own behalf. Authorities generally respected these rights. The indigent have a right to legal counsel in criminal and civil matters but sometimes did not have legal representation. Defendants have the right of appeal.

Traditional law often applied in cases involving conflict resolution and victim compensation. Traditional law stipulates that a price be paid to the victim's family for crimes such as murder and rape. Most parties preferred traditional court rulings for sensitive issues such as rape, where a peaceful consensus among those involved was valued over the individual rights of the victim, who often received pressure from family to abide by traditional court rulings.

Unlike in previous years, there were no reports of politically motivated prosecutions or instances in which the government denied entry visas to attorneys representing human rights defenders. However, the government denied a labor leader entry into the country during the year.

### **Political Prisoners and Detainees**

The government detained two contributors to the opposition Web site *La Voix de Djibouti* on charges that included “participation in an insurrectional movement.” Both were held in conditions similar to those of the general prison population; however, Farah Abadid Hildid alleged that he was tortured (section 1.c.), and Houssein Ahmed Farah complained of inadequate medical care and delays in seeing his lawyer (see section 2.a.). Both had access to visitors.

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

In cases of human rights violations, citizens could address correspondence to the National Human Rights Commission. On a variety of matters, citizens could also seek assistance from the Ombudsman’s Office, which often helped resolve administrative disputes between government branches. Citizens could also appeal decisions to the African Court on Human and Peoples’ Rights. The government did not always comply with the decisions and recommendations of these bodies pertaining to human rights.

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

Although the constitution and law prohibit such actions, the government did not respect these prohibitions. The law requires that authorities obtain a warrant before conducting searches on private property, but the government did not always respect the law. Government opponents claimed the government monitored their communications and kept their homes under surveillance.

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

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

The constitution and law allow for freedom of speech and press, provided such freedoms comply with the law and respect “the honor of others.” The government did not respect these rights. The law provides prison sentences for media offenses.

Freedom of Speech: While individuals often expressed themselves freely in society, individuals who criticized the government publicly or privately could face reprisals.

In a September 24 update to its Facebook page, the opposition entity Djibouti24 reported the temporary detention and interrogation of religious leader and government critic Sheikh Abdourahman Mohamed Barkat (popularly known as “Falfalos”). According to Djibouti24, members of the gendarmerie interrogated the sheikh for two hours because of their suspicion that he and a colleague, Sheikh Abdourahman Souleiman Bachir, would call for demonstrations against an anti-Muslim film similar to demonstrations then occurring in the Middle East, North Africa, and elsewhere.

Freedom of Press: There were no privately owned or independent media in the country. Printing facilities for mass media were government owned, which created obstacles for those wishing to publish criticism of the government. The principal newspaper, *La Nation*, maintained a monopoly on domestic news. The government allowed each registered political party to publish a public journal or newspaper, although the 2007 ban on the opposition political party newsletter *Le Renouveau* remained in effect (see section 3). During the year the opposition National Democratic Party (PND) regularly published the political newsletter *La Republique*. Other parties published papers sporadically. Opposition political groups and civil society activists circulated newsletters and other materials critical of the government.

The government owned the only radio and television stations, operated by Radio Television Djibouti. The official media generally did not criticize government leaders or policy, and opposition access to radio and television time remained limited. Foreign media broadcast throughout the country, and cable news and other programming were available via satellite.

In 1992 the Ministry of Communication created a commission to distribute licenses to nongovernment entities wishing to operate media outlets. During the year the commission accepted its first application for licensing, but it remained pending at year’s end, and no other licenses were issued.

Violence and Harassment: The government arrested and harassed journalists, one of whom security forces reportedly tortured during the year (see section 1.c.).

On August 8, police arrested and detained journalist and *La Voix de Djibouti* contributor, Houssein Ahmed Farah, on charges of forgery and attempted insurrection for selling membership cards of the banned Movement for Democratic Renewal (MRD) party. However, local journalists told the Committee to Protect Journalists that authorities held Houssein for his reporting on the government's detention of political prisoners, chronic shortages of water, and corruption in the government's management of traffic lights. Farah, who was released from prison in November, alleged that he had not received adequate treatment for his diabetes while in detention and that his lawyer had been denied access. Police previously harassed and detained Farah for human rights activism in 2011 and in 2004.

Censorship or Content Restrictions: The country's media and slander laws and the government's harassment and detention of journalists resulted in widespread self-censorship.

Libel Laws/National Security: The government cited national security to suppress criticism and arrested, detained, and allegedly tortured journalists charged with such offenses during the year (see section 1.c.).

Circulation of a new newspaper requires authorization from the Communication Commission, which requires agreement from the National Security Service following an investigation. The only publishing houses equipped for broad distribution were government owned, obliging nongovernment sources to print privately.

## **Internet Freedom**

There were few government restrictions on access to the Internet; however, the government closely monitored social networks to ensure that there were no planned demonstrations or overly critical views of the government. However, Djibouti Telecom, the state-owned Internet provider, reportedly continued to block access to the Web sites of the Association for Respect of Human Rights in Djibouti and *La Voix de Djibouti*, which often criticized the government. *La Voix de Djibouti* cannot be accessed from within the country; however, RSF created a mirror site to circumvent this censorship. According to RSF, during the year the government also blocked five Somali news Web sites and posted reportedly confidential documents about money transfers between the country's intelligence services and officials in Somaliland. According to International Telecommunication Union statistics, approximately 7 percent of the population had access to the Internet.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events, and teachers could speak and conduct research without restriction, provided they did not violate sedition laws.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

Although the constitution provides for freedom of assembly, the government severely restricted this right. Security forces killed one demonstrator and injured others during the year (see section 1.a.). The Ministry of Interior requires permits for peaceful assemblies but denied permits to opposition groups.

The Ministry of Interior refused permission to the opposition Union for Democratic Movement coalition, which had requested a permit for a February 18 demonstration to mark the anniversary of the 2011 protests against President Guelleh's third term in office. The written response to the application, signed by Minister of the Interior Hassan Darar Houffaneh, stated that the group had not made adequate contingency plans for security at the demonstration.

On July 5, there were mass arrests in Tadjourah following a protest against the underrepresentation of Afars in a group of approximately 120 persons sent to India to train for jobs at the local port. Security forces released all those arrested, following intervention by the Sultan of Tadjourah, an Afar community leader in the region.

The government took no action against security force members who used excessive force to quell a February 2011 demonstration resulting in the death of a demonstrator.

### **Freedom of Association**

The constitution and law allow for freedom of association provided legal requirements are met; however, the government restricted this right. The government harassed and intimidated opposition parties, human rights groups, and labor unions (see sections 1.c., 3, 5, and 7.a.).

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

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

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

The law generally provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights.

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

In-country Movement: Due to the continuing border dispute with Eritrea, certain areas in the north remained under military control.

Foreign Travel: During the year the government denied a senior labor leader access to the airport to travel to a meeting abroad (see section 7.a.).

#### **Internally Displaced Persons (IDPs)**

Sustained drought during the last four years prompted an exodus from rural areas. The World Food Program estimated that during the year the drought affected 800 families, a small increase from the previous year. Rather than wait for food assistance, the affected families--who had already lost their livestock--relocated to an area on the outskirts of Djibouti City. Numerous families displaced in 2008 as a result of a border dispute between Djibouti and Eritrea continued to live in the Khor area south of their original homes.

The government used the National Assistance Office for Refugees and Disaster Stricken People (ONARS) to screen, assess, and aid refugee applicants. The government allowed IDPs access to ONARS and to international humanitarian organizations and welcomed assistance from outside organizations.

#### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status. Only asylum seekers from southern Somalia are granted prima facie status. All other asylum claims must be reviewed by the National Eligibility Commission, which falls under the Ministry of Interior and consists of UNHCR and ONARS staff. The National Eligibility Commission met twice during the year but did not review any asylum claims.

The country hosted approximately 22,000 refugees and asylum seekers as a result of drought, famine, and fighting between al-Shabaab and the former Transitional Federal Government in south and central Somalia.

During the year approximately 400 Somalis arrived in the country each month, representing a major decrease from 2011, when famine brought in 800 per month.

In the past, most new refugees arrived at the Ali Addeh camp, which reached maximum capacity several years ago. As a result, the UNHCR and ONARS reopened a second camp at Holl-Holl to reduce congestion in Ali Addeh. A validation census of refugees in existing camps and in the city identified those who arrived after 2009 for relocation to the new camp. Organizational difficulties and resource constraints prevented ONARS and the UNHCR from providing adequate service to refugees, including the prompt processing of refugee claims.

The government allowed the UNHCR to screen and resettle Eritrean detainees imprisoned at Nagad Detention Facility. Due to the unresolved 2008 conflict between Djibouti and Eritrea and the mandatory military conscription policy of the Eritrean government, Djibouti considered Eritrean detainees as deserters from the Eritrean military rather than refugees, and authorities deported most detainees within 24 hours of arrest. An August riot at Nagad resulted in injury to 25 detainees and six police officers (see section 1.c.).

Refoulement: The government did not routinely grant refugee or asylum status to groups other than southern Somalis, and a backlog in refugee status determinations put individuals waiting for their screening at risk of expulsion to countries where they might be threatened. There were occasional cases in which the government returned migrants to their home country without the benefit of a refugee status determination. Most of these cases involved Ethiopian nationals, whom government officials categorically identified as economic migrants. The government, working with the International Organization for Migration (IOM) and the ICRC, continued its efforts to differentiate refugees from illegal immigrants; however, a lack of staff and other resources limited the success of the vetting,

particularly in light of the record number of migrants transiting the country en route to Yemen.

Refugee Abuse: There were only three police officers and no permanent courts to protect both refugee camps and their surrounding communities; impunity was a problem. Whether abuse or attacks were perpetrated by other refugees, members of neighboring communities, local officials, or the police, the nearly 22,000 refugees in camps had little redress. Camp staff reported numerous unsubstantiated accusations of abuse by local officials. The government promised to send a magistrate each month to the largest camp, Ali Addeh, to hear the backlog of pending cases, but such visits were sporadic.

The government occasionally detained and deported large numbers of illegal migrants. The government gave these migrants the opportunity to claim refugee status, and those who did were referred to the National Eligibility Commission to receive a status determination. However, the commission had not functioned for several years, resulting in a backlog of individuals at risk of expulsion.

Employment: Scarce resources and employment opportunities limited overall opportunities for the local integration of refugees. Documented refugees were permitted to work, and many (especially women) did so in low-wage jobs such as house cleaning, babysitting, or construction. There was little recourse to challenge poor working conditions or ensure fair payment for labor. Refugees had access to primary schools in the camps where instruction was in English and Somali. They were eligible to attend French-language public secondary school outside the camps but rarely did so because of the language barrier. A limited number of spots in public Somali-language technical schools became available to refugees.

Access to Basic Services: The Ali Addeh camp was overcrowded, and basic services such as potable water were inadequate. The Holl-Holl camp had adequate water, but other services, such as vocational training, were poor. The transfer of refugees from Ali Addeh camp to Holl-Holl camp, which was not crowded, continued at year's end. In January the UNHCR changed health-care service providers in the camps to improve basic medical services.

Temporary Protection: During the year the government provided temporary protection to a limited number of individuals who may not qualify as refugees. However, authorities jailed illegal migrants identified as economic migrants attempting to transit the country en route to Yemen and returned them to their

countries of origin. The government worked with IOM to provide adequate health services to these migrants while they awaited deportation.

### **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, but the government deprived many citizens of this right by suppressing the opposition and refusing to allow several opposition groups to participate in elections they considered unfair. The formal structures of representative government and electoral processes had little relevance to the real distribution and exercise of power.

#### **Elections and Political Participation**

Recent Elections: In 2010 parliament amended the constitution to remove term limits, facilitating the April 2011 reelection of President Ismail Omar Guelleh for a third term. The president won with 80 percent of the vote against independent candidate Mohamed Warsama Ragueh. Political opposition parties, claiming that the Guelleh administration had made a fair election impossible, initially chose not to nominate candidates for the presidential election, effectively boycotting it. However, one week prior to election day, the Union of Democratic Movements, the most active opposition coalition, asked its supporters to vote for Ragueh, the former head of the Constitutional Council. The Union for a Democratic Change, the other coalition, did not participate in the election. International observers from the African Union, La Francophonie, the Arab League, and the Inter-Governmental Authority on Development declared the elections free, fair, and transparent. However, observers criticized preelection planning and the number of security personnel at polling stations.

The government banned opposition rallies between March and April 2011 and harassed opposition leaders. For example, in March 2011 security forces detained four opposition leaders for approximately four hours while they were on their way to a planned demonstration. The detained leaders were PND president Aden Robleh Awaleh, Djiboutian Party for Development president Mohamed Daoud Chehem, Union for Democracy and Justice party (UDJ) president Ismael Guedi Hared, and MRD vice president Souleiman Farah Lodon. Security forces loaded the four leaders into a truck, drove them around the outskirts of Djibouti, and returned them to the residence of UDJ president Guedi. The leaders said they were not mistreated but considered the government's action a clear effort to prevent

them from organizing the demonstration. The demonstration planned for the day did not take place.

Also in March 2011, the government expelled Democracy International (DI), the international election monitoring organization, after accusing it of being an “illegal organization” that supported the opposition’s “seditious activities,” according to Human Rights Watch and Freedom House. DI had been assisting the government in preparations for the election and training both ruling and opposition parties in campaign methods. The expulsion followed DI’s monitoring of campaign activities during the February 2011 unrest, which the government perceived as a violation of unbiased participation in the process.

Political Parties: The government harassed and excluded opposition leaders, restricted the operations of opposition parties, and denied opposition groups permits to organize protests (see section 2.b.). According to Freedom House, opposition parties were also “disadvantaged by electoral rules and the government’s abuse of the administrative apparatus.” In September the centrist opposition party Unified Democratic Center became the country’s ninth legally registered political party.

Participation of Women and Minorities: The 2008 legislative elections brought two more women into the National Assembly, raising to nine the number of female parliamentarians in the 65-seat body. Following the most recent cabinet reshuffle in May 2011, there were three women in the 23-member cabinet. The president of the Supreme Court, who by law acts in the president’s stead in case of death or incapacitation, was a woman.

The legislature included members of all clans. Membership was approximately 41 percent Issa (27 members), 43 percent Afar (28 members), and 16 percent representatives of smaller minority groups. Elected from a single list (opposition parties did not contest the legislative elections in 2008 after the government declined to accept their conditions), the legislature’s members reflected the governing coalition’s intent to ensure balance. The cabinet was similarly balanced: there were 11 Issas, eight Afars including the prime minister and the foreign minister, and four members of minority groups. Some Afars continued to claim they were not as well represented at lower levels of government.

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

The law provides criminal penalties for official corruption; however, the government did not implement such laws effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's most recent Worldwide Governance Indicators, government corruption was a serious problem.

During the year the government internally disciplined high-level civil servants for corruption; however, there were no legal charges or media coverage. For the first time, the government rotated accountants between government offices as a check on corruption.

Public officials were not subject to financial disclosure laws.

A Court of Accounts, considered the supreme state financial control body, and the State Inspectorate General (IG) were responsible for combating corruption and conducted public expenditure audits to promote transparency. The law requires the court and the IG to report annually, but both entities lacked resources, and reporting seldom occurred. Radio Television Djibouti continued to broadcast twice a week in four languages anticorruption public service announcements developed in conjunction with the IG.

There were no laws providing for public access to government information, although legislative texts were publicly available through the online official journal, and citizens could address requests for information or mediation to the Ombudsman's Office. The ombudsman was effective and responsive, although the office was not widely known.

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

The government generally allowed a few domestic human rights groups that dealt with matters authorities did not consider politically sensitive to operate without restriction, conducting limited investigations and sometimes publishing findings on human rights cases. Government officials were occasionally responsive to their views. Government officials regularly cooperated with local nongovernmental organizations (NGOs) offering training and education to citizens on such human rights issues as women's rights. However, many domestic NGOs had leaders who were also key officials of the government.

Following the death of human rights activist Jean Paul Noel Abdi in May, a group of civil servants from diverse ministries created the Djiboutian Observatory for the

Promotion of Democracy and Human Rights (ODDH). The observatory applied for NGO status as required by law, but the Ministry of Interior had not responded by year's end.

On September 24, the ODDH released a statement denouncing the arbitrary arrest of its vice president, Dirir Said Iyeh, by the Documentation and Security Services. According to the ODDH, Dirir was apprehended at his workplace and interrogated for two and one half hours before being returned in a black van to the middle of Djibouti City. Dirir, an imam in Djibouti City, alleged that police interrogated him regarding anticorruption speeches he made during Friday prayers.

Government Human Rights Bodies: The government's National Human Rights Commission included technical experts, representatives of civil society and labor, religious groups, the legal community, the Ombudsman's Office, and the National Assembly. The commission met regularly, produced an annual report, and occasionally commented on cases of concern. State-run media featured prominent coverage of the commission's activities throughout the year.

A government ombudsman, who also served in the National Assembly, holds responsibilities that include mediation between the government and citizens on issues such as land titles, issuances of national identity cards, and claims for unpaid wages. Written records of the ombudsman's activities were sparse, and it was unclear what actions he took during the year to promote human rights.

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

The constitution and law prohibit discrimination on the basis of race, gender, or language; however, the government did not enforce the law effectively. The constitution does not directly address discrimination based on disability, social status, sexual orientation, or gender identity.

### **Women**

Rape and Domestic Violence: The law includes sentences of up to 20 years' imprisonment for rape but does not address spousal rape. The government did not enforce the law effectively. Families of the victim and the perpetrator usually settled informally rape cases, which often went unreported. Reliable statistics on the prevalence of rape were not available.

Domestic violence against women was common, but few cases were reported. While the law does not specifically prohibit domestic violence, it prohibits “torture and barbaric acts” against a spouse and specifies penalties up to 20 years’ imprisonment for perpetrators. Families and clans, rather than courts, handled cases of violence against women. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme cases, usually involving death of the victim.

The National Union of Djiboutian Women operated a walk-in counseling center (Cellule d’Ecouté) that provided services and referrals for men and women. Of the 1,575 persons assisted during the year, approximately 8 percent were victims of domestic violence. In 2010 the counseling center opened stations in the Ali Addeh and Holl-Holl refugee camps.

Sexual Harassment: The law does not prohibit sexual harassment. Statistics were not available, but anecdotal information suggested such harassment was widespread, although seldom reported.

Reproductive Rights: The government recognized the right of citizens to decide freely and responsibly the number, spacing, and timing of their children and to do so free from discrimination, coercion, and violence. Clinics under the Ministry of Health operated freely in disseminating information on family planning. There were no restrictions on the right to access contraceptives, and the government estimated in 2009 that approximately 33 percent of women had access to contraceptives. Misinformation about contraceptives, combined with a cultural preference for large families (between five and eight children), discouraged the use of contraceptives, especially in rural areas. Moreover, the lack of medical facilities outside of Djibouti City meant that contraceptives were difficult to obtain.

The government provided childbirth services, and increasing numbers of women delivered babies in a hospital or health clinic. A 2009 Ministry of Health report stated 78 percent of the population had access to prenatal care, 15 percent to obstetric care, and 36 percent to postpartum care. The UN Population Fund estimated the maternal mortality rate in 2011 at 300 deaths per 100,000 live births. The lack of facilities and overall dearth of services contributed to poor maternal health outcomes. According to a 2010 study by the World Health Organization, 60 percent of births in rural areas occurred at home. Obstetric services were available only at Dar el Hanan hospital in Djibouti City.

Discrimination: The constitution provides for equal treatment of citizens without distinction regarding gender, but custom and traditional societal discrimination, including in education, resulted in a secondary role for women in public life and fewer employment opportunities in the formal sector. Women did not possess the same legal rights as men. In accordance with Sharia, men inherit a larger proportion of estates than do women. Many women owned and ran small businesses, although mostly in the informal sector, where they did not receive the same benefits or access to credit available in the formal sector. The government continued to promote female leadership in the small business sector, including through expanded access to microcredit.

A presidential decree requires women to hold at least 20 percent of all high-level public service positions, and the government enforced the law. The Ministry for the Promotion of Women and Family Planning is responsible for promoting the rights of women.

During the year the government implemented a 2009 law to improve the living conditions of low-income women and to strengthen the role and organization of the Ministry for the Promotion of Women and Family Planning.

## **Children**

Birth Registration: Citizenship derives from a child's parents. The government continued to encourage the immediate registration of births, and most births in Djibouti City were registered quickly. By contrast, births in rural areas often were registered late or not at all. The birth registration fee of 2,000 DJF (\$11) deterred some parents from registering births. Lack of birth registration did not result in denial of public services, but lack of such documentation prevented adults from voting.

Education: Primary education was compulsory. Primary and middle school were tuition free, but other expenses could be prohibitive for poor families. Although the educational system did not discriminate against girls, societal attitudes resulted in lower school enrollment rates for girls than boys.

Child Abuse: Child abuse existed but was not frequently reported or prosecuted.

Child Marriage: Although article 13 of the family code fixes the minimum legal age of marriage at 18 years, article 14 provides that "marriage of minors who have not reached the legal age of majority is subject to the consent of their guardians."

Child marriage occasionally occurred in rural areas, where it was considered a traditional practice rather than a problem. The Ministry for the Promotion of Women and Family Planning worked with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Harmful Traditional Practices: According to a 2006 UNICEF estimate, 93.1 percent of women between the ages of 15 and 49 had undergone FGM/C. However, a 2010 report by the Ministry of Health and the UN Population Fund showed that 51 percent of eight-year-old girls, 54 percent of seven-year-old girls, and 60 percent of six-year-old girls had not undergone the procedure, a marked decrease. Infibulation, the most extreme form of FGM/C, continued to be widely practiced, especially in rural areas. The law punishes FGM/C by five years' imprisonment and a fine of one million DJF (\$5,500), and NGOs could file charges on behalf of victims; however, the government had not convicted anyone under this statute. The law provides for up to one year's imprisonment and a fine of up to 100,000 DJF (\$550) for anyone convicted of failing to report a completed or planned FGM/C to the proper authorities; however, the government has punished no one under this statute.

During the year the government continued efforts to end FGM/C with a high-profile national publicity campaign, ongoing public support from the first lady and other prominent women, and outreach to Muslim religious leaders. The media featured frequent and prominent coverage of events organized to educate the public on the negative consequences of FGM/C. Efforts by the Union of Djiboutian Women and other groups to educate women were reportedly effective in lessening the incidence of FGM/C in the capital, according to government ministries and NGOs.

Sexual Exploitation of Children: The law provides for three years' imprisonment and a fine of one million DJF (\$5,500) for the commercial exploitation of children. The law does not specifically prohibit statutory rape, and there is no legal minimum age of consent. The sale, manufacture, or distribution of all pornography, including child pornography, is covered under laws prohibiting attacks on "good morals," and violations are punishable with a year in prison and a fine of up to DJF 200,000 (\$1,100).

Despite government efforts to keep at-risk children off the streets and warn businesses against permitting children to enter bars and clubs, there were credible reports of child prostitution on the streets and in brothels. Children were subject to

commercial sexual exploitation after reaching Djibouti City or the Ethiopia-Djibouti trucking corridor. Occasionally child prostitution occurred with the involvement of a third party, most frequently an older child or group of older children.

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

### **Anti-Semitism**

While exact numbers were not available, the Jewish community was estimated at fewer than 30 persons, the majority of whom were foreign military members stationed in the country. 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](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution does not prohibit discrimination against persons with disabilities, although the labor code prohibits discrimination in employment against such persons. Both the Ministry of National Solidarity and the Ministry for the Promotion of Women and Family Planning had responsibility specifically to protect the rights of such persons; however, the law was not enforced. The government did not mandate accessibility to buildings or government services for persons with disabilities, and such buildings were often inaccessible. Persons with disabilities had access to health care and education, including primary, secondary, and higher education.

Authorities held prisoners with mental disabilities in separate cells. They received minimal psychological treatment or monitoring. Families could request to have mentally ill relatives confined in prison. In July a man with mental disabilities was taken into police custody at the request of his family and allegedly tortured by police; the victim subsequently died (see section 1.c.). In November an inmate with mental disabilities committed suicide. Societal discrimination against persons with disabilities occurred. The National Human Rights Commission conducted awareness raising campaigns, and NGOs continued to organize seminars and other

events that drew attention to the need for enhanced legal protections and better workplace conditions for persons with disabilities.

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

The governing coalition included all of the country's major clan and ethnic groups, with minority groups also represented in senior positions. Nonetheless, there continued to be discrimination on the basis of ethnicity in employment and job advancement. Somali Issas, the majority ethnic group, controlled the ruling party and dominated the civil service and security services, and the government marginalized the minority Afar peoples. Discrimination based on ethnicity and clan affiliation remained a factor in business and politics.

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

The law criminalizes consensual same-sex sexual conduct; however, the government took no actions against persons under the law, and there were no reported incidents of societal violence or discrimination based on gender identity or sexual orientation. Societal norms does not allow for the public discussion of homosexuality, and persons generally did not openly acknowledge being gay. There were no known organizations for lesbian, gay, bisexual, and transgender persons.

### **Other Societal Violence or Discrimination**

There was no known societal violence or discrimination against persons with HIV/AIDS.

## **Section 7. Worker Rights**

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

The constitution and law provide for the right to form and join unions, with prior authorization. The law provides the right to strike after providing advance notification. The president has broad legal powers to requisition public servants whom he determines to be indispensable to the operation of essential public services. The labor code allows collective bargaining and fixes the basic conditions for adherence to collective agreements. The law prohibits antiunion

discrimination and requires employers found guilty of discrimination to reinstate workers fired for union activities.

According to the *2012 Annual Survey of Violations of Trade Union Rights--Djibouti*, produced by the International Trade Union Confederation (ITUC), “Freedom of association is strictly regulated by a 2006 labor code that can at best be described as unfriendly to unions.” When registering a trade union, the minister of labor takes into account not only the appropriate union documents but also reports by the labor inspector, thereby giving virtual discretionary powers to public authorities. Furthermore, “Any changes in a union’s statutes or leadership must go through the same procedures as when registering the union. If one of the ministries demands the dissolution of a union, the chief public prosecutor can approach a civil court to obtain dissolution. Accession to union office means the almost automatic suspension of the employment contract, and any person convicted “by any court may not hold a leadership position.”

The government severely restricted the right to form and join unions by refusing labor organizations the ability to register participants, thus compromising the ability of labor groups to operate. Most residents in rural areas worked as subsistence farmers, and there were no agricultural unions. The two civil, nongovernmental labor unions each had a government-appointed counterpart, which union leaders referred to as “shadow unions.” Union leaders alleged that the government suppressed independent representative unions by tacitly discouraging labor meetings and encouraging government-sponsored shadow unions. The government did not recognize the civil, nongovernmental labor unions, and only members of the government-approved labor unions attended international and regional labor meetings with the imprimatur of the government. The Labor Union of Djibouti (UDT) continued to operate as a civil-organized union without government recognition. In October 2011 authorities confiscated the head office of the UDT, which ceased operations. In July authorities allowed the UDT to return to the office and resume operations.

In 2010 the International Labor Organization (ILO) expressed its concern over several discrepancies between ILO Convention 87 and the country’s labor laws, which (a) provide for a more or less automatic suspension of the employment contract when a worker holds trade union office; (b) prohibit access to any trade union because of any conviction (whether or not the conviction is prejudicial to the integrity required to exercise union office); (c) prescribe a lengthy and complicated trade union registration procedure; (d) require organizations to obtain authorization prior to their establishments as trade unions; and (e) confer upon the president

broad powers to requisition public servants considered indispensable to the life of the nation and the proper operation of essential public services. The ILO also recommended that, where the representativeness of a workers' organization had not yet been established, no representation from the trade unions should be barred from the tripartite work of the National Council on Work, Employment, and Professional Training. No progress had been made on resolving these concerns by year's end.

The government neither enforced nor complied with the law on antiunion discrimination.

During the year collective bargaining sometimes occurred and usually resulted in quick agreements. The National Council on Work, Employment, and Professional Training examined all collective bargaining agreements and played an advisory role in their negotiation and application. The council included representatives from labor, employers, and the government.

Workers exercised the right to strike and occasionally disregarded the requirement for advance notification of strikes. However, the ITUC alleged that authorities brutally repressed strikes. According to the ITUC, authorities constantly harassed union leaders and members. The government accused trade union activists of being enemies of the nation and subjected activists to arrest, imprisonment, transfer, and dismissal. Authorities arrested more than 60 dock workers and took them to Nagad Detention Facility after sporadic strikes during the year at the International Autonomous Port of Djibouti. According to a senior labor leader, police released workers within several days following each incident. Grievances included low wages and lack of a retirement plan.

In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives chosen by the government and employers. Workers or employers could request formal administrative hearings before the Labor Inspectorate. However, the inspectorate did not have sufficient resources to conduct regular preventive inspections or to pursue enforcement of previous cases. There were no reports that employers refused to bargain with unions chosen by workers or that employers avoided hiring workers with bargaining rights.

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

The law prohibits all forms of forced or compulsory labor. A small number of women and children transiting the country from Somalia or Ethiopia as well as local girls became victims of domestic servitude in Djibouti City and the Ethiopia-Djibouti trucking corridor. Street children, including Djiboutian children, were forced by their parents or other adult relatives to beg, and children also were coerced to commit petty crimes, such as theft.

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

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

The law prohibits all labor by, and employment of, children under age 16. Government enforcement of child labor legislation was ineffective. The Ministry of Labor is responsible for monitoring workplaces and preventing child labor but conducted no inspections during the year. A shortage of labor inspectors, vehicles, and other resources impeded investigations of child labor. There was no government program to enforce the work of inspectors.

Child labor, including the worst forms of child labor, existed throughout the country. Children were engaged in the sale of the narcotic khat, legal under local law. Family-owned businesses such as restaurants and small shops employed children at all hours. Children were involved in a range of activities such as shining shoes, washing and guarding cars, selling items, working as domestic servants, working in subsistence farming and with livestock, and other activities in the informal sector. Children of both sexes worked as domestic servants.

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

### **d. Acceptable Conditions of Work**

There is no minimum wage for occupational categories; the labor code provides that wages be set after common agreement between employers and employees. According to the government statistics office, 79.4 percent of the population lived in relative poverty. The legal workweek is 48 hours in generally six days, a limit that applies to workers regardless of gender or nationality. The law mandates a weekly rest period of 24 consecutive hours and the provision of overtime pay, and it limits compulsory overtime to a maximum of five hours per week. The law provides for paid holidays. The government sets occupational safety and health

standards. There are no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment. Although more flexible hiring regulations apply in the Djibouti Free Zone, a commercial export processing zone near the Djibouti City port, other labor code provisions apply to all workers, including foreign workers and workers in the Free Zone.

The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours; however, resources allotted to enforcement were insufficient, and enforcement was ineffective. Data on inspections was unavailable. Workers across all industries or sectors sometimes faced hazardous working conditions, particularly in the construction sector. Workers rarely protested due to fear that others willing to accept the risks would replace them. Credible data on workplace fatalities and accidents were not available.