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## 1999 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor  
U.S. Department of State, February 25, 2000

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### DJIBOUTI

On April 9, Djibouti elected its second president since gaining independence from France in 1977. Ismael Omar Guelleh, the candidate of the ruling party, the People's Rally for Progress (RPP), won the election with 74 percent of the vote. Opposition candidate Moussa Ahmed Idriss, of the Unified Djiboutian Opposition (ODU), received 26 percent of the vote. For the first time since multiparty elections began in 1992, no group boycotted the election. Moussa Ahmed Idriss and the ODU later challenged the results based on election "irregularities" and the assertion that "foreigners" had voted in various districts of the capital; however, international and locally-based observers considered the election to be generally fair, and cited only minor technical difficulties. Guelleh took the oath of office as President on May 8 with the support of an alliance between the RPP and the government-recognized Section of the Afar-led Front for the Restoration of Unity and Democracy (FRUD). Gouleh succeeded former President Hassan Gouled Aptidon, whom he had served as chief of staff and a key advisor for 20 years. The RPP, which has been in power since independence in 1977, continues to rule the country despite 1992 constitutional changes that permitted the creation of opposition political parties. Two main ethnic groups hold most political power: Somali Issas (the tribe of the President), and Afars. Citizens from other Somali clans (Issak, Gadabursi, and Darod), and those of Yemeni and other origins, are limited unofficially in their access to top government positions. In 1994 the Government and a faction of the FRUD signed a peace accord, ending 3 years of civil war. In the accord, the Government agreed to recognize the FRUD as a legitimate political party. The Government named two FRUD leaders to Cabinet positions in 1995; however, part of the FRUD rejected the peace accord and remains opposed to the Government. Two other legal political parties have existed since 1992, the National Democratic Party (NDP) and the Party for Democratic Renewal (PRD); neither holds a parliamentary seat or a cabinet level post. In 1997 the ruling party coalition that includes the FRUD party won all 65 seats in legislative elections, which took place without international observers and amid opposition claims of massive fraud. The judiciary is not independent of the executive.

The 8,000-member National Police Force (FNP) is responsible for internal security and border control, and is overseen by the Ministry of Interior. The Ministry of Defense oversees the army. The Gendarmerie Nationale, a police force responsible for the President's security, which previously had reported to the Ministry of Defense, is an autonomous unit under the presidency. A small intelligence bureau also 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. Some members of the security forces committed human rights abuses.

Djibouti has little industry and few natural resources. Services provide most of the national income. Minor mineral deposits remain mostly unexploited. Only a tenth of the land is arable and only 1 percent is forested. Outside the capital city, the primary economic activity is nomadic subsistence. Citizens are free to pursue private business interests and to hold personal and real property. The part of the annual gross domestic product not generated by and for the foreign community, which includes some 8,000 French citizens, is estimated at no more than \$250 per capita annually.

The Government's human rights record remained poor. Although the April presidential elections were considered generally fair, the 1997 parliamentary elections took place amid claims of massive fraud, and the RPP continues to control the political system to suppress organized opposition. Members of the security forces committed at least three extrajudicial killings. There were credible reports that security forces beat, otherwise abused, and at times tortured detainees, and raped female inmates. There were credible reports that soldiers raped women in rural districts, and police beat protesters. Prison conditions remained harsh. The Government continued to harass, intimidate, and imprison political opponents and union leaders and to arrest and detain persons arbitrarily. Prolonged detention and incommunicado detention remained problems. The judiciary is not independent of the executive and does not ensure citizens' due process. The Government also infringed on citizens' privacy rights. The Government at times restricted freedom of speech and of the press. Police occasionally jailed or intimidated journalists. The Government limited freedom of assembly, and restricted freedom of association. The Government discouraged proselytizing. There were some limits on freedom of movement. Violence and discrimination against women persisted, and the practice of female genital mutilation (FGM) continued to be widespread. Discrimination on the basis of ethnic and clan background persisted. The Government imposed limits on unions and their leaders, and there were reports of instances of forced labor. Child labor persisted.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

Security forces committed several extrajudicial killings. On April 27, government forces in the vicinity of Oroborou in the Obock district killed three civilians, Abdallah Ahmed Mohamed Rebeh, Moussa Abdallah, and Ahmed Yagouri. Two of the victims were shot, and the third was stabbed to death. A fourth individual, Ali Mohamed Ali "Derbi," was stabbed and left for dead. According to the Paris-based FRUD leader Ahmed Dini, the Government killed the civilians allegedly in retaliation for a series of landmine explosions

that left several soldiers dead and many more wounded. On September 23, while attempting to arrest Moussa Ahmed Idriss, police officers fired shots after his supporters attempted to block the arrest, resulting in one death and two injuries. One of the injured included Moussa Ahmed Idriss's wife. (see Sections 1.d. and 1.e.).

On March 12, a political detainee died in the main prison under unexplained circumstances (see Section 1.c.).

On August 15, an army helicopter exploded in an area of the Tadjourah district known for insurgent FRUD rebel activity, killing eight persons including two nurses and a doctor on a medical mission. Although the FRUD claimed responsibility, the Government cited mechanical failure.

There continued to be numerous reports of fighting involving the army and Afar FRUD rebels. Landmine incidents related to the conflict resulted in a number of deaths during the year. On April 3, two civilians were killed and three were wounded in a landmine explosion on the road between Tadjourah and Obock. On April 14 and 15, landmines exploded in the Tadjourah district killing seven persons, including six policemen, and injuring seven others. On April 26, a landmine explosion killed four soldiers and injured four others in Medeho. In May a civilian transport vehicle hit a landmine, killing two girls and injuring seven others. A landmine explosion in July killed one civilian and injured five others. In late September, a landmine explosion killed three persons and injured three others in Tadjourah district.

In 1998 gendarmes killed one man and injured another in downtown Djibouti when they shot into a crowd while attempting to make an arrest. The gendarmerie successfully prevented a police investigation into the incident, and no action has been taken against the gendarmes responsible.

In 1998 soldiers killed two Afar community elders near Assa Gueyla, reportedly in retaliation for a landmine explosion. Relatives of the victims filed legal complaints against three officers stationed in Tadjora District, but the case was still pending at year's end. There has been no investigation into the 1997 police killing of Hassan Aden Farah, who was shot following a car chase. Police claimed that Farah was plotting to kill a high-level official.

On March 4, the Paris-based Association for the Respect of Human Rights in Djibouti (ARHRD), and an unidentified citizen presented a complaint in a French court against former President Gouled and current President Guelleh alleging human rights violations, including summary executions. The complaint listed a series of human rights abuses and judicial abuses dating back to 1995.

Reportedly charges were dropped in the legal proceedings against six soldiers accused of the 1995 killings of Randa's religious leader, Ali Houmed Souleh, and an associate.

#### b. Disappearance

There were no reports of politically motivated disappearances.

In May police detained an Ethiopian guard at a private residence, allegedly because he

was an illegal immigrant. The guard's whereabouts were unknown at year's end.

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

The Constitution provides that no one shall be subjected to torture or to other inhuman, cruel, degrading, or humiliating punishments, and torture is punishable by 15 years' imprisonment; however, there continued to be credible reports that police and gendarmes routinely beat, otherwise physically abused, and at times tortured prisoners and detainees.

On March 4, an unidentified citizen in conjunction with the ARHRD presented a claim in a French court (see Section 1.a.) against President Guelleh and former President Gouled, alleging that he had been detained arbitrarily and tortured, and had suffered physical and psychological damage as a result. In April the ARHRD reported that Saleh Mohamed Dini, who was arrested on April 10 (see Section 1.d.), was tortured while in custody. In April more than 20 Afars were arrested in the Obock district for expressing support for the FRUD, and there were unconfirmed reports that some of the detainees were subjected to physical violence (see Section 1.d.). In May there was an unconfirmed report from a Paris-based NGO that police beat a civilian after trying to force him to walk on a landmine.

On February 12, police used tear gas to break up a political rally and detained some of the participants for several hours (see Sections 1.d. and 2.b.). On March 28, while trying to prevent a political rally from marching on the presidential palace, police forces beat several participants severely, injuring up to 24 persons, at least three seriously (see Section 2.b.). The police also used tear gas, fired guns into the air, and arrested many of the participants (see Sections 1.d. and 2.b.). In August police used tear gas to disperse a crowd that had gathered outside the Ministry of Justice to protest the arrest of two opposition journalists (see Sections 2.a. and 2.b.). There were unconfirmed reports that government security forces in the northern districts denied access to food and water to citizens who refused to declare loyalty to the Government and renounce the FRUD.

An Eritrean illegal immigrant woman, Zenaba Agoden, was raped by soldiers while in detention in Obock. As a result of the rape, she suffered paralysis over one side of her body and required several months of hospitalization. Reportedly no investigation was made into the incident and no action was taken against the officers responsible. In recent years there have been credible reports that security force personnel raped at least 120 Afar women in the northern districts of Obock and Tadjourah (see Section 5). In almost all cases the victims did not press charges due to shame and fear.

In February an unknown person threw a hand grenade into an Arabic class at Dikhil's junior high school, injuring five students.

On May 23, a hand grenade thrown from a passing vehicle exploded outside the house of Jean-Paul Noel Abdi, president of the newly-formed Djiboutian Human Rights League. A teenage boy walking past the compound was injured seriously; his injuries were exacerbated by the fact that he was left unattended while the police and the gendarmes argued over jurisdiction.

Landmine explosions during the year resulted in a number of deaths and injuries (see Section 1.a.)

There were reports of injuries in May as a result of clashes between unemployed citizens and Ethiopians in various parts of the capital. On May 26, a gang of approximately 30 unemployed youths, apparently upset that Ethiopians were hired for a construction project for a new Ethiopian Embassy compound, began attacking Ethiopians. The attacks continued for several days and resulted in numerous injuries on both sides. The great majority of those attacked were refugees.

Prison conditions are harsh and prisons are severely overcrowded. Gabode prison, built for 350 persons, at times housed nearly twice that number. The Government sometimes shortens prison terms to reduce overcrowding. The Ministry of Justice estimates that 60 percent of prisoners are illegal Ethiopian immigrants who have committed crimes in the country. Children under the age of 5 of female inmates sometimes are allowed to stay with their mothers; authorities say that milk is provided for them. Prisoners reportedly must pay authorities to obtain food. Health care sources reported that prison guards raped female inmates. Several prisoners were reported to be suffering from untreated illnesses or gunshot wounds received during arrest. Medical care is inadequate, and the prison infirmary lacks sufficient medication. In April approximately 40 prisoners at Gabode prison went on a hunger strike to protest the health conditions of prisoners in the prison. There are no educational or rehabilitation facilities within the prison. Ministry of Justice officials said that lack of funding hampers their ability to provide even minimal services. In principle, juveniles are housed separately from adult prisoners; however, in practice, this is not always the case.

On March 12, Abdi Houfanah Liban, a 35-year old political prisoner arrested in April 1998, died under unexplained circumstances. Djiboutian human rights groups in France asserted that Abdi's death was caused by harsh living conditions in the Gabode prison. Some opposition supporters believe that Abdi's death might have been due to poisoning. A foreign journalist who visited the prison shortly after Abdi's death believes that Abdi died after taking incorrect medication. The journalist noted that the prison infirmary was poorly stocked and prisoners often were given incorrect medications.

Conditions at Nagad detention center, where Ethiopians are held prior to deportation, also are extremely harsh. Detainees at Nagad are held in unsanitary conditions and often are not fed for several days before their deportation.

An International Committee of the Red Cross (ICRC) delegate from Kenya made quarterly visits to the main prison; however, in May the Government denied access to the prison to an ICRC delegate and a doctor from Nairobi, Kenya. On May 4, in response to media criticism of prison conditions, the Government organized a prison visit by a delegation consisting of domestic human rights monitors, doctors, and attorneys. During the fall, human rights activists were permitted to visit several detainees, including Moussa Ahmed Idriss, General Wais, and Daher Ahmed Farah (see Section 1.d.).

#### d. Arbitrary Arrest, Detention, or Exile

Despite legal protections, arbitrary arrest and detention remained problems. The 1995 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 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within 8 months of arraignment. Nevertheless,

the police often disregarded these procedures, typically arresting persons without warrants (see Section 1.f.), and sometimes detaining them for lengthy periods without charge. The penal code provides for bail and expeditious trial. Incommunicado detention is used.

In April more than 20 Afars were arrested in the Obock district for expressing support for the FRUD. After 4 days of detention in a military camp at Medeho, five men were released, one was detained further, and nine were transferred to a police prison near the capital. There were unconfirmed reports that some of the detainees were subjected to physical violence. On February 12, police detained three ODU party leaders and six busloads of ODU supporters, including human rights attorney Aref Mohamed Aref, for several hours after dispersing a political rally with tear gas (see Section 1.c. and 3). Some ODU members were detained for more than 7 hours.

On February 15, Aref was arrested again and imprisoned on charges of fraud stemming from a 1994 commercial transaction. After a 2-hour trial marred by legal irregularities, Aref was sentenced to 2 years in prison (see Section 1.e.). He was released from prison on May 11 as part of a presidential amnesty program (see Section 1.e.).

On March 28, police arrested 17 supporters of opposition presidential candidate Moussa Ahmed Idriss who were attempting to march on the presidential palace, charged them with disturbing the peace, fined them, and released them after a few days (see Sections 1.c. and 2.b.).

On April 10, police arrested Saleh Mohamed Dini, the chief of Mabla, allegedly because he insulted President Guelleh. On May 23, after a hand grenade exploded in front of the house of Djiboutian Human Rights League President Jean-Paul Noel Abdi (see Section 1.c.), police arrested Abdi and several others who were in the residence at the time of the attack. Some members of the League, as well as several women and children who lived in rented rooms within Abdi's house, were detained for up to 6 hours. Three of the women and a 4-year-old girl were held for more than a day. Abdi and two other members of the League who were inside the house at the time of the attack were rearrested 4 days after the attack, and held in protective custody for 2 days.

On June 16, police arrested and detained Abdoufatah Moussa Ahmed, the son of opposition leader Moussa Ahmed Idriss. He was released on June 20, rearrested on June 21, and charged with an economic crime; his case was still pending at year's end.

On August 28, police arrested two opposition newspaper editors, Daher Ahmed Farah and Ali Meidal Waiss, and charged them with distributing false information after their newspapers reprinted a letter from Ahmed Dini, claiming responsibility for the downing of an army helicopter (see Sections 1.a. and 2.a.). On September 2, a court sentenced both journalists to 1 year in prison and a fine of approximately \$5,650 (1 million DF). In December they were released as part of a presidential amnesty (see Section 1.e.) On September 23, police arrested Moussa Ahmed Idriss on charges of behavior inciting sedition. The police also arrested 19 of his supporters who attempted to prevent his arrest (see Section 1.e.). Moussa Idriss was sentenced to 8 months' imprisonment, subsequently reduced to 4 months, and fined; however, he was released in December as part of a presidential amnesty (see Section 1.e.). Moussa Idriss's 19 supporters were also among those released in the December amnesty.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice the judiciary is not independent of the executive. Constitutional provisions for a fair trial are not respected universally, even in nonpolitical cases, because of interference from the executive branch. Since ministerial changes in December 1997, the Justice Minister is officially responsible for human rights.

The judiciary, based on the French Napoleonic code, comprises a lower court, appeals courts, and a Supreme Court. There are no longer "special courts" to try cases outside normal judiciary channels. The Supreme Court can overrule decisions of the lower courts. Magistrates are appointed for life terms. The Constitutional Council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings are not always respected.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Shari'a law, and nomadic traditions. Urban crime is dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. Shari'a law is restricted to civil and family matters.

Traditional law (Xeer) often is used in conflict resolution and victim compensation. For example, traditional law often stipulates that a blood price be paid to the victim's clan for crimes such as murder and rape.

The Constitution states that the accused is innocent until proven guilty and has the right to legal counsel and to be examined by a doctor if imprisoned. Although trials are public officially, in politically sensitive cases security measures effectively prevent public access. Legal counsel is supposed to be available to the indigent in criminal and civil matters; however, defendants often do not have representation. 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 are thought to possess sufficient legal sophistication to comprehend court proceedings. The Government chooses assessors from the public at large, but credible reports indicate that political and ethnic affiliations play a role in the selection.

On February 15, human rights attorney Aref Mohamed Aref was arrested and imprisoned for fraud stemming from a 1994 commercial transaction. Aref's 2-hour trial was marked by legal irregularities and may have been influenced by Aref's long-time stance as a critic of the Government's record on human rights. The Government repeatedly refused to allow Aref to be represented by a French attorney despite a bilateral accord permitting such representation. After 5 minutes of deliberation, the judge sentenced Aref to 2 years in prison. He was transferred immediately to Gabode prison and placed in a small solitary cell normally used for the most dangerous criminals. Aref was released from prison on May 11 as part of a presidential amnesty program; however, by year's end his passport was not returned. In 1997 the Djiboutian Bar Association had disbarred Aref and his colleague Djama Amareh Meidal for alleged irregularities in their representation of a client in a 1994 commercial transaction. Aref and Meidal remained disbarred at year's

end.

On September 16, the National Assembly lifted the parliamentary immunity of Moussa Ahmed Idriss. He was arrested on September 23 on charges of behavior inciting sedition. Nineteen of his supporters who tried to block the arresting police were arrested at the same time (see Section 1.d.). Moussa Idriss was sentenced to 8 months' imprisonment, subsequently reduced to 4 months, and fined. Several dates to hear his appeal of the sentence were deferred; however, he was released on December 7 as part of a presidential amnesty.

On May 11, the President granted amnesty to and released Aref Mohamed Aref and 40 common criminals. Of the more than 40 political prisoners held in Gabode prison, only Aref was released at that time. None of the imprisoned FRUD supporters, who are considered terrorists by the Government, received amnesty. On December 7, the Government announced that, in honor of Ramadan, the President had signed a decree approved by the Council of Ministers that granted a general amnesty to all prisoners serving sentences of 2 years or less, and reducing the sentences by 6 months of all prisoners serving sentences of more than 2 years. Recipients of the amnesty included Moussa Ahmed Idriss, Daher Ahmed Farah, Ali Meidal Wais, and other persons imprisoned on political grounds during the year. The creation of the Committee for the Support of Political Prisoners (CSPP) was announced in February 1998 (see Section 4). The CSPP reported that the Government held 52 political prisoners, including 12 relatives of former cabinet director Ismael Guedi Hared who were arrested in October 1998, allegedly for hoarding weapons, and 40 FRUD dissidents who had been handed over by Ethiopian authorities or were FRUD rebels captured in clashes with the army.

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

The Constitution provides for the inviolability of the family, home, correspondence, and communications; however, the Government infringed on these rights. 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 reportedly monitors and sometimes disrupts the communications of some regime opponents. Authorities harassed the family members of opposition leaders (see Section 3).

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

#### a. Freedom of Speech and Press

The Constitution provides for freedom of the press; however, at times the Government restricted this right in practice. The law prohibits the dissemination of false information and regulates the publication of newspapers. The Constitution prohibits slander.

The Government owns the principal newspaper, La Nation, which in April expanded publication from weekly to biweekly printings. There are several opposition-run weekly and monthly publications that circulate freely and openly criticize the Government. However, journalists, and even vendors of opposition newspapers, occasionally are jailed or intimidated by police.

The Government also owns the radio and television stations. The official media generally are uncritical of government leaders and government policy.

In April the Government banned for a period of several weeks a local FM station from broadcasting Radio France International (RFI) after RFI reported on a group of hunger strikers in Paris protesting Djiboutian prison conditions.

On August 28, two opposition newspaper editors, General Ali Meidal Wais and Daher Ahmed Farah (also known as DAF), were arrested and held on charges of distributing false information. Wais, the former head of the armed forces, is a high-ranking member of the ODU, and editor of the ODU newsletter *Le Temps*. DAF is President of the PRD and editor of the opposition newspaper *Le Renouveau*. Wais and DAF were arrested after *Le Temps* and *Le Renouveau* reprinted a letter in which the Paris-based FRUD leader Ahmed Dini claimed responsibility for the downing of an army helicopter (see Section 1.a.). Police forces detained the two men overnight before charging them and transferring them to Gabode prison. On September 2, a court sentenced both journalists to 1 year in prison without parole and fined them approximately \$5,650 (1 million DF). Both were released in December as part of a presidential amnesty (see Section 1.e.). The court also banned publication of *Le Temps* and *Le Renouveau* for six months. With the release of their editors in the December amnesty, the ban lapsed; however, no issues were published between December 8 and December 31.

On October 22, the Government detained two foreign journalists whom it accused of attempting to "tarnish the image" of the country.

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

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

The right to free assembly is provided for in the Constitution; however, the Government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. While permits generally are approved, the Government commonly uses a show of police force and threatening tactics to intimidate and discourage would-be demonstrators. Some opposition leaders effectively practiced self-censorship and, rather than provoke a Government crackdown, refrained from organizing popular demonstrations.

On February 12, police detained three ODU party leaders and six busloads of ODU supporters, including human rights attorney Aref Mohamed Aref, for several hours after dispersing a political rally with tear gas (see Sections 1.c. and 1.d.). On March 28, police used tear gas and fired guns into the air to prevent approximately a thousand supporters of opposition presidential candidate Moussa Ahmed Idriss from marching on the presidential palace. Police broke up the crowd and arrested 17 persons after participants threw rocks at them. The opposition asserted that several more supporters were injured, some seriously, and witnesses to the incident saw police beating protesters. In August police used tear gas to disperse a crowd of approximately 200 persons who gathered outside the Ministry of Justice to protest the arrest of two opposition journalists (see Sections 1.c. and 2.a.).

The Constitution provides for freedom of association provided that certain legal requirements are met; however, the Government restricts this right in practice. A referendum held in 1993 approved limiting the number of political parties to four. This result has not yet been codified into law. The Government took advantage of an absence of leadership in the main opposition party, the PRD, following the late 1996 death of its leader, and conferred legal recognition on what appeared to be the weaker half of the party. In 1997 police detained the leader of the unrecognized PRD faction, DAF, and charged him in a closed hearing with illegally operating a political party, illegally publishing a newspaper, disseminating false information, forgery (for the use of party seals), usurping a title, and organizing an illegal demonstration. In 1997 DAF was given "provisional liberty," which granted him freedom while his case was pending. His case was dropped in early 1999; however, on August 28, DAF was arrested again and charged with disseminating false information (see Section 2.a.).

Nonpolitical associations must register and be approved by the Ministry of Interior.

### c. Freedom of Religion

The Constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the Government generally respects this right in practice; however, proselytizing is discouraged. In May, the President declared that Islam would be a central tenet of his Government, and named the Qadi, the country's senior judge of Islamic law, as Minister of State for Charitable and Religious Affairs, reporting to the Minister of Justice, whose functions include "fostering tolerance." Although Islam is the state religion, the Government imposes no sanctions on those who choose to ignore Islamic teachings, or practice other faiths. Virtually the entire population is Sunni Muslim.

The Government requires that religious groups be registered. There were no reports that the Government refused to register any religious groups.

On several occasions, groups of Ethiopian Pentecostal Christians were detained during prayer meetings, but were released after a few days