

# **DJIBOUTI 2019 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Djibouti is a republic with a strong elected president and a weak legislature. In 2016 President Ismail Omar Guelleh was re-elected for a fourth term. International observers from the African Union (AU), Intergovernmental Authority on Development (IGAD), and Arab League characterized the election as “peaceful,” “calm,” and “sufficiently free and transparent” but noted irregularities. Most opposition groups did not characterize the elections as free and fair. Three of the seven recognized opposition parties participated in the February 2018 legislative elections. Opposition groups stated the government reneged on a 2015 agreement by not installing an independent electoral commission to manage and oversee elections. International observers from the AU, IGAD, the Organization of Islamic Cooperation, and the Arab League characterized the 2018 legislative elections as “free, just, and fair,” an assessment disputed by the leaders of unrecognized opposition parties.

The National Police is responsible for security within Djibouti City and has primary control over immigration and customs procedures for all land border-crossing points. The National Gendarmerie is responsible for all security outside of Djibouti City and is responsible for protecting critical infrastructure within the city, such as the international airport. The leadership of both entities reports to the minister of interior. The National Service of Documentation and Security (SDS) operates as a law enforcement and intelligence agency. It reports directly to the Presidency. Civilian authorities maintained effective control over security forces.

Significant human rights issues included: unlawful or arbitrary killings by government agents; arbitrary detention by government agents; harsh and life-threatening prison conditions; arbitrary or unlawful interference with privacy; unjustified arrests or prosecutions of journalists; criminal libel; substantial interference with the rights of peaceful assembly and freedom of association; significant acts of corruption; and violence against women and girls with inadequate government action for prosecution and accountability, including female genital mutilation/cutting (FGM/C).

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

**Section 1. Respect for the Integrity of the Person, Including Freedom from:****a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports the government or its agents committed arbitrary or unlawful killings.

On June 7, according to a human rights group, state security forces in Tadjourah shot and killed two migrants and injured several others. Reports indicated a vehicle was fired upon after not complying with a security checkpoint order. The government did not publish information about the incident or indicate any intent to investigate.

In 2015 the government investigated law enforcement officers and civilians allegedly responsible for killing as many as 30 persons gathering for a religious ceremony. In 2018 the Supreme Court dismissed the investigation, finding no law enforcement officers responsible for the deaths. Several civil cases related to the incident were still pending.

During the year authorities did not take known action to investigate reported cases of arbitrary or unlawful killings from previous years or to try suspected perpetrators.

**b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and law prohibit such practices, and there were few reports government officials employed them.

Security forces arrested and abused journalists and opposition members.

In October 2018 an opposition party member, Abdisalam Ismail, was arrested for publishing antigovernment content on social media. He was sentenced to six months in prison. After his release other party members stated he was tortured while in prison.

In October police arrested journalist Osman Yonis Bogoreh twice. Bogoreh told international media he was first arrested on October 23 in connection with his investigation of the alleged rape of an Ethiopian migrant by security force members. He was released on October 25 but rearrested on October 31. Human Rights groups in the country believed his rearrest was likely in connection with an interview with Reporters without Borders, where he alleged abuse by security force members during his detention.

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

International organizations and national human rights organizations reported prison conditions remained harsh. The country had one central prison, Gabode, in the capital and a second, smaller regional prison in Obock, as well as small jails supervised by local police or gendarmes. These jails often served as holding cells before detainees were moved to the central prison. The Nagad Detention Facility, operated by police, primarily held irregular migrants and was not part of the prison system. There were reports police and gendarmes abused prisoners.

Physical Conditions: The prison population exceeded the facility's original planned capacity by almost double. Due to space constraints, authorities did not always hold pretrial detainees separately from convicted prisoners, nor were violent offenders always separated from nonviolent offenders. Authorities occasionally segregated opposition supporters and generally provided poor lighting, heating, sanitation conditions, and only limited potable water and ventilation for the prison population. Conditions in Gabode Prison for women were similar to those for men, although less crowded. Authorities allowed young children to stay with their mothers.

Prisoners with mental disabilities represented a growing percentage of the prison population. They were kept in the infirmary, where they regularly received adequate care, including access to psychiatric services through the national health system, and were segregated from prisoners with serious communicable diseases.

There was no formal system in the jails to segregate pretrial detainees from convicted prisoners while they awaited summary release or transfer to the central prison. Although both groups were regularly fed, they were subjected to overall poor conditions and inconsistent medical services.

At the Nagad Detention Facility, detainees had access to potable water, food, and medical treatment. Authorities deported most foreign national detainees within 24 hours of arrest. While normally used for irregular migrants, the government also used the Nagad Detention Facility as a temporary holding place for civilians who engaged in undesired political activity or were arrested during political demonstrations.

Administration: Officials investigated reports of cases of problematic conditions they deemed credible. The government-sponsored National Commission for Human Rights completed its annual tour of the prisons.

Independent Monitoring: Authorities allowed International Committee of the Red Cross representatives to visit the Nagad Detention Facility and the Gabode Prison quarterly to assess general prison conditions. The government did not allow diplomatic representatives to visit Gabode Prison.

According to an independent organization, high-profile refugees--formerly prisoners of war--received adequate treatment at the Nagad Detention Facility, including mental health services. Of the 19 remaining during the year, all were released and departed the country in June and July for resettlement in Canada.

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

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but the government did not respect these provisions.

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

The law requires arrest warrants and stipulates the government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the government generally did not respect the law, especially in rural areas. Authorities may hold detainees another 48 hours with the prior approval of the public prosecutor. The law provides that law enforcement officers should promptly notify detainees of the charges against them, although there were delays. The law requires that all persons, including those charged with political or national security offenses, be tried within eight months of arraignment, although the government did not respect this right. The law contains provisions for bail, but authorities rarely made use of it. Detainees have the right to prompt access to an attorney of their choice, which generally occurred, although there were exceptions.

In criminal cases the state provides attorneys for detainees who cannot afford legal representation. In instances of unlawful detention, detainees could be granted court-ordered release, but no compensation.

Certain National Police precincts underwent a records digitalization process intended to track arrestees from arrest through judicial proceedings. Phased-in implementation at all precincts was ongoing. The new system was expected to decrease time in detention, accurately track violations of the detention law, and increase law enforcement and judicial transparency.

Arbitrary Arrest: There were reports security officials arbitrarily arrested bloggers, opposition members, academics, and demonstrators. For example, on October 31, police arrested Kako Houmed Kako, a member of the Alliance for Democratic Renewal opposition party. The arrest sparked demonstrations in three cities. Opposition parties alleged Kako was arrested arbitrarily. Kako remained in detention until December 15. The government did not release any information regarding the case.

On June 19, SDS officers arrested online bloggers Samireh and Chehem for criticizing high-ranking members of the government on Facebook. On June 26, they were released without charge.

On January 4, domestic human rights groups stated SDS personnel detained Abdourahman Moussa Badar and Omar Robleh. The motive for their arrests was unclear, but according to opposition political parties, they had demanded compensation for families of protesters killed in clashes with security forces in 2015. Robleh was released one week later and Badar the following week.

Pretrial Detention: Lengthy pretrial detention was a problem. Prisoners often waited two, three, or more years for their trials to begin. Judicial inefficiency and a lack of experienced legal staff contributed to the problem.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: After release, detainees may challenge lawfulness of detention. Due to mistrust of the judicial procedure and fear of retaliation, the majority refrained from pursuing recourse.

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

The constitution and law provide for an independent judiciary, but the judiciary lacked independence and was inefficient. There were reports of judicial corruption. Authorities did not consistently respect constitutional provisions for a fair trial.

### **Trial Procedures**

The law provides for the right to a fair and public trial; however, the judiciary did not fully enforce this right.

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

The law states the accused is innocent until proven guilty. Trials generally were public. A presiding judge and two associate judges hear cases. Three lay assessors, who are not members of the bench but are considered sufficiently knowledgeable to comprehend court proceedings, assist the presiding judge. The government chooses lay assessors from the public. In criminal cases the court consists of the presiding judge of the Court of Appeals, two lay assessors, and four jurors selected from voter registration lists. The law provides detainees be notified promptly and in detail of the charges against them. Although the law requires the state to provide detainees with free interpretation when needed, such services were not always made available. Detainees have the right to prompt access to an attorney of their choice. Defendants have the right to be present, consult with an attorney in a timely manner, confront witnesses, present witnesses and evidence on their own behalf, and generally have adequate time and facilities to prepare a defense. Authorities generally respected these rights. The indigent have a right to legal counsel in criminal and civil matters but sometimes did not have legal representation. Defendants have the right not to be compelled to testify or confess guilt. Defendants have the right of appeal, although the appeals process was lengthy. The law extends these rights to all citizens.

Traditional law often applied in cases involving conflict resolution and victim compensation. Traditional law stipulates compensation be paid to the victim's family for crimes such as killing and rape. Most parties preferred traditional court rulings for sensitive issues such as rape, where a peaceful consensus among those involved was valued more than the rights of victims. Families often pressured victims to abide by such rulings.

### **Political Prisoners and Detainees**

There were arbitrary arrests of opposition supporters.

On June 19, Djama Houssein Robleh, secretary general of the Movement for Democratic Renewal opposition party, was allegedly apprehended by National Security Service officers, detained for two nights at an unknown location, and released without charge. Djama subsequently wrote a letter of complaint to the president, requesting the return of money he stated was seized during his arrest.

According to a public statement issued by the Movement for Democracy and Liberty (MoDeL) on March 4, National Security Service officers arrested three of MoDeL's members. They were detained in the SDS detention facility and subsequently released without charge.

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

In cases of human rights abuses, 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 among government branches. Citizens could also appeal decisions to the African Court on Human and Peoples' Rights.

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

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

The government monitored digital communications intended to be private and punished their authors (see section 2.a., Internet Freedom).

While membership in a political party was not required for government jobs, civil servants who publicly criticized the government faced reprisals at work, including suspension, dismissal, and nonpayment of salaries.

There were reports the government punished family members for offenses allegedly committed by their relatives. According to a press release issued by the

Movement for Democratic Renewal, on August 8, Filsan Souleiman was arrested by National Security Service officers. Filsan is the wife of a blogger and journalist at *La Voix de Djibouti* and an online radio station broadcast from abroad. She was in custody for two days and released without charge.

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

### **a. Freedom of Expression, Including for the Press**

The constitution and law allow for freedom of expression, including for the press, provided the exercise of these freedoms complies with the law and respects “the honor of others.” The government did not respect these rights. The law provides prison sentences for media offenses.

Freedom of Expression: Individuals who criticized the government publicly or privately could face reprisals.

According to reports, on June 19, Mohamed Ali Samireh and Chehem posted video on Facebook alleging the Ministry of Education fabricated charges against six teachers in a highly publicized case. Mohamed and Chehem were arrested by the National Security Service and released a week later without charge.

Press and Media, Including Online Media: Privately owned or independent newspapers were distributed on an irregular basis. Printing facilities for mass media were government owned, which created obstacles for those wishing to criticize the government. The principal newspaper, *La Nation*, maintained a monopoly on authorized print media.

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

The NCC, under the Ministry of Communication, issues licenses to private citizens and political parties wishing to operate media outlets in the country. To date the Facebook page Djib-Live, which provides news, commentary, and entertainment, is the only nongovernmental entity in the country to receive a license (in late 2017). In October 2018 privately owned journal *Le Renard* applied for a license but was rejected. Foreign media outlets and journalists, including BBC and Al

Jazeera, are not required to obtain a domestic license. They register directly with the Ministry of Communication.

Violence and Harassment: The government harassed journalists.

Censorship or Content Restrictions: Media law and the government's harassment and detention of journalists resulted in widespread self-censorship. Some opposition members used pseudonyms to publish articles.

Libel/Slander Laws: The government used laws against libel and slander to restrict public discussion and retaliate against political opponents.

Actions to Expand Freedom of Expression, including for media: In May the government granted opposition political party the Center for Democratic Unity authorization to distribute a newsletter, the first authorization of its kind. Other opposition political groups and civil society activists circulated unauthorized newsletters and other materials via email and social media sites.

## **Internet Freedom**

There were few government restrictions on access to the internet, although the government monitored social networks to prevent demonstrations or overly critical views of the government. The country's law does not give law enforcement the legal authority to monitor social media.

According to reports, on March 16, Houmed Mohamed Gadito was arrested for criticizing military leadership in the Obock Region online. He was released without charge two days later.

According to various opposition reports, on May 27, SDS officers arrested blogger Bourhan Boreh for criticizing the minister of education on social media. He was released without charge shortly afterwards.

Djibouti Telecom, the state-owned internet provider, blocked access to websites of the Association for Respect for Human Rights in Djibouti and radio station La Voix de Djibouti that criticized the government.

## **Academic Freedom and Cultural Events**

There were government restrictions on academic and cultural events. Civil society groups alleged several high-ranking officials occasionally cancelled academic conferences that might portray the government unfavorably.

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

The government limited freedoms of peaceful assembly and association. Opposition members alleged security forces routinely cancelled or disrupted meetings and other political events.

#### **Freedom of Peaceful Assembly**

Although the constitution provides for freedom of assembly, the government restricted this right. The Ministry of Interior requires permits for peaceful assemblies. The ministry allowed opposition groups to host events and rallies.

#### **Freedom of Association**

The constitution and law allow for freedom of association provided community groups register and obtain a permit from the Ministry of Interior. Nevertheless, the ministry ignored the petitions of some groups (see section 5). The government harassed and intimidated opposition parties, human rights groups, and labor unions.

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

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

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

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

Foreign Travel: Citizens, including opposition members, reported immigration officials refused to renew their passports.

For the second consecutive year, opposition leader Kadar Abdi Ibrahim, secretary general of the MoDeL opposition party, claimed the government withheld his passport.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

Abuse of Migrants, Refugees, and Stateless Persons: The government collaborated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in expanding protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Access to Asylum: The law provides for granting asylum or refugee status. Asylum seekers from southern Somalia and Yemen were prima facie considered eligible for asylum or refugee status. The National Office for Assistance to Refugees and Disaster Victims (ONARS) and UNHCR issued identification cards to Yemeni refugees. The National Eligibility Commission (NEC), which falls under the Ministry of Interior and consists of staff from ONARS and several ministries, must review all other asylum claims; UNHCR participates as an observer. Ethiopian and Eritrean asylum seekers reported discrimination in the status determination process.

The government reconfigured the NEC and held monthly meetings in accordance with the law. There was a backlog of more than 10,000 persons awaiting status determination.

Employment: Scarce resources and employment opportunities limited local integration of refugees. Many, especially in the Yemeni refugee community, worked in restaurants, as daily manual laborers, fishers, and street vendors. By law documented refugees can work without a work permit in contrast to previous years, and many (especially women) did so in jobs such as house cleaning, babysitting, or construction. The law provides little recourse to challenge working conditions or seek fair payment for labor.

In conjunction with the International Organization for Migration (IOM) and UNHCR, the government supported vocational training for 97 refugees. A small number of the participants found local employment.

Access to Basic Services: Levels of protection and assistance in the refugee camps routinely fell short of international standards. The Ali Addeh camp was overcrowded, and basic services such as potable water and shelter were inadequate. The government did not issue birth certificates to children born in the Ali Addeh and Holl-Holl refugee camps for several months. Health services in the camps were not adequate, despite refugees and asylum seekers having legal access to the public health system. Problems included: lack of prescription drugs, absence of emergency care, and a weak referral system to advanced health care.

Yemeni refugees received basic services such as water, food, shelter, and medical services at Markazi camp. The government issued birth certificates to children born in the camp.

During the 2018-19 academic year, the government expanded a Ministry of Education-accredited English curriculum to second grade refugee youth. Previously UNHCR provided refugees in the Ali Addeh and Holl-Holl refugee camps with a Kenya-adapted curriculum taught in English and French that was not recognized by Kenyan and Djiboutian authorities. Refugees in the Markazi camp had access to instruction based on a Yemeni and Saudi curriculum taught in Arabic. The government owned the only radio and television stations, operated by Radio Television Djibouti. The official media generally did not criticize government leaders or policy, and opposition access to radio and television time remained limited. Foreign media broadcast throughout the country, and cable news and other programming were available via satellite.

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In April the Ministry of Agriculture assumed control over water provision and sanitation within the refugee communities.

Temporary Protection: The government provided temporary protection to a limited number of individuals who may not qualify as refugees. Authorities often temporarily jailed economic migrants, primarily from Ethiopia, attempting to transit the country to enter Yemen, before deporting them. The government worked with the IOM to provide health services to those migrants deemed “vulnerable” while they awaited deportation or voluntary return. The minister of health stationed two doctors in the country (one in the north and one in the south) to support migrants and citizens. The Coast Guard operated a migrant transit center in Khor Angar that functioned as a first response center for migrants stranded at sea.

The National Police decreased its presence at the Ali Addeh refugee camp, implemented after the 2014 terrorist attack. The gendarmerie, however, maintained its presence at the Markazi refugee camp.

With the support of the local National Union of Djiboutian Women (UNFD), mobile courts traveled to the largest camp, Ali Addeh, to hear the backlog of pending cases. In 2017 the UNFD also placed a full-time staff member in all refugee camps to provide support for domestic violence victims. International media reported cases of domestic violence in refugee camps, although the status of subsequent investigations was unknown. Impunity remained a problem.

#### **g. Stateless Persons**

Not applicable.

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

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. The government, however, deprived many citizens of this ability by suppressing the opposition and refusing to allow several opposition groups to form legally recognized political parties. 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 2016 the Constitutional Council proclaimed the official and final results of that year's presidential election and confirmed the re-election of President Ismail Omar Guelleh of the Union for a Presidential Majority (UMP) for a fourth term in the first round of voting. The Constitutional Council certified Guelleh was re-elected president with 87.7 percent of the vote. Two opposition and three independent candidates shared the rest of the votes. One opposition group boycotted the election, stating the process was fraudulent. After the election opposition members noted irregularities, including alleging authorities unfairly ejected opposition delegates from polling stations, precluding them from observing the vote tallying. Most opposition leaders called the election results illegitimate.

International observers from the AU, IGAD, and Arab League characterized the 2016 presidential election as "peaceful," "calm," and "sufficiently free and transparent" but noted irregularities. International observers reported the UMP coalition continued to provide campaign paraphernalia after the campaign period closed, including on the day of the election. Some polling station workers also wore shirts and paraphernalia supporting the UMP. The executive branch selected the members of the National Independent Electoral Commission.

International observers from the AU, IGAD, Arab League, and Organization of Islamic Cooperation characterized the 2018 legislative elections as "free, just, and fair." The mission from the AU, however, noted several worrisome observations, including lower voter registration due to restrictive laws, inadequate implementation of biometric identification processes during the elections, voter intimidation, inadequate security of submitted ballots, premature closures of voting centers, and the lack of opposition observers during ballot counting.

There was no progress on implementing the 2016 law establishing conditions for opposition party activities and financing. The AU noted the financing part of the law had not been implemented for the legislative elections.

Political Parties and Political Participation: State security forces reportedly beat, harassed, and excluded some opposition leaders. The government also restricted the operations of opposition parties.

As in previous years, the Ministry of Interior refused to recognize two opposition political parties, although they continued to operate: MoDeL and the Rally for Democratic Action and Ecological Development. Members of those political parties were routinely arrested and detained for illegal political activity.

Participation of Women and Minorities: No laws limit participation of women and members of minorities in the political process. While women did participate, they did not account for 25 percent of political candidates and election administration officials as required by law. International observers documented that only 11 percent of election administration officials were women and only 8 percent of candidates were women.

In 2017 the country elected its first female mayor in a communal election. In the 2018 legislative elections, the number of women elected to the legislature more than doubled from eight to 18.

Women held 18 of 65 seats in the National Assembly and there were three women in the 23-member cabinet. The presidents of the Court of Appeals and of the Tribunal of First Instance were both women. Custom and traditional societal discrimination resulted in a secondary role for women in public life.

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

The law provides criminal penalties for official corruption, but the government did not implement the law 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.

Corruption: No known high-level civil servants were disciplined for corruption. During the year the government resumed an initiative begun in 2012 to rotate accountants among government offices as a check on corruption. The law requires the Court of Accounts and Inspectorate General to report annually on corruption findings, but both entities lacked resources, and reporting seldom occurred.

During the year the Court of Budget and Disciplinary Action issued its annual report on corruption available online. The court also called a conference with local journalists to distribute reports. The authority to prosecute corruption, however, lies with the Criminal Court.

Financial Disclosure: Public officials are subject to financial disclosure laws, but they usually did not abide by the law.

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

The government generally allowed a few domestic human rights groups that dealt with matters authorities did not consider politically sensitive to operate without restriction, conducting limited investigations and sometimes publishing findings on human rights cases. Government officials occasionally were responsive to their views. Government-sanctioned human rights groups regularly cooperated with local associations offering training and education to citizens on human rights issues such as migrant rights and human trafficking. Many of these associations had leaders who were also key officials of the government. Local human rights groups that covered politically sensitive matters could not, however, operate freely and were often targets of government harassment and intimidation.

Eight years after a group of civil servants from various ministries created the Djiboutian Observatory for the Promotion of Democracy and Human Rights (ODDH), the Ministry of Interior had not granted the group formal status by year's end. Due to government pressure, the president of ODDH was fired in 2018. Additionally, the leader of the Djibouti Human Rights League reported harassment targeting him and his family.

Government Human Rights Bodies: The government's National Human Rights Commission includes technical experts, representatives of civil society and labor unions, religious groups, the legal community, the Ombudsman's Office, and the National Assembly. By law the commission is a permanent institution with staff and regional offices. The commission last produced an annual report in 2016 and occasionally commented on cases of concern.

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

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

### **Women**

Rape and Domestic Violence: The law includes sentences of up to 20 years' imprisonment for conviction of rape but does not address spousal rape. The government did not enforce the law effectively.

Domestic violence against women was common. While the law does not specifically prohibit domestic violence, it prohibits “torture and barbaric acts” against a spouse and specifies penalties of up to 20 years’ imprisonment for convicted perpetrators. Police rarely intervened in domestic violence incidents. The Cellule d’Ecoute (Listening Committee) addresses domestic violence in a tripartite arrangement with the Ministry of Justice, law enforcement agencies, and the council on sharia. This committee refers cases to the Ministry of Justice when abuse is violent or to the council on sharia for divorce proceedings.

During the year the National Gendarmerie created a special unit for cases of gender-based violence. It registered 218 cases. Officials at the Ministry of Justice reported victims of rape and domestic violence often avoided the formal court system in favor of settlements between families. The government seldom enforced victim’s rights.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C for girls, and women age 18 and above, but it was a problem. The law also criminalizes those who fail to report a completed or planned FGM/C. According to a 2012 Ministry of Health survey, 78 percent of girls and women between ages 15 and 49 had undergone FGM/C. Per government officials, new cases of FGM/C were rare in the country’s urban areas, but they also noted a small subsection of the population travels to surrounding countries to have FGM/C performed. The law sets punishment for conviction of FGM/C at five years’ imprisonment and a fine of one million DJF (\$5,650), and nongovernmental organizations (NGOs) may file charges on behalf of victims. The law also 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/C to the proper authorities; however, the government had prosecuted no one under this statute by year’s end.

The government continued efforts to end FGM/C with a high-profile national publicity campaign, public support from the first lady and other prominent women, and outreach to Muslim religious leaders. According to the government, between 2016 and 2018, 1,800 persons participated in government-sponsored awareness building campaigns to counter FGM/C. Government officials acknowledged their awareness raising efforts to end FGM/C were less effective in remote regions of the country.

For more information, see Appendix C.

Sexual Harassment: The law does not prohibit sexual harassment, and anecdotal information suggested such harassment was widespread.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization. Estimates on maternal mortality and contraceptive prevalence are available in Appendix C.

Discrimination: The constitution provides for equal treatment of citizens regardless of gender, but custom and traditional societal discrimination resulted in a secondary role for women in public life and fewer employment opportunities in the formal sector (see section 7.d.).

## **Children**

Birth Registration: Citizenship derives from a child's parents. The government encouraged prompt registration of births, but confusion regarding the process sometimes left children without proper documentation. Lack of birth registration did not result in denial of most public services but did prevent youth from completing higher studies and adults from voting. For additional information, see Appendix C.

Education: Although primary education is compulsory, only an estimated three of every four children were enrolled in school. Primary and middle school are tuition free, but other expenses are often prohibitive for poor families.

Child Abuse: Child abuse existed but was not frequently reported or prosecuted. The government sought to combat child abuse by establishing the National Commission for Youth and nominating a specialist judge to try cases involving child abuse.

Early and Forced Marriage: Although the law fixes the minimum legal age of marriage at 18, it provides that "marriage of minors who have not reached the legal age of majority is subject to the consent of their guardians." Child marriage occasionally occurred in rural areas. The Ministry for the Promotion of Women and Family Planning worked with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry. For additional information, see Appendix C.

Sexual Exploitation of Children: The law provides for three years' imprisonment and a fine of one million DJF (\$5,650) if convicted of 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 prohibited, and are punishable by one year's imprisonment and a fine of up to 200,000 DJF (\$1,130).

The government enacted an anti-trafficking-in-persons (TIP) law in 2016 that prohibits human trafficking and outlines definitions distinguishing trafficking and smuggling. The law provides language that the "means" element generally needed to prosecute TIP cases is not required when the victim is a minor.

Despite government efforts to keep at-risk children off the streets and to warn businesses against permitting children to enter bars and clubs, children were vulnerable to prostitution on the streets and in brothels.

Displaced Children: During the year an NGO inaugurated the first shelter for "street children."

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

Observers estimated the Jewish community at fewer than 30 persons, the majority of whom were foreign military members stationed in the country. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The constitution does not prohibit discrimination against persons with disabilities, although the law prohibits such discrimination in employment (see section 7.d.). In 2018 the government created the National Agency for Persons with Disabilities. It has responsibility specifically to protect the rights of persons with disabilities

and improve their access to social services and employment. The government did not mandate access to government services and accessibility to buildings for persons with disabilities, and buildings were often inaccessible. The law provides persons with disabilities access to health care and education, but it was not enforced.

Authorities held prisoners with mental disabilities separately from other pretrial detainees and convicted prisoners. They received minimal psychological treatment or monitoring. Families could request confinement in prison for relatives with mental disabilities who had not been convicted of any crime, but who were considered a danger to themselves or those around them. There were no mental health treatment facilities and only one practicing psychiatrist in the country.

ANPH conducted awareness raising campaigns and coordinated with NGOs to organize seminars and other events and encouraged social service providers to improve their systems to serve persons with disabilities better.

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

The governing coalition included representatives of all the country's major clans and ethnic groups, with minority groups also represented in senior positions. Nonetheless, there was discrimination based on ethnicity in employment and job advancement (see section 7.d.). Somali Issas, the majority ethnic group, controlled the ruling party, UMP, and dominated the civil service and security services. Discrimination based on ethnicity and clan affiliation remained a factor in business and politics.

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

The law does not explicitly criminalize lesbian, gay, bisexual, transgender, and intersex (LGBTI) status or sexual conduct between consenting adults. No antidiscrimination law exists to protect LGBTI individuals. There were no reported incidents of societal violence or discrimination based on sexual orientation, gender identity or expression, or sex characteristics, although LGBTI persons generally did not openly acknowledge their LGBTI status. There were no LGBTI organizations.

### **HIV and AIDS Social Stigma**

There were no reported cases of violence or discrimination against persons with HIV/AIDS, although stigma against individuals with the disease was widespread. Several local associations worked in collaboration with the government to combat social discrimination.

## **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 independent unions with prior authorization from the Ministry of Labor. The law provides the right to strike after giving advance notification, allows collective bargaining, and fixes the basic conditions for adherence to collective agreements. The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. The economic free zones (EFZs) operate under different rules, and labor law provides workers fewer rights in the EFZs.

The procedure for trade union registration, according to the International Labor Organization, is lengthy and complicated, allowing the Ministry of Labor virtually unchecked discretionary authority over registration. The government also requires unions to repeat this approval process following any changes to union leadership or union statutes, meaning each time there is a union election the union must reregister with the government.

The law provides for the suspension of the employment contract when a worker holds trade union office. The law also prohibits membership in a trade union if an individual has prior convictions (whether or not the conviction is prejudicial to the integrity required to exercise union office). The law provides the president with broad discretionary power to prohibit or restrict severely the right of civil servants to strike, based on an extensive list of “essential services” that may exceed the limits of international standards.

The government neither enforced nor complied with applicable law, including the law on antiunion discrimination. Available remedies and penalties for violations were insufficient to deter violations, particularly in view of the lack of enforcement.

The government also limited labor organizations’ ability to register members, thus compromising the ability of labor groups to operate. The government did not allow the country’s two independent labor unions to register as official labor

unions. Two government-backed labor unions with the same names as the independent labor unions, sometimes known as “clones,” served as the primary collective bargaining mechanisms for many workers. Members of the government have close ties to the legal labor unions. Only members of government-approved labor unions attended international and regional labor meetings with the imprimatur of the government. Independent union leaders stated the government suppressed independent representative unions by tacitly discouraging labor meetings.

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

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

The 2016 TIP law prohibits all forms of forced or compulsory labor and strengthens tools available to prosecutors to convict and imprison traffickers (see section 6, Children). The law was not effectively enforced, and penalties were insufficient to deter violations, particularly in the regions where human smuggling occurred.

Citizens and migrants were vulnerable to forced labor, including as domestic servants in Djibouti City and along the Ethiopia-Djibouti trucking corridor. Parents or other adult relatives forced street children, including citizen children, to beg. Children also were vulnerable to forced labor as domestic servants and coerced to commit petty crimes, such as theft (see section 7.c.).

Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits all labor by, and employment of, children younger than age 16, but it does not specifically prohibit the worst forms of child labor. The law places limitations on working more than 40 hours a week and working at night. Government enforcement of the law was ineffective, and penalties were insufficient to deter violations. The Ministry of Labor is responsible for monitoring workplaces and preventing child labor; however, a shortage of labor

inspectors, vehicles, and other resources impeded investigations of child labor. Inspections were carried out in the formal economy, although most child labor took place in the informal sector.

Child labor, including the worst forms of child labor, occurred throughout the country. Children were engaged in the sale of the narcotic khat, which is legal. Family-owned businesses such as restaurants and small shops employed children during 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, begging, and other activities in the informal sector. Children of both sexes worked as domestic servants. Children experienced physical, chemical, and psychological hazards while working.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

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

There is no law prohibiting discriminatory hiring practices based on disability, sexual orientation, gender identity, or HIV or other communicable disease status. The constitution provides for equal treatment of citizens regardless of gender or other distinctions, but custom and traditional societal discrimination resulted in a secondary role for women in public life and fewer employment opportunities in the formal sector. The government promoted women-led small businesses, including through expanded access to microcredit.

A presidential decree requires women to hold at least 20 percent of all high-level public service positions, although the government has never implemented the decree.

The Labor Inspectorate lacked adequate resources to carry out inspections for discrimination. According to disability advocates, there were not enough employment opportunities for persons with disabilities, and legal protections and access for such individuals were inadequate. The law does not require equal pay for equal work (see section 6).

By law foreign migrant workers who obtain residency and work permits enjoy the same legal protections and working conditions as citizens. This law was not enforced, however, and migrant workers experienced discrimination.

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

The national minimum wage for the public sector was above the World Bank poverty income level. The law does not mandate a minimum wage for the private sector, but it provides that minimum wages be established by common agreement between employers and employees. According to the government statistics office, in 2017, 79 percent of the population lived in relative poverty.

The legal workweek is 40 hours over five days, a limit that applies to workers regardless of gender or nationality. The law mandates a weekly rest period of 48 consecutive hours and the provision of overtime pay at an increased rate fixed by agreement or collective bargaining. The law states that combined regular and overtime hours may not exceed 60 hours per week and 12 hours per day. The law provides for paid holidays. The government sets occupational safety and health (OSH) standards that cover the country's main industries. Minimum wage, hours of work, and OSH standards were not effectively enforced, including in the informal economy.

No law or regulation permits workers to remove themselves from situations that endanger health or safety without jeopardizing continued employment.

There was a large informal sector but no credible data on the number of workers employed there.

The Ministry of Labor is responsible for enforcing OSH standards, wages, and work hours; however, resources allotted to enforcement were insufficient, and enforcement was ineffective. The ministry did not employ a sufficient number of inspectors to deter violations. During the year the Labor Inspectorate conducted 30 inspections, including within EFZs, based on complaints of illegal labor conditions; the inspectorate found violations in every case. Because of lack of enforcement, penalties were insufficient to deter violations.

The most common remedy for violations was for the labor inspector to visit the offending business and explain how to correct the violation. If the business corrected the violation, there was no penalty.

Migrants were particularly vulnerable to labor violations. Workers in several industries and sectors sometimes faced hazardous working conditions, particularly in the construction sector and at ports. Hazards included, for example, improper safety equipment and inadequate safety training. According to the Labor

Inspectorate, workers typically reported improper termination, not abuses of safety standards.