

DJIBOUTI

EXECUTIVE SUMMARY

Djibouti is a republic with a strong elected president and a weak legislature. In April 2010 parliament amended the constitution to remove term limits, facilitating the April 8 reelection of President Ismail Omar Guelleh for a third term. The president won with 80 percent of the vote against one independent candidate, who was supported by one of two opposition coalitions that had boycotted the election until April 3; 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 2010 constitutional amendment removing presidential term limits, general dissatisfaction with the government, student unrest, and high levels of unemployment contributed to popular protests in February. On February 18, security forces used tear gas and rubber bullets to disperse violent young protestors who remained following a peaceful demonstration. One civilian and one police officer were killed, and numerous demonstrators were injured. The subsequent security crackdown resulted in numerous arrests, detentions, and criminal proceedings against demonstrators. Between March 25 and April 8, the official campaign period, the government banned opposition rallies.

The most serious human rights problem in the country was the government's abridgement of the right of citizens to change or significantly influence their government; it did so by harassing, abusing, and detaining government critics and by its unwillingness to permit the population access to independent sources of information within the country.

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

Officials engaged in corrupt practices with impunity.

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 February 18, demonstrators gathered initially in the area of Avenue Nasser, outside the city center of Djibouti City, and then marched to Hassan Gouled Stadium, where the crowd grew to approximately 3,000 persons. Participants listened to opposition speeches calling for President Guelleh to abandon plans for a third term and criticizing the country's 60 percent unemployment rate, high cost of staple foods, and lack of affordable housing. Most participants departed the stadium before the 6:00 p.m. permit deadline imposed by the Ministry of the Interior; however, several hundred remaining young demonstrators began throwing rocks, overturning vehicles, and burning tires. Security forces responded with tear gas and rubber bullets, killing one demonstrator and injuring numerous others. Estimates of the number of demonstrators arrested ranged from 80 to 200. On February 27, approximately 80 of those detained were brought to court, and 40 cases were dismissed. Of the remaining 40, approximately 25 demonstrators were convicted of assault or arson and were sentenced to prison. An additional number were charged with demonstrating beyond the time allotted on the rally permit and were released by the end of February.

According to Reporters Without Borders (RSF), Balbala resident Dirir Ibrahim Bouraleh allegedly died as a result of injuries inflicted during torture at a gendarmerie unit where he was detained from April 23 to 27. Sergeant Major Abdourahman Omar Said reportedly conducted the torture that resulted in Bouraleh's death.

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.

The government arrested dozens of its political opponents in February, including six persons who provided reporting to opposition radio station La Voix de Djibouti, which broadcasts from Europe. Among the six were Farah Abadid Heldid and Houssein Robleh Dabar, who gendarmes arrested without warrant on February 5. On February 9, the two opposition journalists were transferred to Gabode Prison on charges of “participating in an insurrectional movement.” According to RSF, while in custody of the gendarmerie, Heldid was interrogated and tortured, reportedly by Abdourahman “Doudou” Ali Ismael, a member of the gendarmerie’s Investigation and Documentation Section (SRD). On June 23, after four months in Gabode Prison, Heldid and Dabar were released after filing appeals with the Court of Appeals and the Supreme Court. Reporters Houssein Ahmed Farah, Abdillahi Aden Ali, Joustapha Abdourahman Houssein, and Mohamed Ibrahim Waiss, all of whom were arrested along with Heldid and Dabar in February, also were released on June 23. The four, who were members of opposition parties, were charged with “participating in an insurrectional movement.”

On November 21, SRD gendarmes again arrested Heldid and Dabar, according to RSF. Until November 24, when they were released, the two journalists reportedly were interrogated and tortured. Before being freed they were questioned by State Prosecutor Maki Omar Abdoukader and Prosecutor General Djama Souleiman Ali. The journalists were taken before an investigating judge at the Supreme Court, where they were charged with encouraging an illegal demonstration and insulting the president. Their mistreatment in the gendarmerie reportedly was ordered by Sergeant Major Abdourahman Omar Said, the gendarme allegedly responsible for the torture and death of Dirir Ibrahim Bouraleh (see section 1.a.). According to RSF, Heldid and Dabar were arrested to prevent La Voix de Djibouti from publicizing the distribution of a leaflet calling for a “Day of Anger” protest. Mohamed Souleiman Cheik Moussa, a magistrate who authored the leaflet, was arrested the same day.

In early March, in Tadjourah, a soldier shot a civilian in the leg as a result of a personal altercation. The injured civilian was sent to Djibouti for medical treatment. It was unclear what actions were taken against the soldier who fired the shot; however, a gendarme and a military commander in Tadjourah were transferred from the region.

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. There were reports that police and gendarmes abused and tortured prisoners during the year.

Gabode Prison in Djibouti City had a maximum capacity of 500 inmates but often held 750. Inmates in Gabode had adequate access to potable water and sanitary facilities and were provided three meals a day, with meat served on alternate days. Prisoners' families were allowed to bring food to the prison. The prison had a permanent doctor and six permanent nurses on its staff during the year; in 2010 the doctor was available "on call" only. Prisoners with serious health problems received treatment at the main Djibouti City public hospital. Authorities held prisoners who were seriously ill separately and segregated prisoners with communicable diseases from prisoners with other health problems. Adequate medication was available. During the prisoner intake process, prison officials tested for and documented serious health conditions. However, prisoners with serious mental illness did not receive adequate care. The prison had both written and electronic procedures to track prisoner names, thumbprints, and dates of detention and release.

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 were kept in jails for a few weeks before either release or transfer to Gabode Prison.

At Nagad Detention Center, which primarily held undocumented immigrants and was not part of the prison system, detainees had access to potable water, food, and medical treatment. Authorities deported most detainees within 24 hours of arrest.

Statistics were unavailable, but Gabode Prison generally held approximately 600 prisoners, including an average of 12 female prisoners, whose conditions of detention were similar to those of male prisoners. There were generally fewer than 20 juvenile prisoners, who were not always held separately from adults. Authorities allowed young children of female prisoners to stay with their mothers. Pretrial detainees were not held separately from convicted prisoners.

Prisoners and detainees were permitted visitors each Friday afternoon and religious observance regardless of religion.

There was no formal system to enable prisoners and detainees to submit complaints to judicial authorities to request investigation of inhumane conditions.

The government granted prison access to foreign embassies and the International Committee of the Red Cross (ICRC), which was allowed to inspect prisons every six months. A small group of Eritrean prisoners of war captured during the 2008 border skirmish with Eritrea received regular visits from ICRC staff, and government authorities accepted ICRC recommendations with regard to medical concerns for one of the prisoners.

The government continued to provide human rights training for guards.

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 is responsible for internal security and border control. The National Gendarmerie is responsible for external security but also has some domestic responsibilities. A separate prison guard service is responsible for security at the national prison.

Security forces were generally effective, although corruption was a problem across all three services, particularly in the lower ranks where wages were low. 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 were prosecuted during the year.

Police had a Human Rights Office, and human rights education was integrated into the police academy curriculum. During the year the local police academy coordinated with the International Organization for Migration (IOM) to host a workshop to train security forces in refugee rights and processing.

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 in practice, especially in rural areas. Detainees may be held another 48 hours with the prior approval of the public prosecutor. The law provides that detainees be promptly notified of the charges against them, although in practice there were delays. The law requires that all persons, including those charged with political or national security offenses, be tried within eight months of arraignment; however, police disregarded 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. In criminal cases the state provides attorneys for detainees who cannot afford legal representation. Detainees generally were allowed access to family members and legal counsel.

Arbitrary Arrest: During the year numerous persons, including opposition members, journalists, and human rights activists, were arbitrarily arrested, often without warrants (see sections 1.a., 1.c., and 3).

For example, on February 19, three opposition leaders were briefly arrested after an altercation with police when the three visited a police station to demand the release of 30 demonstrators detained the previous evening for vandalism and looting (see section 1.a.). The three leaders--Aden Robleh Awaleh, president of the National Democratic Party (PND), Mohamed Daoud Chehem, president of the Djiboutian Party for Development (PDD), and Ismael Guedi Hared, president of the Union for Democracy and Justice party (UDJ)--were released later the same day by order of the president.

Pretrial Detention: Lengthy pretrial detention was a problem, and approximately half of the prison population was in pretrial detention. Statistics were unavailable, but it was not uncommon for prisoners to wait two or three years--and in one case eight years--for their trials to begin. Judicial inefficiency contributed heavily to lengthy pretrial detention.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary; however, the judiciary lacked independence and was inefficient. Constitutional provisions for a fair trial often were not respected.

Allegations of politically motivated prosecutions surfaced in June 2010 following the conviction in absentia of businessman Abdourahman Boreh on charges of terrorism for allegedly directing a grenade attack in Djibouti City. Boreh, whose foreign attorney was not allowed into the country, claimed his 15-year-sentence was intended to derail a potential presidential bid.

In 2010 the foreign attorney for Jean-Paul Noel Abdi, the president of the Djibouti League for Human Rights (LDDH), whom authorities charged with conspiring against the state, was denied an entry visa and had no physical access to his client (see section 5).

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

Trial Procedures

The law states that the accused is innocent until proven guilty; however, in practice, 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 who are considered to possess sufficient legal knowledge to comprehend court proceedings. The government chooses lay assessors from the public. 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. These rights were generally respected. The indigent have a right to legal counsel in criminal and civil matters but in practice sometimes did not have legal representation. Defendants have the right of appeal.

Traditional law often applied in cases involving conflict resolution and victim compensation. For example, traditional law often stipulated that a price be paid to the victim's clan for crimes such as murder and rape. Most parties preferred traditional court rulings for sensitive issues such as rape, where a consensus toward maintaining peace between those involved was valued over the individual rights of the victim, who was often pressured by family to abide by traditional court rulings.

Political Prisoners and Detainees

Numerous persons were detained for political reasons during the months leading up to the election and released afterwards. For example, the government charged eight men--including human rights activist Jean Paul Noel Abdi--with conspiring against the state (see section 5). The prisoners were permitted legal representation and were allowed to meet with their attorneys before trial. Noel Abdi was released two weeks later. The remaining prisoners were detained for two months and released shortly after the election.

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. 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 in practice. The law requires that authorities obtain a warrant before conducting searches on private property, but the government did not always respect the law in practice. 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

Status of 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." In practice 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.

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 “by means of ubiquitous state-owned media that do what they are told,” according to RSF. All opposition newspapers have been closed by the courts or “by means of the economic asphyxiation which the government uses to gag the media,” according to RSF. Each registered political party was allowed 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 PND party 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, which were operated by Radio-Television de Djibouti (RTD). The official media generally did not criticize government leaders or policy, and opposition access to radio and television time remained limited. RTD did provide limited coverage of opposition events during the election season. Foreign media broadcast throughout the country, and cable news and other programming were available.

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

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 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 Djiboutian National Security

Service following an investigation. The only publishing houses equipped for broad distribution were government owned, obliging antigovernment sources to print privately.

Internet Freedom

There were few government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, the government reportedly continued to block access to the Web site of the Association for Respect of Human Rights in Djibouti, which was often critical of the government.

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. The Interior Ministry requires permits for peaceful assemblies and denied such permits to opposition groups during the election campaign.

On February 5, students from the law college of the University of Djibouti gathered in response to an abnormally large failure rate on an important exam. Over the next four days demonstrations erupted at secondary schools and again at the university. While the motives of demonstrators were unclear, some observers attributed student actions to general disapproval of the government's education policies. Security forces used tear gas to disperse demonstrators. An unknown number of students were arrested and released within 48 hours.

The government's use of excessive force to quell violence following a demonstration on February 18 resulted in the death of one demonstrator and numerous injuries (see section 1.a.).

The government denied an opposition request for weekly Friday rallies to be held leading up to the April 8 election. In a March 9 letter to the opposition, interior minister Yacin Elmi Bouh justified the denial by noting that only registered parties were permitted to hold outdoor rallies. According to Bouh, since the opposition declaration was made on behalf of all five opposition parties--including the banned Movement for Democratic Renewal (MRD)--the opposition declaration of weekly rallies could not be considered credible (see section 3). The letter also accused the opposition of seeking a “blank check” for weekly demonstrations and of seeking to promote insurrection. The government maintained an increased security presence on Fridays to deter demonstrations until the election.

Freedom of Association

The constitution and law allow for freedom of association provided legal requirements are met; however, the government restricted this right in practice. 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.

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 in practice.

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.

Internally Displaced Persons (IDPs)

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 utilized 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. The government deported large groups of foreigners who were determined to be economic migrants and not IDPs.

Protection of Refugees

Access to Asylum: The laws provide for the granting of asylum or refugee status. The government has established a system for providing protection to refugees under the National Eligibility Commission; however, during the year asylum was seldom granted except to persons from southern Somalia.

In 2009 ONARS and the UNHCR completed a census of refugees at Ali Addeh refugee camp and distributed identification cards to adult refugees. However, organizational difficulties and resource constraints prevented both entities from providing adequate service to refugees, including the prompt processing of refugee claims. While the government grants prima facie status to refugees from southern Somalia, all other nationalities, including Eritreans, must register with ONARS. In 2009 the government ceased, indefinitely, the registration of non-Somalis due to a public disturbance that occurred outside the ONARS office. This decision resulted in the denial of registration for individuals that UNHCR deemed to be in need of protection services access to the services of ONARS. The screening unit was moved to the Loyada Center, a primary checkpoint on the Djibouti-Somalia border, to accommodate the flow of refugees from Somalia.

Nonrefoulement: In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, the government did not routinely grant refugee or asylum status, and delays in the system for granting refugee status left persons at risk of expulsion to countries where they might be

threatened. The government, working with the IOM and the ICRC, continued its efforts to properly differentiate refugees from illegal immigrants; however, a lack of manpower and other resources limited the success of the vetting effort, particularly in light of the large number of migrants transiting the country en route to Yemen.

Refugee Abuse: Large numbers of illegal migrants were detained in occasional government efforts to reduce the number of illegal immigrants in the city. These migrants were given the opportunity to claim refugee status, but their applications were usually denied.

Access to Basic Services: Ali Addeh camp was overcrowded, and basic services were inadequate.

Employment: Refugees continued to report that although they could not obtain work permits, many, especially women, worked. Refugees who sought work without permits typically performed low-level tasks in construction, house cleaning, or babysitting. Due to the lack of permits, they were unable to challenge poor working conditions or ensure fair payment for their labor. Refugees at the Ali Addeh camp had access to a local primary school but not to a secondary school.

Temporary Protection: During the year the government provided temporary protection to a limited number of individuals who may not qualify as refugees. However, illegal migrants identified as economic migrants attempting to transit Djibouti en route to Yemen were temporarily jailed and returned to their countries of origin. The government worked with IOM to provide adequate health services to these migrants while they awaited deportation. There also was a trend toward denying refugee status to Ethiopian applicants due to the government's position that most were economic migrants.

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 many citizens were deprived of this right in practice by government measures to suppress opposition groups and the refusal of 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 April 2010 parliament amended the constitution to remove term limits, facilitating the April 8 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 it impossible to conduct a fair election, 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 to be free, fair, and transparent. However, observers criticized pre-election planning and the number of security personnel at polling stations.

The government banned opposition rallies between March 25 and April 8 and harassed opposition leaders (see section 2.b.).

For example, on March 11, 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, PDD president Mohamed Daoud Chehem, UDJ president Guedi Hared, and MRD president Souleiman Farah Lodon. The four leaders were loaded into a truck and driven around the outskirts of Djibouti, after which they were returned 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.

In March the government expelled Democracy International (DI) from the country after accusing it of being an "illegal organization" that supported the opposition's "seditious activities," according to Human Rights Watch and Freedom House. The international election monitoring organization had been working to assist the government in preparations for the election and training of both ruling and opposition parties in campaign methods. The expulsion followed campaign monitoring activities by DI during the February 18 unrest that the government perceived as a violation of unbiased participation in the process.

Political Parties: The government arrested, harassed, and threatened opposition leaders, restricted the operations of opposition parties, and denied opposition groups permits to organize protests (see sections 1.a., 1.c., and 2.b.). According to Freedom House, opposition parties were also “disadvantaged by electoral rules and the government’s abuse of the administrative apparatus.”

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. There was one woman in the 21-member cabinet, and 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, 43 percent Afar, 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 six Afars, including the prime minister and the foreign minister. However, some Afars continued to claim they were not as well represented at lower governmental levels. There were three representatives from Somali clans other than the Issa in the cabinet, and one of Yemeni origin.

Section 4. Official Corruption and Government Transparency

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.

The Chamber of Public Accounts and Fiscal Discipline (CAFD) and the State Inspectorate General (IG) were responsible for combating corruption and conducted public expenditure audits in an effort to promote transparency. The law mandates the CAFD and IG to report regularly, although in practice their reports lagged behind an annual schedule. RTD continued to broadcast anticorruption public service announcements developed with the IG. The announcements were broadcast twice a week in four languages.

Public officials were not subject to financial disclosure laws.

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.

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

A few domestic human rights groups that dealt with matters authorities did not consider politically sensitive generally were allowed to operate without government 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.

On February 9, LDDH president Jean Paul Noel Abdi was arrested without warrant along with five opposition journalists and charged with conspiracy (see section 2.a.). On February 21, Noel Abdi was released on probation, and on March 22, his probation was lifted. Charges against Noel Abdi from previous years remained pending, including those that resulted in his February 2010 arrest and those pertaining to his 2009 arrest for distributing materials that "insulted judicial authority."

UN and Other International Bodies: The government routinely allowed visits from international NGOs, including those dealing with human rights issues, and regularly received visitors from UN bodies.

The ICRC maintained a small office staffed with locally hired personnel. ICRC regional representatives based in Nairobi visited quarterly and were allowed to conduct visits in accordance with standard modalities.

Government Human Rights Bodies: The government's 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 and occasionally commented on cases

of concern. State-run media featured prominent coverage of the commission's activities throughout the year. The commission succeeded in having human rights subjects added to police and gendarmerie training.

There is a government ombudsman, who also served in the parliament, whose responsibilities included mediation between the government and citizens. 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 or social status. The government took steps during the year to increase protection of women, including campaigns against female genital mutilation (FGM), but societal discrimination against women and ethnic minorities persisted.

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. Rape cases, which often were not reported to the police, usually were settled informally between the families of the victim and the perpetrator. 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 Union of Djiboutian Women ran a center which provided services including counseling to the victims of domestic violence. Of the 362 women assisted during the year, 26 percent reported physical violence, 28 percent reported psychological abuse, and more than 50 percent sought assistance in obtaining alimony or child

support payments. In 2010 the counseling center opened a new station in the Ali Addeh refugee camp.

Female Genital Mutilation (FGM): (see section 6, Children).

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. 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. 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 2008 at 300 deaths per 100,000 live births.

Discrimination: The constitution provides for equal treatment of citizens without distinction as to sex, 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 law, men inherit a larger proportion of estates than 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 2008 presidential decree requires women to be represented in at least 20 percent of all high-level public service positions, and the government enforced the law in practice. The Ministry for the Promotion of Women, Family, Welfare, and Social Affairs was responsible for promoting the rights of women.

Children

Birth Registration: Citizenship is derived from a child's parents. The government continued to encourage the immediate registration of births, and most births in Djibouti City were registered quickly. However, births in rural areas were often 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 impeded the ability of adults to vote.

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.

Harmful Traditional Practices: According to previous estimates, 93 percent of the female population in the country had undergone FGM. 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, continued to be widely practiced, especially in rural areas. The law makes FGM punishable by five years' imprisonment and a fine of one million DJF (\$5,550), and NGOs are allowed to file charges on behalf of victims; however, the government has 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 (\$565) for anyone convicted of failing to report a completed or planned FGM to the proper authorities.

During the year the government continued efforts to end FGM with an ongoing 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. Efforts of the Union of Djiboutian Women and other groups to educate women were reportedly effective in lessening the incidence of FGM in the capital, according to government ministries and NGOs.

Child Marriage: 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, Family, Welfare, and Social Affairs worked with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Sexual Exploitation of Children: The law provides for three years' imprisonment and a fine of one million DJF (\$5,650) 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 (\$1,130).

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. Of 2,430 prostituted persons apprehended by the police in 2009, 408 were between the ages of 10 and 17.

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

Anti-Semitism

There was no established 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.

Persons with Disabilities

The constitution does not prohibit discrimination against persons with disabilities, although the labor code prohibits discrimination in employment against such persons. Persons with disabilities had access to education and public health services. The government did not mandate accessibility to buildings or

government services for persons with disabilities, and such buildings were often inaccessible. There was societal discrimination against persons with disabilities. No government agency was charged specifically with protecting the rights of such persons. 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 minority Afar peoples were marginalized. 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 did 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 government restricted the right to form and join unions. 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.

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. All workers, citizens, and noncitizens with work permits were included in legal protections.

In 2010 the International Labor Organization (ILO) expressed its concern over several points of divergence 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) in an overly broadly formulated form, 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 have 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.

A 2010 ILO report noted substantial differences between the country’s labor laws and the relevant ILO convention, including employment restrictions on those holding union office, a lengthy and complicated union registration procedure, and excessive presidential authority to requisition public workers.

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

Workers exercised the right to strike in practice and occasionally disregarded the requirement for advance notification of strikes. However, the International Trade Union Confederation (ITUC) alleged that authorities have brutally repressed strikes. According to the ITUC, union leaders and members were subjected to constant harassment by authorities. The government accused trade union activists of being enemies of the nation, and activists were subjected to arrest, imprisonment, transfer, and dismissal.

According to a 2011 ILO report covering the previous year, security forces on two occasions in March 2010 arrested numerous UDT members who were peacefully protesting wage arrearages owed to railway workers and released them the same day without charges.

During the year collective bargaining sometimes occurred, and agreements were usually reached in short periods of time. The National Council on Work, Employment, and Professional Training, established in 2008, was charged with examining all collective bargaining agreements and playing an advisory role in their negotiation and application. The council included representatives from labor, employers, and the government.

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, in practice the inspectorate did not have sufficient resources to conduct regular preventive inspections or to follow up on the enforcement of previous cases. There were no reports of instances of employers refusing to bargain with unions chosen by workers or measures taken by employers to avoid 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.

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

c. Prohibition of Child Labor and Minimum Age for Employment

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 and other resources such as vehicles reduced the likelihood that reports of child labor would be investigated. There was no government program to enforce the work of inspectors.

Child labor existed throughout the country, including the worst forms of child labor. Children engaged in the sale of the mild 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.

d. Acceptable Conditions of Work

The 2006 labor code canceled minimum wage rates for occupational categories and provides that wages be set after common agreement between employers and employees. The legal workweek is 48 hours, normally spread over six days. This limit 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 limits compulsory overtime to a maximum of five hours per week. The law provided for paid holidays. The government sets occupational safety and health standards. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment. Although more flexible hiring regulations applied in the Djibouti Free Zone, a commercial export processing zone near the Djibouti City port, other labor code

provisions applied 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. Data on inspectors was unavailable. Enforcement was ineffective. There was almost no enforcement of labor inspectors due to drastically low resource availability. Workers across all industries or sectors sometimes faced hazardous working conditions. 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.