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U.S. Department of State

Djibouti Country Report on Human Rights Practices for 1996

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DJIBOUTI

Despite 1992 constitutional changes that permitted the creation of four political parties, President Hassan Gouled Aptidon and the People's Rally for Progress (RPP), in power since independence in 1977, continued to rule the country. Djibouti's two main ethnic groups are the politically predominant Issa (the tribe of the President, which is of Somali origin) and the Afar (who are also numerous in Ethiopia and Eritrea). The Afar comprise the largest single tribe in Djibouti but are outnumbered by the Issa and other Somali clans (Issak and Gadabursi) taken together. The judiciary is not independent of the executive.

In 1994, the Government and a faction of the Afar-led Front for the Restoration of Unity and Democracy (FRUD) signed a peace accord, ending 3 years of civil war. As part of the accord, the Government agreed to recognize the FRUD as a legitimate political party. The Government named two FRUD leaders to key cabinet posts in 1995, but no Afar has been named since then. The FRUD was legalized in March but a party congress had not been held by year's end. The other two officially recognized opposition parties, the Party for Democratic Renewal (PRD) and the National Democratic Party (PND), do not hold parliamentary seats, in large part because the PND boycotted the 1992 legislative elections. As a result, the RPP won all 65 parliamentary seats. With the reelection of President Gouled in 1993, it now holds all significant government posts as well.

The 8,000-member National Police Force (FNP) has primary responsibility for internal security and border control and is overseen by the Ministry of Interior. The Ministry of Defense controls the army and the gendarmerie, and a small intelligence bureau reports directly to the President. Civilian

authorities generally maintain effective control of the security forces, but there were instances in which the security forces acted independently of the Government's authority, and some members committed a number of human rights abuses.

Djibouti has little industry; services and commerce provide most of the national income, which is generated by the foreign expatriate community of 12,000, including 3,300 French soldiers, and the state-controlled maritime and commercial activities of the Port of Djibouti, the airport, and the Addis Ababa-Djibouti Railroad. Only a few mineral deposits exist in the country, and the arid soil is unproductive--only 10 percent is pasture and 1 percent is forested. People are free to pursue private business interests and to hold personal and real property. That part of the gross national product that benefits citizens (and thus excludes the expatriates) is estimated at about \$250 per capita.

The Government's human rights record remained poor despite a limited multiparty political system. Members of the security forces committed several extrajudicial killings. There were credible reports that some members of the security forces beat detainees and denied proper medical treatment to some inmates. The Government continued to harass, intimidate, and imprison opponents. It continued to arrest and detain persons arbitrarily, holding them beyond the 48 hours permitted by law, and to infringe upon citizens' right to privacy. The judiciary is not independent of the executive. The Government permitted freedom of the press but cracked down heavily on union leaders and politicians critical of the President. Discrimination against women persists, and the practice of female genital mutilation continued to be nearly universal. Discrimination against ethnic minorities persists.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Security forces were responsible for at least five extrajudicial killings. On January 9, while trying to break up a student demonstration over nonpayment of scholarships, the FNP in Ali Sabieh shot and killed 16-year-old Mohamed Idriss. Security forces killed two inmates at Djibouti's main Gabode prison during a February 3 riot over poor prison conditions (see Section 1.c.). On May 2, the FNP in Djibouti City shot and killed a bystander while breaking up a demonstration over the detention of the Government's former Treasurer. The Government has not punished the perpetrators of any of these killings.

In January there was a credible report that 26-year-old Mohamed Abdillahi Ismail died in his prison cell after not receiving treatment for tuberculosis. There were political undertones in the July 13 death in custody of Mohamoud Mohamed Ali; Ali was a potential witness in a criminal case against a former high-ranking politician, Moumin Bahdon Farah. The Government claimed that Ali died from tuberculosis. There was no police investigation and only a superficial autopsy. Another prisoner died from tuberculosis due to official negligence (see Section 1.e.).

There were no developments regarding the 1995 killings of Randa's religious leader, Ali Houmed Souleh, and an associate, Said Aramis. The Government continued to hold 11 soldiers accused of taking part in the killings.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no developments in the 1995 abduction of four persons by armed men in the north, or the 1995 kidnaping of a traditional Afar chief at Alalli Dada by unknown persons.

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

The Constitution states that no one shall be subjected to torture or to other inhumane, cruel, degrading, or humiliating punishments. Torture is punishable by 15 years in prison. However, there were credible reports that police and prison officials sometimes beat and otherwise physically abused prisoners and detainees. In January the PRD's newspaper reported that Djama Hersi Omar, a security guard allegedly involved in a theft case, was punched, kicked, hanged by his feet, and had his head dipped in ice water by members of the gendarmerie. The gendarmerie denied the accusations. In March the PND's newspaper reported that Djama Dabar Waberi was kicked and punched by security forces for his antigovernment views.

Prison conditions are harsh and characterized by severe overcrowding. Gabode prison, built for 300 persons, has more than twice that many inmates. Reportedly, prisoners must pay authorities to obtain food. The February 3 riot at Gabode prison was started by inmates who were unhappy about not being fed adequately. Security forces killed the inmates while suppressing the riot (see Section 1.a.). Several different groups of inmates went on hunger strikes during the year to protest poor nutrition and inadequate health care. Mohamed Abdillahi Ismail died of tuberculosis in his cell in January, according to the PND's newspaper. When the inmate's condition worsened, he was transferred to an isolated cell in the prison infirmary rather than transported to a local hospital. Reports also indicate that illegal aliens jailed for crimes sometimes have young children with them. There were, however, no reports of rape of female prisoners. The International Committee of the Red Cross (ICRC) staff no longer reside in the country. When present, they normally had access to all prisoners. An ICRC representative from Nairobi, Kenya visited the main prison in Djibouti during the year.

d. Arbitrary Arrest, Detention, or Exile

The 1994 Penal Code stipulates that the State may not detain a person beyond 48 hours without an examining magistrate's formal charge. Detainees may be held another 48 hours with the prior approval of Djibouti's public prosecutor. Persons charged with political or national security offenses may be detained as long as an investigation is underway. Nevertheless, the police often disregarded these procedures, normally arresting persons without warrants and sometimes detaining persons for lengthy periods. The Penal Code provides for bail and expeditious trial. Incommunicado detention is used.

In May, in the midst of a strike by school teachers, security forces detained Mariam Hassan Ali, the Secretary General of the teachers union, and three union leaders for several hours without providing any explanation. In June the official newspaper reported that 18 inmates waited months to be released because of inaction by then-Justice Minister Moumin Bahdon Farah. Mohamed Mahamoud Ali, the potential witness in the theft case against Farah, was arbitrarily detained from June 20 until his death on July 13 (see Sections 1.a. and 1.c.). Amir Adaweh, the editor-in-chief of the PND's newspaper *La Republique*, spent several days in detention in July after being accused of organizing a protest in support of political prisoners. In August the Government sentenced five members of a splinter group within the ruling party, including three former ministers, to a 6-month prison term and fines of \$1,200 for criticizing President Gouled (see Section 1.e.).

An Afar politician, Muhyadin Matdih Vedir, was allegedly arrested in August on political grounds at the request of the Ethiopian government. There were no developments in the cases of alleged terrorists Awalle Guelle Assone and Mohamed Hassan Farah, who were arrested in 1994 for the 1990 bombing of

a cafe. The Government's investigation into their roles in the attack was ongoing at year's end. Mohamed Ali Areyte was arrested in 1995 as part of the same case. In April the French Government issued an international arrest warrant for PND president Aden Robleh Awaleh and his wife, Aicha Omar Dabar, for their part in the cafe bombing.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and magistrates are appointed for life terms. In practice, however, the judiciary is not independent of the executive. Constitutional provisions for a fair trial are generally respected in nonpolitical cases. There were reportedly political reasons for the May ouster of four of the five appellate court judges: Zakaria Abdillahi Ali, Emile David, Chantal Clement, and Nabiha Djama Sed. The Government also replaced Chief Prosecutor Ali Mohamed Afkada for political reasons.

In June 1995, the Government took steps to strengthen the rule of law by disbanding the special State Security Court, which in the past had handled cases of espionage, treason, and acts threatening the public order or "the interest of the republic" outside normal judicial channels. Another special court, the Superior Court of Justice, rules on cases of embezzlement of public funds and is theoretically empowered to try the President and government ministers. The Supreme Court is the only judicial body that can overrule decisions of the lower courts. A Constitutional Council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties. In August the Constitutional Council ruled that the Parliament's disciplinary committee wrongly denied the parliamentary immunity of three legislators. The Government ignored the Constitutional Council's ruling and launched a personal attack in the press on the Council's members.

The legal system is composed of legislation and executive decrees, French codified law adopted at independence, Shari'a (Islamic) law, and traditions of the native nomadic peoples. Crimes committed in urban centers are dealt with in accordance with French-inspired law and judicial practice in the regular courts. Civil actions may be brought in these courts or in the traditional courts. Shari'a law is restricted to civil and family matters.

The Constitution states that the accused is innocent until proven guilty, has the right to legal counsel, and the right to be examined by a doctor if imprisoned. Legal counsel is available to the indigent in criminal and civil matters. Court cases are heard in public before a presiding judge and two accompanying judges. The latter receive assistance from two persons--assessors--who are not members of the bench, but who possess a sufficient legal sophistication to comprehend court proceedings. The Government selects the assessors from the public at large, but credible reports indicate that political and ethnic affiliations may play a role in the appointment process.

There were five political prisoners: Moumin Bahdon Farah, the former Justice Minister; Ahmed Boulaleh Barreh, the former Defense Minister; Ali Mahamade Houmed, the former Industry Minister; Ismael Guedi Hared, the former presidential cabinet Director; and Abdillahi Guirreh, a former ruling party Annex President. Accused of inciting people to violence, using tribalism for political ends, and disseminating false information, the five were stripped of their party membership. After claiming in a published statement that President Gouled rules Djibouti by terror and force without regard to the Constitution, the five were sentenced to 6 months in jail, fined \$1,200, and prohibited from running for elected office for a period of 5 years. The Constitution prohibits such condemnations of the President.

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

The Constitution provides for the inviolability of the family, home, correspondence, and communications. The law also requires that the authorities obtain a warrant before conducting searches on private property. However, in practice, the Government does not always obtain warrants before conducting such searches, and it monitors the communications of some regime opponents (see Section l.d.).

There was a credible report that members of the "political police" have kept attorney Aref Mohamed Aref under surveillance, threatened his life, and harassed his personal secretary. Aref often represents clients in high profile cases involving alleged human rights violations. The Centre for the Independence of Judges and Lawyers, which intervened on Aref's behalf, asked the Government to protect Aref and investigate the threats against him.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of the press, and the Government generally respects this right in practice.

The Government owns the electronic media, the most important medium for reaching the public. It also owns the principal weekly newspaper, La Nation. The official media generally do not criticize the President or the Government. There are several opposition-run weekly and monthly publications which circulate freely and openly criticize the Government.

There are no specific laws or other criminal sanctions that threaten academic freedom. In general, teachers may speak and conduct research without restriction so long as they do not violate the laws on sedition.

b. Freedom of Peaceful Assembly and Association

The right to free assembly is provided for in the Constitution, and the Government generally respected this right in practice. However, the Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. Some opposition leaders effectively practiced self-censorship and, rather than provoke a government crackdown, refrained from organizing popular demonstrations.

The Constitution provides for four political parties. Nonpolitical associations must register with the Ministry of Interior in accordance with a preindependence law.

c. Freedom of Religion

Islam is the state religion. Virtually the entire population is Sunni Muslim. The Government imposes no sanctions on those who choose to ignore Islamic teachings.

The foreign community supports Roman Catholic, French Protestant, Greek Orthodox, and Ethiopian Orthodox churches. Foreign clergy and missionaries may perform charitable works, but proselytizing, while not illegal, is discouraged.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution allows freedom of movement. This right may be limited only by law.

In general citizens may travel or emigrate without restriction or interference. However, some Afar leaders have had their passports revoked or denied, and Muslim women planning to travel to certain Gulf countries may be prohibited from doing so unless accompanied by a spouse or an adult male.

Djibouti hosts almost 75,000 refugees and illegal immigrants, according to government sources. The U.N. High Commissioner for Refugees (UNHCR) acknowledges only the presence of some 21,000 refugees, largely from Somalia, resident in three main refugee camps. There are also 1,500 Ethiopian urban refugees registered with the UNHCR. Between 1994 and 1996, the UNHCR, in cooperation with the Government, organized repatriation to Ethiopia for 31,000 refugees and migrants from the city of Djibouti.

An estimated 10,000 to 18,000 Afars displaced by the civil war continue to live in Ethiopia, although not in refugee camps. The Government states that the Afars are welcome to return. However, Afar refugees perceive the northern region as unsafe. In addition, many of the Afars' homes and lands are occupied by Djiboutian soldiers and their families.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

Although the Constitution provides for the right of citizens to change their government, in practice citizens have not yet been allowed to exercise fully this right. The RPP has carefully controlled the implementation of the new four-party system, and, with the opposition largely refusing to participate, easily ensured total RPP control of the legislature in 1992 and President Gouled's reelection to a fourth term in 1993. Many Afars, particularly supporters of the FRUD, claim that the Constitution was crafted to ensure the President's domination of virtually all aspects of the Government, including the legislature and judiciary.

The Government signed a peace agreement with the FRUD in 1994, which set the stage for the inclusion of FRUD members in senior government posts. In June 1995, the Government named to a newly reshuffled Cabinet two FRUD faction leaders who signed the peace accord. No Afars have been named to the Cabinet since that time. The FRUD was registered as a political party this year but has not held a party congress. The Government recognizes only one of two FRUD factions. The two leaders who signed the peace accord are members of the recognized faction; the unrecognized faction includes members who refused to accept the terms of the accord.

Although legally entitled to participate in the political process, women are largely excluded from senior positions in government and in the political parties. There are no women in the Cabinet or in Parliament. The highest ranking woman in the country is Mrs. Khadija Abebe, President of the Court of Appeals. At least three other women serve as judges, and one is a director in the Ministry of Foreign Affairs.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government has been hostile to the formation of local human rights groups. In 1993 the Government imprisoned Mohamed Houmed Souleh, the leader of the Association for the Defense of Human Rights and Liberties (ADDHL), after he criticized military abuses in the civil conflict. He was arrested and released several times thereafter. In 1996 Souleh and the ADDHL stopped publicly criticizing the Government, which continued to deny the ADDHL recognition. No other known human rights groups exist, and, except for the ICRC, no international human rights groups are known to have

visited the country during the year (see Section 1.c.).

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

While the Constitution prohibits discrimination on the basis of language, race, sex or religion, discrimination against women and ethnic minorities is widespread. In particular, the enforcement of laws to protect women and children is weak.

Women

Violence against women exists but reported cases are few. The Government has been concerned about the problem of rape and included in the 1994 Penal Code, which entered into force in April 1995, stiff sentences for rapists, ranging up to 20 years in prison. However, there have as yet been no cases tried under the code. When violence against women occurs, it normally is dealt with within the family or clan structure rather than in the courts. The police rarely interfere in domestic violence cases, and the media report only the most extreme cases, such as murder.

Women legally possess full civil rights, but in practice, due to traditional societal discrimination in education and custom, they play a secondary role in public life and do not have the same employment opportunities as men. There are only a few women in the professions, and women are largely confined to wage employment in small trade, clerical, and secretarial fields. Customary law discriminates against women in such areas as inheritance, divorce, property ownership, and travel (see Section 2.d.). As the French-inspired legal code does not sanction such discrimination, educated women increasingly seek to defend their interests through the regular courts.

Children

The Government devotes virtually no public resources to the advancement of children's rights and welfare. A few charitable organizations work with children.

According to an independent expert, as many as 98 percent of females 7 years or older have undergone female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health. In Djibouti FGM is generally performed on girls between the ages of 7 and 10. In 1988 the Djiboutian National Women's Union began an educational campaign against FGM, particularly infibulation, the most extensive and dangerous form of sexual mutilation practiced on women and girls. The campaign has had only marginal impact on the prevalence of this custom, which is pervasive in rural areas. Judicial reforms enacted in 1991 stipulate that anyone found guilty of genital mutilation of young girls may face a heavy fine and 5 years in prison. However, the Government has not convicted anyone under this statute or under the provisions of the Penal Code, which specifically prohibits FGM. The Government has not specifically addressed other forms of child abuse, which are often lightly punished. For example, when a child is raped or otherwise abused, the perpetrator is usually fined an amount sufficient to cover medical care for the injured child. The Government has yet to use provisions of the Penal Code to deal with domestic violence and child abuse more severely.

People with Disabilities

The Government does not mandate accessibility to buildings or government services for people with disabilities. Although disabled persons have access to education and public health facilities, there is no specific legislation that addresses their needs, and there are no laws or regulations that prevent job

discrimination against disabled people. The disabled have difficulty finding employment in an economy where approximately 60 percent of the able-bodied male adult population is underemployed or jobless.

National/Racial/Ethnic Minorities

The Government continued to discriminate against citizens on the basis of ethnicity in terms of employment and job advancement. The Issa, the dominant Somali clan, control the ruling party, the civil and security services, and the military services. The President's subclan, the Mamassan, wields disproportionate power in affairs of state.

Section 6 Worker Rights

a. The Right of Association

Under the Constitution, workers are free to join unions and to strike provided that they comply with legally prescribed requirements. In the small wage economy, about 70 percent of workers are union members, concentrated in individual private or state-owned enterprises. Previously, the Government exerted control over individual unions by making membership mandatory in the state-organized labor confederation, the General Union of Djiboutian Workers (UGTD). Since 1992 unions are free to join or form other confederations. While the UGTD is now nominally independent of the Government, it maintains close ties to the RPP. However, the Democratic Labor Union (UDT) has gained increasing union support despite government harassment.

The prescribed legal requirement for initiating a strike calls for the representatives of employees who plan to do so to contact the Interior Ministry 48 hours in advance. All strikes during the year were legal. In January secondary school teachers struck unsuccessfully over nonpayment of salaries and for better benefits. School teachers also struck unsuccessfully in April, May, June, and September over nonpayment of salaries and working conditions. Although the Labor Law prohibits employer retribution against strikers, the Government on one occasion arbitrarily arrested several hundred striking workers, including labor leaders. The Government also suspended, fired, or transferred scores of teachers active in the union to less desirable assignments in rural areas.

The Government replied to the International Labor Organization (ILO) concerning a complaint lodged by the International Confederation of Free Trade Unions (ICFTU) both in 1995 and in 1996. The Government stated that the unions were unwilling to negotiate and requested that the ILO furnish a consultant who could train trade unionists, draft a labor code, and review social legislation. The Government did not respond to the ICFTU's specific allegations. The ICFTU alleges that members of the Inter-Trade Union Association of Labor/General Union of Djibouti workers (UDT/UGTD) who struck on September 6, 1995, faced arbitrary arrest, threats, dismissals, or suspensions by the Government. Union headquarters were closed and sealed at that time. The workers were protesting the Government's refusal to enter into a dialogue with the trade unions over proposed legislation that would have had an adverse impact on their living standards. The ICFTU also lodged a complaint regarding the arrests of school teachers who struck in January. The Government said that it supports trade unions but added that police intervention was necessary to prevent social upheaval. In May security forces again seized the UGTD/UDT headquarters and froze their bank accounts.

Unions are free to maintain relations a