



**International Human Rights  
Instruments**

Distr.: General  
4 February 2011  
English  
Original: French

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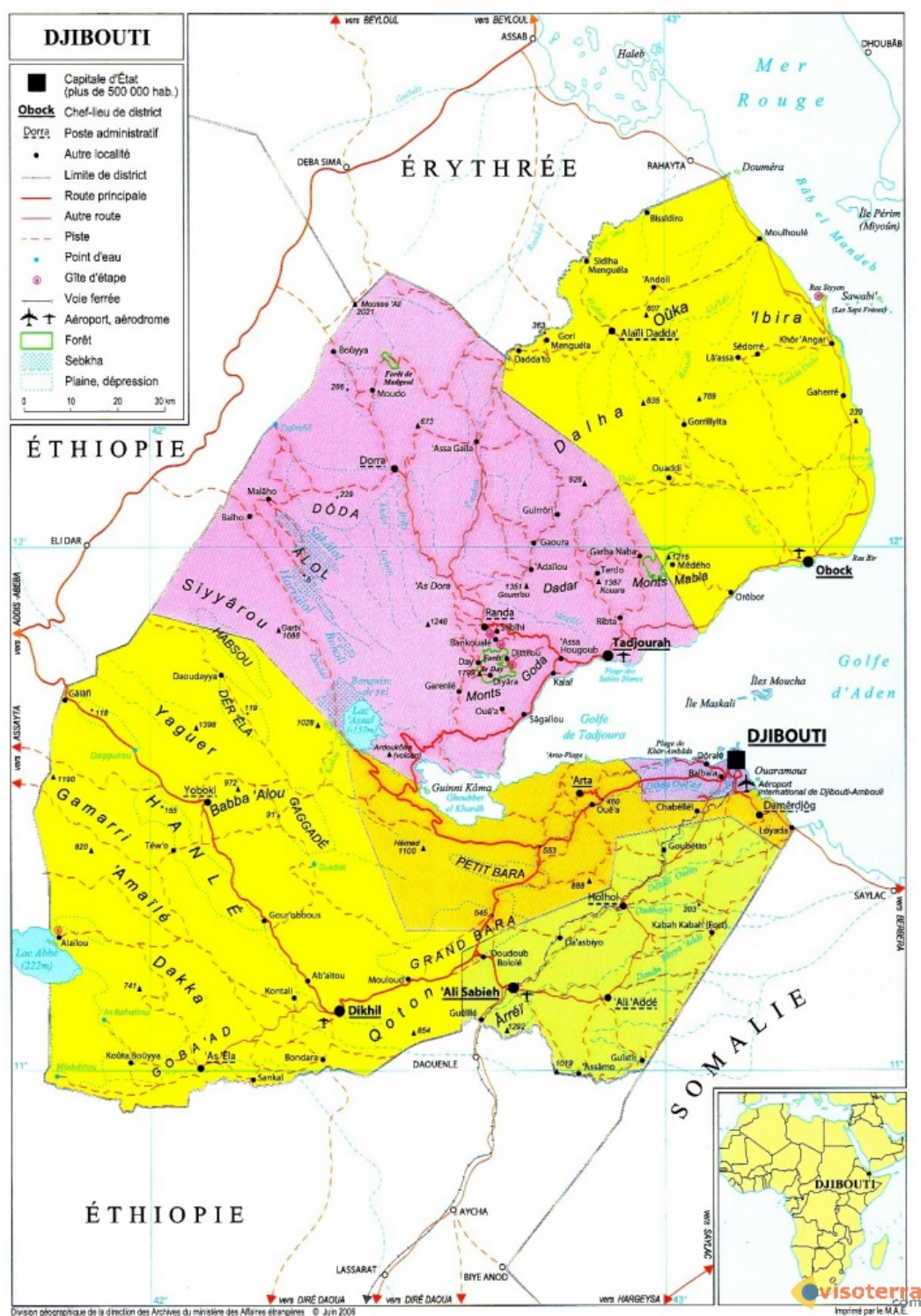
**Core document forming part of the reports of  
States parties**

**Djibouti**

[21 July 2010]

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## Introduction

1. Djibouti's harsh climatic conditions, marked by low and erratic rainfall and high temperatures that often bring catastrophic recurrent droughts, seriously affect the country's economy and the life of its citizens. The wars and conflicts in the subregion have adverse repercussions on living conditions, as the continuous influx of refugees puts increasing pressure on the country's social services.
2. The structural adjustment policy that Djibouti agreed to in 1996 led to social crisis and an unprecedented growth in poverty. In view of this worrying situation, the authorities are trying to reverse those trends, with a resolute commitment to poverty reduction in order to allow greater enjoyment of human rights, particularly the right to live in dignity.
3. The fight against extreme poverty and exclusion is increasingly being recognized as a cornerstone of the country's economic and social development policy. There are two strategic priorities in its implementation: the development of human resources and general access to basic services, as well as the promotion of harmonious and balanced local development.
4. In an endeavour to improve the promotion and protection of human rights as defined in the Universal Declaration of Human Rights, the Government has established and modernized the country's administrative and legal framework. The new institutions are more capable of guaranteeing and applying the national and international human rights standards that concern children, young people, women and the poor.
5. In recent years, Djibouti has firmly committed itself to work towards the realization of all human rights at international level, firstly by fully assuming its responsibilities as vice-president of the Human Rights Council up to June 2008, and since then as a member of that body.
6. It has also made significant efforts in that area in the past years by ratifying or acceding to the main United Nations international instruments on the subject.
7. The Government also sets importance on fulfilling its obligations under the international instruments it has signed by submitting the present common core document to the main treaty body committees.
8. Although it has ratified many treaties, Djibouti is behind in its submission of reports to the treaty bodies. The workshop on the prospects for strengthening human rights held in Djibouti on 11 and 12 May 2008 under the distinguished patronage of the Head of State was a high point in raising awareness of the problem and initiating action to deal with it.
9. The process of drafting reports for the human rights treaty bodies has now been formalized, with the establishment of the National Human Rights Commission and the Inter-ministerial Coordinating Committee for the Preparation and Submission of Reports to the Treaty Bodies, under the authority of the Ministry of Justice, which has special responsibility for human rights.
10. This coordinated approach, which includes all human rights stakeholders (public institutions, civil society organizations and development partners), should help not only to ensure better follow-up to the international instruments ratified and implementation of their recommendations, but also to guide government policy more effectively towards applying their provisions.
11. This report could not have been written and the new mechanism could not have been made operational without technical support from the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme,

including the training they provided for members of the National Human Rights Commission and the Inter-ministerial Committee.

12. In line with the most recent harmonized guidelines on reporting under the international human rights treaties, this common core document contains the following sections: general information about the State, framework within which human rights are promoted at the national level, and progress achieved in non-discrimination and equality and effective remedies.

## **II. General information about the State**

### **A. Demographic, economic, social and cultural characteristics**

#### **Geographic aspects**

13. Djibouti lies in East Africa (the Horn of Africa), in a geostrategic position at the mouth of the Straits of Bab El Mandeb and the entrance to the Red Sea and the Indian Ocean. With its small surface area of 23,200 km<sup>2</sup>, it is often labelled a “micro-State”. It is bordered to the west and north-west by Ethiopia, to the north-east by Eritrea and to the south-east by Somalia, with the Red Sea on its eastern edge.

14. The country’s topography includes mountain chains rising to about 2,000 metres in the north; lower mountain ranges to the south, alternating with plateaus and plains; and the coastal zone, lying along 350 km of shoreline.

15. Djibouti has an arid tropical climate with strong heat and high levels of evaporation. Mean temperatures are pleasant (between 20 °C and 30 °C) during the cool season (October to April), but rise to 50 °C during the hot season (June to September) under the effect of the Khamsin, the hot dry wind that carries dust and sand, while humidity increases sharply at night-time. Rainfall is highly irregular in space and time. Only the mountainous regions of the north receive more than 250 mm/year. The coastal zones, including the capital, Djibouti city, suffer particularly badly. There are extreme differences in annual rainfall, which can vary between 10 mm (1918) and 557 mm (1967), compared to a norm of 133.8 mm.

16. Djibouti is thus constantly facing drought, which very frequently leads to reduced food production, livestock losses, rural exodus to the main regional towns and Djibouti city, the drying out of water reserves, and health problems (dehydration, thirst, etc.). Drought is often followed by heavy rainfall, which causes serious flooding with harmful consequences on the environment, the population and the economy. Djibouti city is particularly threatened by flooding.

#### **Historical overview**

17. Djibouti’s history is divided into three main periods: the colonial period, the first years after independence (1977 to 1999), and the period of modernization (1999 to date).

18. The French colonization of Djibouti began during the second half of the nineteenth century with the establishment of a supply base for the French navy sailing between France’s territories and colonies in Indochina, the Indian Ocean and the Pacific, and mainland France. Djibouti city was created around the port in 1887, and became the administrative capital of French Somaliland in 1896. Between then and 1939, it developed thanks to large construction projects, the building of the Franco-Ethiopian railway in 1917, increased port operations and salt production. The subsequent period was less dynamic, with high levels of unemployment.

19. Shortly after it was decided to make Djibouti a free port, in 1949, the country's representatives called on the French authorities to recognize its special economic situation; they won the introduction of the Djibouti franc, which was pegged to the United States dollar. The 1950s and 1960s saw the appearance of and increasing support for pro-independence ideas and the creation of a huge repressive mechanism by the colonial authorities. Then, in 1967, Djibouti became the French Territory of the Afars and the Issas, with a new political structure.

20. Independence was achieved through a combination of approaches: on the one hand, the political movements pleaded the cause of the territory's sovereignty to the international (United Nations) and regional (Organization of African Unity and the Arab League) institutions; on the other, the Front de Libération de la Côte française des Somalis (Liberation Front of French Somaliland) carried out armed operations from Somalia. The pressure of international and regional opinion forced the colonial power to call a referendum, which resulted in the proclamation of the Republic of Djibouti in 1977.

21. Hassan Gouled Aptidon, the country's first President, then began to organize the new State and presided thereafter over the destiny of the people. The political instability that affected the Horn of Africa until the beginning of the 1990s seriously hampered the effective implementation of public policy. Civil war also hit the country, and the Government adopted more measures aimed primarily at preserving national sovereignty and peace in the country.

22. The recent period (1999 to date) has seen a new phase of political and socio-economic modernization under the presidency of Ismail Omar Guelleh.

23. The 2001 peace and national reconciliation accords finally brought a peaceful end to the conflict that had devastated the country for 10 years. The Government committed itself to consolidating the transition to democracy, introducing a full multiparty system (2002) and implementing the decentralization process (2008).

### Demographic aspects

24. Preliminary data from the second General Population and Housing Census (2009) show that Djibouti has a population of 818,159, its distribution still relatively balanced between the capital region of Djibouti city (58.1 per cent) and the rest of the country (41.9 per cent). Thus, the majority of the population lives in the urban areas, particularly Djibouti city. The strong concentration of population in the capital is a result of the country's economic structure, which, in turn, is conditioned by bioclimatic factors. This situation explains the high proportion of "special population groups" in Djibouti city, where they represent one quarter of the city's total population and four fifths of the "population counted separately". The other regions of the country are inhabited mainly by nomads, together with sedentary rural populations.

It is generally accepted that the overall population growth rate, including natural growth and migration, is approximately 6 per cent per year. Population density is only around 27.5 inhabitants/km<sup>2</sup>.

Table 1  
Population size and characteristics of the regions

Region	Proportion of the total population (%)	Ordinary urban population (%)	Sedentary rural population (%)	Nomadic population (%)	Special population groups (%)	Total
Djibouti city	58.10	74.43			25.57	100
Ali Sabieh	10.63	26.03	13.77	42.59	17.61	100

<i>Region</i>	<i>Proportion of the total population (%)</i>	<i>Ordinary urban population (%)</i>	<i>Sedentary rural population (%)</i>	<i>Nomadic population (%)</i>	<i>Special population groups (%)</i>	<i>Total</i>
Dikhil	10.87	21.75	25.31	46.71	6.23	<b>100</b>
Tadjourah	10.60	14.02	27.08	55.83	3.07	<b>100</b>
Obock	4.62	26.24	25.83	43.25	4.68	<b>100</b>
Arta	5.18	26.06	26.77	41.94	5.23	<b>100</b>
<b>Total</b>	<b>100</b>	<b>52.42</b>	<b>9.67</b>	<b>19.69</b>	<b>18.22</b>	

25. The ethnic groups in the country are Afar, Somali and Arab. In 2002, approximately 15.7 per cent of the total sedentary population were foreigner nationals: Ethiopians represented 8.5 per cent and Somali nationals 6 per cent. The 2005 legislation on nationality streamlines the acquisition of Djibouti nationality and modernizes the procedure for obtaining identity papers. It grants Djibouti nationality to children who have one foreign parent, and allows dual nationality.

26. Djibouti's population is overwhelmingly (99 per cent) Muslim, and the preamble to the Constitution states that Islam is the State religion. However, there are other religious groups in Djibouti city.

French and Arabic are the official languages, while Somali and Afar, which belong to the Cushitic group of languages, are the main mother tongues spoken in the country. Although national-language teaching has been adopted, its implementation is still being discussed; meanwhile, the first textbooks in national languages have been drafted for primary schools.

27. As is the case in many other developing countries, the age structure of the Djibouti population shows a high proportion of young people, who make up nearly half the population. Older people make up only a small proportion of the households surveyed. In 2006, nearly one third of Djibouti's population was under the age of 15. The sex ratio shows more men than women under the age of 19, but women dominate in the 20–39 year group, as the men migrate to neighbouring countries, including to find work. The 2002 Djibouti Household Survey – Social Indicators (EDAM-IS2) shows that the median age was 20 years at that time.

Table 2  
**Structure of the Djibouti population**

<i>Age group</i>	<i>% of total population</i>
Under 20 years	49.5
20 to 64 years	46.8
65 years and over	2.8

*Source:* Djibouti survey of family health/Pan Arab Project for Family Health (EDSF/PAPFAM), 2002.

28. The mean household size is six members, with urban households slightly larger than those outside of towns. The information in the Multiple Indicator Demographic Survey (EDIM-2006) does not make it possible to map the trend in average household sizes, but does show that 75.4 per cent of sedentary households have at least one child under the age of 18, while 36.4 per cent have a child under the age of 5.

Table 3  
Mean household size by place of residence

<i>Number of permanent members</i>	<i>Urban</i>	<i>Rural</i>	<i>Total</i>
1	3.5	10.5	<b>5.2</b>
2	7.1	13.7	<b>8.8</b>
3	10.4	17.5	<b>12.2</b>
4	12.1	17.8	<b>13.5</b>
5	13.3	12.8	<b>13.1</b>
6	12.6	9.7	<b>11.8</b>
7	11.7	7.8	<b>10.7</b>
8	9	3.4	<b>7.6</b>
9 or more	20.6	6.8	<b>17.1</b>
Mean size of households	6.1	4.3	<b>5.7</b>

Source: EDSF/PAPFAM 2002.

29. There is a large proportion of female-headed households because of widowhood, divorce and women remaining unmarried. EDIM-2006 confirms this trend, showing that they account for one fifth of sedentary households. Family solidarity is still strong and so the figures do not show any households headed by children.

Table 4  
Households according to sex of head of household and place of residence

<i>Head of household</i>	<i>Urban</i>	<i>Rural</i>	<i>Total</i>
Male	76.8%	76.1%	<b>76.6%</b>
Female	23.2%	23.9%	<b>23.4%</b>

Source: EDSF/PAPFAM 2002.

### Economic aspects

30. The impact of border hostilities such as the Ogaden conflict (1976–1978) between Ethiopia and Somalia, and the collapse of those countries' military regimes (1980–1992) under the pressure of armed opposition groups have significantly affected Djibouti's economic and social performance, as its development is based on trade: gross domestic product (GDP) at constant prices rose by less than 1 per cent throughout the period between 1977 and 1991, while population growth was 3 per cent.

31. At the end of 1991, Djibouti in its turn saw civil war break out between the Front pour la Restauration de l'Unité et de la Démocratie (Front for the Restoration of Unity and Democracy) (FRUD) and the regular army. The adoption in 1992 of the country's Constitution, the first basic law, set Djibouti on the path of transition to democracy and political stabilization, with the introduction of a multiparty system restricted to four political parties. Negotiations on national reconciliation led to the 1994 peace agreement signed with one part of the membership of FRUD, who then joined the Government.

32. Between 1992 and 1996, the economic and social situation deteriorated significantly under the combined effects of the civil war (imbalance in public finances, displacement of the population, deteriorating infrastructure) and external problems (reduced budget support, increased regional competition, influx of refugees from Somalia and Ethiopia). The social



crisis seriously affected living conditions, including for civil servants who saw a freeze in salary increases from 1992 onwards. Against the background of a seriously destructured economy, the authorities began to implement a structural adjustment programme negotiated with the International Monetary Fund and the World Bank in 1996.

33. The effects of the structural adjustment programme were particularly disastrous for vulnerable groups and significantly increased the number of people living in hardship; huge inequalities appeared between the rural and urban populations, and between the capital and the other towns.

34. Because of the country's strategic position and its status as a free zone in the Horn of Africa, its economy is based mainly on the service industry. Given the poor rainfall, agricultural production is marginal, and there is also little industrial activity. Djibouti provides services as a transit port mainly for Ethiopia and, because of its geographic position, serves as an international trans-shipment and refuelling centre. In a bid to increase its competitiveness, the country's port activities have been put under the private management of Dubai Ports International and expanded to the new site of Doraleh which can take oil tankers and containers.

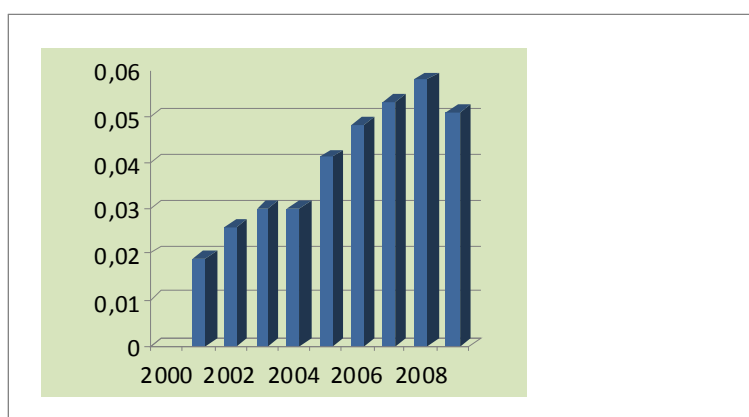
Table 5  
**Structure of the national economy**

<i>Sector of activity</i>	<i>% of GDP</i>
Primary	4
Secondary	14
Tertiary	82

*Source:* Ministry of the Economy, Finance and Planning, with special responsibility for privatization (MEFPP).

35. Real economic growth, which was only 3 per cent at the beginning of the decade, has increased significantly over recent years. It has been stimulated in particular by increased investment in the free zone and the port facilities.

Graph 1  
**% growth in GDP, 2001–2009**



36. Consumer price inflation, which was long contained at around 3 per cent per annum (2 per cent in 2004 and 3.5 per cent in 2006), then began to rise, reaching 8.2 per cent in 2007 and 9.2 per cent in 2008, mainly as a result of the increases in energy and food prices.

37. Despite a relatively high per capita income (gross national income per capita, Atlas method, of \$1,060 in 2006) that places it among the lower middle income countries, Djibouti has, since 2002, been hit by widespread poverty affecting all social categories and all parts of the country: 42 per cent of its inhabitants live on less than \$2 a day.

38. Unemployment is a frequent cause of the deterioration in the social situation. It rose markedly between 1996 and 2002, from 44 per cent to 60 per cent of the working population. It particularly affects young people under the age of 30, who represent 60.5 per cent of all the unemployed, including women.

39. Households in Djibouti generally use their income to pay for food, rent and drinking water. Those living in poverty or extreme poverty spend a higher proportion of their income on food and drinking water than those who are not poor, while the reverse is true for rent.

Table 6  
**Household income distribution**

<i>Expenditure</i>	<i>Very poor</i>	<i>Poor</i>	<i>Not poor</i>	<i>Total</i>
Food	50.6%	43.9%	33.3%	<b>38.4%</b>
Drinking water	7.9%	7.8%	6.7%	<b>7.2%</b>
Rent	21.8%	22.9%	25%	<b>23.9%</b>
Education	5.5%	7.1%	6.6%	<b>6.8%</b>
Health	1.5%	1.5%	1.5%	<b>1.5%</b>
Electricity	2%	4.1%	9%	<b>6.6%</b>
Other	10.6	12.7%	18.1%	<b>15.5%</b>
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	

*Source:* EDAM-IS2.

40. In line with the priorities set out in the 2001–2010 act on economic and social development, the Government has made poverty reduction its prime objective. The main themes of its development strategy thus focus on the implementation of a social policy aimed at the well-being of the population, particularly through greater access to basic facilities and services.

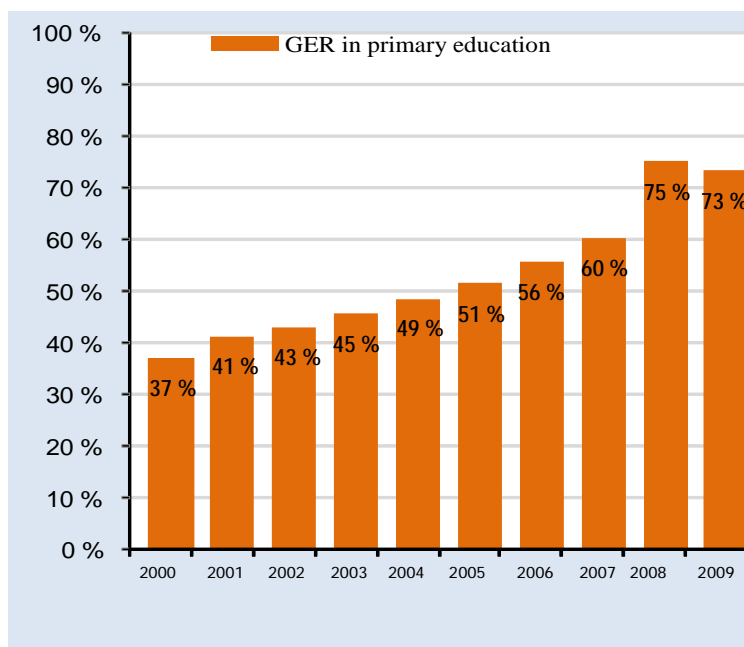
#### **Basic social services**

41. The measures adopted are intended to promote effective enjoyment of the right to education and training, employment, health, water and energy, and to a decent standard of living for all the population. Over the past five years, the State has put nearly 47 per cent of its total spending into the social sectors.

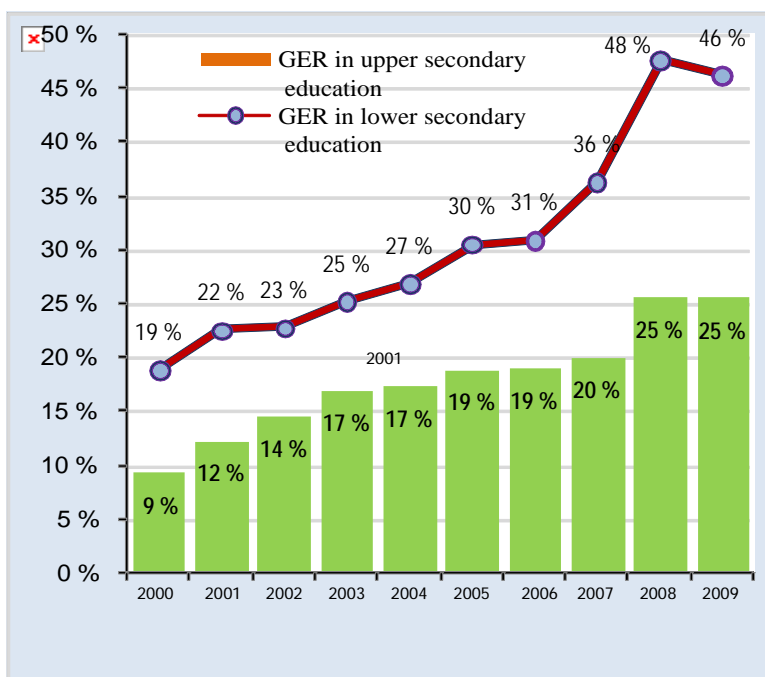
#### **Education**

42. Thanks to the efforts made to expand capacity since the education system reform was launched, the net enrolment ratio has been rising: in primary education, from 43.2 per cent in 2002 to 66.2 per cent in 2006; and in secondary education from 23.5 per cent in 2002 to 41 per cent in 2006. Attendance rates have also improved and there is more equality of opportunity between girls and boys in primary education.

Graph 2

**Trend in gross enrolment ratio (GER) in primary education**

Graph 3

**Trend in gross enrolment ratio in lower and upper secondary education**

43. The increase in student numbers has not slowed down the reduction in the number of pupils per teacher in primary education, from 34 in 2001 to 29 in 2005, putting Djibouti at a

comfortable level compared to other African countries. The increase in the number of pupils continuing into lower and upper secondary schooling has not been accompanied by a commensurate recruitment of teaching staff, and has thus had a clear effect on the pupil/teacher ratio, which, at around 30, is still quite high.

Table 7

**Trend in pupil/teacher ratio in lower and upper secondary education**

	<i>Number of teaching staff</i>	<i>Proportion of foreigners</i>	<i>Pupil/teacher ratio</i>
2000	522	24.1%	28
2001	606	19.1%	26
2002	614	15.6%	28
2003	672	20.4%	28
2004	786	15.9%	26
2005	820	14.4%	28
2006	967	10.3%	26
2007	912	8.7%	32
2008	1 201	4.9%	31

*Source:* Ministry of National and Higher Education (MENESUP).

44. It is estimated that 49 per cent of the population is literate (2002). The proportion of women aged between 15 and 24 who are literate, which had been only 37.6 per cent, had risen significantly in 2006. The spatial disparities are still striking.

Table 8

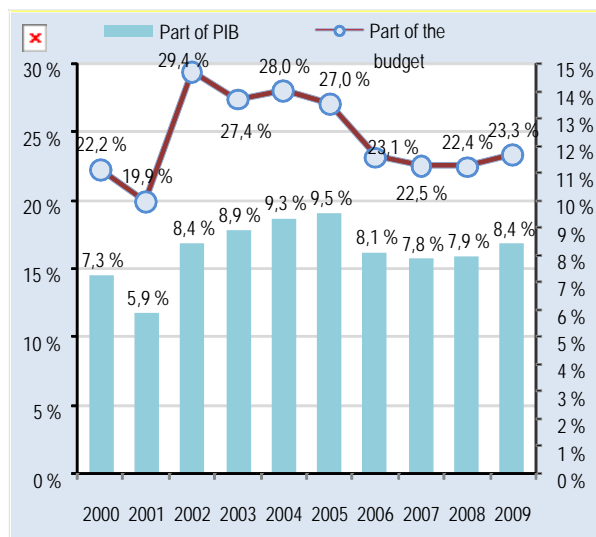
**Proportion of literate women (15 to 24 years old)**

<i>Place of residence</i>	<i>Proportion of women who are literate (%)</i>
Urban	48.4
Rural	14.2
Mean	47.5

*Source:* EDIM 2006.

45. The State has put significant resources into education over the past decade. Spending on education represents one quarter of the State budget, and even one third in some years, at between 5.9 per cent and 9.5 per cent of GDP for the period in question. Djibouti is thus one of the developing countries that put substantial amounts of public resources into funding education.

Graph 4  
Trend in spending on education



## Health

46. The country has to cope with communicable diseases that are often epidemic or endemic, such as malaria, cholera, parasitic and bacterial diarrhoea, viral hepatitis, HIV/AIDS/sexually transmitted infections (seroprevalence of 2.9 per cent in 2006) and tuberculosis (1,000/100,000, one of the highest rates in the world), as well as non-communicable diseases such as cardiovascular disease, diabetes, renal ailments, cancer, chronic obstructive pulmonary disease and malnutrition. Non-communicable diseases are becoming increasingly common, and now account for 40 per cent of admissions and one third of in-hospital deaths.

The five main causes of mortality in the general population are respiratory infections, fever, anaemia, diarrhoea and skin disorders.

47. Mean life expectancy at birth is estimated to be 53 years (2002), with the figure for women (54.1 years) higher than that for men (51.8 years). The fertility rate is 4.2 children per woman for the period between 1998 and 2002. There has been a decline in this rate for all women since 1993.

Table 10  
Total fertility rate (1988–2002)

Period	Urban	Rural/nomadic	National mean
1988–1992	5.0	6.3	5.2
1993–1997	4.8	6.1	5.1
1998–2002	4.1	4.9	4.2

Source: EDSF/PAPFAM 2002.

48. The crude birth rate is 39 per 1,000 (2002), while infant and juvenile mortality are 67 per 1,000 and 94 per 1,000 respectively (2006). Despite an improvement, the levels are still high. Almost one third (31.7 per cent) of children aged between 12 and 23 months are

fully vaccinated against the six childhood diseases (tuberculosis, diphtheria, tetanus, pertussis, poliomyelitis and measles). Immunization coverage is uneven, at between 65 per cent for measles vaccine and 87.5 per cent for bacille Calmette-Guérin (BCG). The nutritional status of children under the age of 5 deteriorated slightly between 2002 and 2006: 20.4 per cent suffer from chronic undernutrition, 32.2 per cent from failure to grow, and 28.6 per cent from underweight. The most frequent complaints in children are respiratory tract infections (particularly pneumonia), diarrhoea, malaria, malnutrition and various neonatal diseases.

49. Maternal mortality is falling, from 720 deaths per 100,000 live births in 1998 to 546 deaths per 100,000 live births in 2002. Although the proportion of deliveries assisted by a skilled birth attendant increased between 2002 (90.9 per cent) and 2006 (92.9 per cent), the main causes of in-hospital maternal mortality are haemorrhage, infections and eclampsia. The use of contraception by married women between the ages of 15 and 49 has increased significantly, from 11.9 per cent in 2002 to 17.8 per cent in 2006.

50. Albeit to a lesser extent, public health spending is following the rise in spending on education, from 8 per cent to 10.5 per cent of the State budget, or from 2.5 per cent to 5 per cent of GDP, between 2002 and 2006.

## **B. Constitutional, political and legal structure**

### **The Constitution of Djibouti**

51. The Constitution, adopted by referendum and promulgated on 4 September 1992, is the first true fundamental law of the country. Prior to that date, for nearly 15 years the country had functioned with just two constitutional laws that had been established by the Constituent Assembly at the time of independence and served as a constitution.

52. The Constitution marks an important step for Djibouti in its progression towards a pluralist democracy, bringing an end to the single-party system in a continental context dominated by the call of the La Baule Summit and the process of democratization, but it is also a sign of the will to find a favourable solution to the internal crisis facing the country. The multiparty system instated under the Constitution was initially a partial one, limited to four political parties; a full multiparty system was introduced in 2002.

53. The Constitution creates a favourable framework for the promotion and protection of the fundamental human rights recognized in regional and international instruments, such as the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights, and it includes a chapter dedicated exclusively to those rights. In its preamble, the Constitution subscribes to the Declaration and the Charter and grants constitutional rank to these two international and regional texts.

54. The rule of law proclaimed in the Constitution allows all individuals to enjoy the individual and collective rights and freedoms essential to their physical and intellectual development, without discrimination on the grounds of age, sex, ethnic or geographic origin or income.

55. The Constitution thus guarantees essential democratic rights that ensure respect for and protection of life, privacy, and the freedoms of expression and opinion, of religion and belief, and of movement. The Constitution places careful restrictions on deprivation of liberty and on judicial procedures through provisions aimed at upholding the fundamental rights inherent to human beings: the presumption of innocence, legal assistance during an investigation, and a medical examination in the case of detention.

56. The Constitution provides for the separation of powers and grants each institution specific powers and prerogatives that enable it to fully implement its mandate.

### **Political organization**

57. The Constitution of 1992 lays the foundation of the political organization of Djibouti. It defines the nature of the political system and indicates the relationships between the various institutional powers by describing their respective organizational structures and operations. It stipulates the fundamental principle that the executive and legislative bodies are formed through multiparty elections.

### **The executive branch**

58. Djibouti has a presidential political system. The President is directly elected by the people by universal suffrage and majority vote after two rounds of voting for a six-year term, renewable only once. Exercising executive power and with broad powers as Head of State and head of Government, the President shapes and leads public policy, has the power to make regulations, promulgates the laws adopted by the National Assembly, and appoints the members of the Government, lays down their responsibilities and terminates their terms of office.

59. The President of the Republic is assisted and advised in the exercise of these functions by the Government, which since 2008 has been composed of 18 ministers, a deputy minister and a secretary of State. The members of the Government answer to the President, who leads the Council of Ministers. The Prime Minister coordinates Government action. As a result of efforts to improve the representation of women in the political sphere, two ministries are now led by women, the Ministry for the Advancement of Women and the Ministry of Youth, Sport and Leisure.

60. The meetings of the Council of Ministers consider all the general political decisions made by the State, bills to be submitted to the National Assembly for adoption before becoming laws promulgated by the President, and appointments to senior Government posts, a list of which is established under a law adopted by the National Assembly.

61. Article 43 of the Constitution stipulates that ministers may exercise certain presidential functions by delegation, in the context of their respective powers. They thus draft legislation, programmes and action plans and establish the budgets for sectoral policies within the predefined parameters set by the head of the Government. They also monitor implementation of State development policies and strategies that fall within their respective competencies. They then report to the Assembly on the action and measures taken in that regard.

62. Lastly, it is the Council of Ministers that declares a state of siege or emergency.

### **The legislative branch**

63. In Djibouti, only the National Assembly has the power to pass laws (Constitution, art. 56). It is composed of 65 Members of Parliament elected by direct universal suffrage for a five-year term renewable for an unlimited number of terms. As part of an effort to promote gender equity, positive measures aimed at giving greater effect to the right to equality have been implemented to ensure better representation of women in Parliament (nine women Members of Parliament in 2008 compared to seven previously).

64. In the exercise of its mandate, the National Assembly examines and amends bills relating to the operation of the State and the enjoyment of human rights and fundamental freedoms (art. 57), with a view to their adoption. In its legislative work, Parliament is committed to passing laws that guarantee the socio-economic, cultural, civil and political rights recognized by the Constitution, and to incorporating the provisions of international human rights instruments into domestic legislation.

65. The Assembly is also involved in drafting laws and procedures relating to governmental structure, the distribution of powers between State and local authorities, the establishment of public institutions or national companies, and restrictions on the exercise of civil liberties for reasons of national defence. Its interventions in the aforementioned areas may have a positive or a negative impact on the implementation of human rights.

66. The Assembly ratifies international human rights instruments, thereby incorporating them into national legislation.

67. The National Assembly has the right to be informed and to monitor Government action and administration. It therefore validates the State budget (finance laws), monitors its implementation (regulatory laws), and approves the goals set for State economic and social action (planning laws), which has a crucial impact on the implementation of essential human rights. Lastly, it takes a position on the general direction of the country's fiscal, monetary and banking policy through the legal means provided for in article 61 of the Constitution (oral or written questions, parliamentary commissions of inquiry, challenges to the Government and the annual debate on the state of the nation).

68. In order to improve the efficiency of the preparatory work on amendments, a constitutional amendment of 2006 lengthened the duration of ordinary sessions and established permanent specialized parliamentary committees. These specialized committees conduct all appropriate research into the laws they consider and use the services of experts and stakeholders involved in human rights protection (unions, non-governmental organizations, Government agencies, etc.). They include the following:

- The Finance, Economy and Planning Committee
- The General Administration and Legislation Committee
- The National Defence and Security Committee
- The Production and Trade Committee
- The Social Development and Environmental Protection Committee
- The Foreign Affairs Committee

69. The National Assembly also has the power to accept or reject any declaration of war submitted by the executive branch. While a state of siege or state of emergency is declared by the Council of Ministers, these can be extended beyond 15 days only with the prior consent of the National Assembly. These prerogatives give Parliament the means to influence positively or otherwise the effective enjoyment of human rights in times of crisis.

70. In addition to the financial autonomy it grants to the National Assembly, the Constitution also ensures the independence of the legislative branch and guarantees immunity (art. 51) for members of Parliament, who cannot be arrested or brought to trial for their votes or opinions expressed in the exercise of their functions.

### **The judicial branch**

71. The judiciary is independent of the legislative and executive powers. It is responsible for ensuring respect for the rights and freedoms laid out in the Constitution. Judicial power is exercised by the Supreme Court, the Court of Audit and Budgetary Discipline and the other courts and tribunals (art. 71).

72. The judiciary is organized on the basis of a single legal order and follows the principle of the right of appeal to a higher court. The legal provisions of 1994 set the jurisdiction and the organizational and operational structure of the court of first instance and the court of appeal.



73. The court of first instance is an ordinary court in every aspect apart from the exceptions provided by law (art. 24). It hears without right of appeal civil and commercial cases with a value of up to 200,000 francs in principal and 50,000 francs in monthly income (art. 26). The criminal chamber of the court of first instance is competent to decide on complaints intended to hold the State or another public authority responsible for the actions of its agents or officials (art. 27). The labour chamber of the court of first instance is competent to judge cases involving individual conflicts between workers and their employers regarding employment or apprenticeship contracts, or working or health and safety conditions. It is also competent to decide on challenges to elections of staff representatives and complaints against the social protection system. The judge is assisted by two assessors (employer and worker).

74. In the court of first instance, decisions are made by a single judge; however, if the nature of the case requires it, the presiding judge can, on the advice of the State prosecutor, decide that the decision should be made jointly by three judges (arts. 22 and 23).

75. Following the adoption of the Family Code, a personal status court of first instance competent to hear family cases was established by Act No. 8/AN/03/5ème L.

76. The court of appeal hears all civil, commercial, criminal and social cases (art. 1). It is an instance of appeal against the decisions of courts of first instance in all matters except criminal cases. The criminal court is an ad hoc tribunal of the court of appeal that is called upon to judge the cases brought before it in accordance with the relevant legal provisions on criminal procedure. While the decisions of the court of appeal are pronounced by three judges in the presence of the State prosecutor, the criminal court is composed of the presiding judge of the court of appeal, two advisers, and four jurors. The latter have a say in issues of guilt and in the enforcement of the sentence, while the judges alone decide on issues of competence, on specific points of law or procedure and on civil suits.

A chamber of appeal against the decisions of the personal status courts of first instance has been established within the court of appeal.

77. Ordinance No. 84 074/ PR/J stipulates that the Supreme Court shall assess in the last resort the decisions pronounced by national courts, including decisions relating to the human rights and fundamental freedoms recognized in domestic law (arts. 2 and 3).

78. When an appeal before the Supreme Court is deemed admissible, the Court generally considers only the legality of the case; however, it may also conduct a complete examination of the case, in law and in fact, if it is found that rules of law were not appropriately applied. A reform of the jurisdiction of the Supreme Court is currently under way to give it all the powers of a true court of cassation.

79. The Supreme Court plays an advisory role by submitting official reports on the extent to which laws (passed prior to independence) are in conformity with the Constitution. Finally, its competence has been expanded to include cases concerning administrative law, such as abuse-of-jurisdiction proceedings.

80. The Constitution guarantees the independence of judges. The President is the guarantor of that independence and receives assistance in that regard from the Supreme Council of Justice, which he presides.

81. The Constitution provides for monitoring of the constitutionality of laws. This is conducted by the Constitutional Council, which is composed of six members appointed by the President of the Republic, the President of the National Assembly and the Supreme Council of Justice for an eight-year term, with half of the Council renewed every four years. The Constitutional Council both judges the constitutionality of laws and guarantees fundamental human rights and civil liberties. Its decisions are not subject to appeal.

**The administrative structure**

82. Djibouti is made up of five administrative regions (Ali Sabieh, Arta, Dikhil, Obock and Tadjourah) and the capital, which has special status as a municipality. Although this administrative division of the country is recent, it is part of the decentralization process that was announced shortly after independence and is still under way.

83. The decentralization process is indeed an old one, as it is referred to in constitutional statute No. 2 of 1977 and also in the Constitution of 1992. Following the peace accord signed in 2001 between the Government and the armed faction of FRUD, the process began to take form with the adoption of laws on decentralization in 2002 and 2005 and the holding of regional elections in 2006.

84. During this period, decentralization evolved, from a decentralized administration whose members, appointed by presidential decree, were mandated to begin decentralized local administration with State funding, to a provisional regional council with well-defined prerogatives, under the supervision of the Commissioner of the Republic representing the authority of the central State.

85. The central Government is in charge of international diplomacy, currency, national taxation, justice, national security and national defence, while the regional governments are responsible for education, health, infrastructure and facilities, tourism and the craft industry.

86. In practice, the transfer of powers from the State to elected local authorities as called for under the decentralization process has not been fully implemented.

**The electoral system**

87. The Constitution of 1992 and the organizational acts of 1992 on elections and freedom of communication set out the conditions for the exercise of the right to vote, the holding of referenda and access to the press.

88. In order to ensure that all elections are transparent and legitimate, the Independent National Election Commission, responsible for overseeing elections, was established by Organizational Act No. 11/AN/02/4ème L amending Organizational Act No. 1.

89. The framework for its implementation (Decree No. 2002-0198/PR/MID) specifies that the Commission should comprise important figures from various backgrounds representing institutional authorities, civil society and political parties who are recognized for their competence, moral qualities and sense of patriotism (arts. 2, 3 and 7). Members are appointed for the duration of an election, and the Commission is represented in every electoral constituency.

90. The Independent National Election Commission, which has its own administrative secretariat (art. 16), drafts and adopts its own rules of procedure and elects a chairperson and vice-chairpersons. In fulfilling its mandate, it collaborates with the National Commission on Communication (art. 19) and the international observers invited by the Government (art. 22). Its members attend meetings between political parties and the administration, and it also receives a copy of all relevant correspondence between the various stakeholders (art. 21).

91. As part of its mandate to monitor elections, the Commission holds broad powers of investigation to establish the legitimacy of the voting procedure. It is thus responsible for monitoring the electoral register, the drafting and amending of the voter registration lists, the printing and distribution of voter cards, the publication of voter registration lists and lists of the members of polling stations, and the preparation of electoral documents and materials.

92. In accordance with article 77, paragraph 2, of the Constitution, any candidate or political party may appeal to the Constitutional Council to contest the validity of an election.

*Average voter turnouts in the national and subnational elections by administrative unit*

93. The nationwide voter turnout for the legislative elections in February 2008 was 72.6 per cent of the voting population, which was apparently the highest turnout since 1992.

94. The legislation on elections (Organizational Act No. 1/AN/92, art.16) organizes the country into five electoral constituencies, with each district constituting a basic electoral constituency. The law on decentralization states that each region constitutes a basic electoral constituency (Act No. 174/AN/02/4ème L, art. 8). Thus, the country has only five constituencies comprising the five districts or regions, plus the city of Djibouti, which is considered as a sixth constituency.

*Proportions of national and subnational elections held within the schedule laid out by law*

95. The various election cycles are determined by the current constitutional and legislative provisions. Presidential elections are held every six years, while legislative or regional elections are held every five years. Since 1992, three presidential elections have been held in the country (1993, 1999 and 2005), along with four legislative elections (1992, 1997, 2003 and 2008) and one regional election in 2006.

96. The regular holding of national and subnational elections is a key indicator of good governance and enables the practical exercise of the civil and political rights granted to citizens. Since its independence in 1977, Djibouti has held presidential, legislative and local elections within the schedule laid out by law.

*Number of recognized political parties at the national level*

97. The Constitution of 4 September 1992 establishes political pluralism, and elections now take place in a competitive environment involving several political parties and their candidates. While the emergence of the multiparty system, between 1992 and 2002, only allowed for a political landscape limited to four parties, the number of political parties recognized at the national level increased considerably with the implementation of comprehensive pluralism.

98. Currently, there are nine officially recognized political parties in the country, and they are divided into two coalitions.

The Union pour la Majorité Présidentielle (Union for a Presidential Majority) (UMP) is composed of the Rassemblement Pour le Progrès (Rally for Progress) (RPP), the Front pour la Restauration de l'Unité et de la Démocratie (Front for the Restoration of Unity and Democracy) (FRUD), the Parti Social et Démocratique (Social Democratic Party) (PSD), the Parti National Démocratique (National Democratic Party) (PND) and the Union Pour la République (Union for the Republic) (UPR).

The Union pour l'Alliance Démocratique (The Union for a Democratic Alliance) (UAD) includes the Alliance Républicaine pour le Développement (Republican Alliance for Development) (ARD), the Parti Djiboutien pour le Développement (Djibouti Party for Development) (PDD), the Mouvement pour le Renouveau Démocratique et le Développement (Movement for Democratic Renewal and Development) (MRDD) and the Union pour la Démocratie et la Justice (Union for Democracy and Justice) (UDJ).

The holding of the first regional and communal elections in 2006 revitalized the political landscape in Djibouti with the participation of many independent parties from civil society,

some of whom, such as the “citizen” list of candidates, who won the elections in Boul’aos, the largest commune in the capital, were very successful.

*Distribution of seats in the National Assembly by party*

99. Following the legislative elections of 2008, which were won by UMP, the distribution of seats in the National Assembly among this coalition stands as follows:

Table 11

**Distribution of seats in Parliament (2008)**

<i>Political parties</i>	<i>Number of seats</i>
RPP	49
FRUD	11
PND	2
PSD	2
UPR	1
<b>Total</b>	<b>65</b>

*Source:* Ministry of the Interior.

*Percentage of women in Parliament*

100. In an effort to ensure equality of rights between men and women and to encourage better popular representation in the institutions of the Republic, the Government has taken various measures to support groups, such as women, who suffer discrimination.

101. In this context, a law was adopted in 2002 establishing a quota system for women in elected office and in the central administration. The law requires political parties to reserve at least 10 per cent of the seats in their candidate list for women. The implementation of new provisions has encouraged women to enter Parliament and has considerably increased their representation in the political sphere. The expected objectives for these positive measures to combat discrimination have been reached: there were seven women members of Parliament in 2003 (representing 10 per cent of the total) and nine in 2008 (representing 14 per cent of the total).

*Number of complaints on the conduct of elections registered*

102. The legislation on elections states that any candidate may contest the results of an election; it also lays out the deadlines and procedures for lodging complaints on the conduct of elections (arts. 35 and 71). Appeals contesting the legitimacy of elections are addressed to the Constitutional Council, whose decision is final.

103. The opposition political parties have lodged complaints with the Constitutional Council after every election, including the 1999 presidential election and the 2002 legislative elections.

104. The Constitutional Council conducts the necessary investigations to establish the truth of the allegations. At the end of the investigation, it issues a ruling and notifies the concerned parties of its decision, which is published in the Official Gazette. To date, the irregularities uncovered by the Council have been judged to be too minor and insufficient to challenge the transparency and results of the elections. However, the recommendations made by the Council have made it possible to lift the restrictions often cited by opposition parties. In an effort to improve the electoral process and to protect the right to equal treatment for all candidates, the Government authorities have established a new voter

registration list and have introduced a degree of proportional representation in regional elections.

### **System of customary and religious law**

105. The citizens of Djibouti often turn to traditional justice to settle their disputes. Colonial policy formalized this system by structuring it and attempting to improve its operation by following French law. The customary and sharia courts therefore constituted a single formal legal system available to the populations under colonization that aimed to apply customary and Islamic laws to resolve differences involving marriage, family affairs and personal status in parallel with ordinary courts.

106. The effort to codify national legislation, the unification of the existing legal systems (customary, religious and modern), and the transposition of international instruments on the rights of the child and the rights of women into domestic law and the Family Code have restructured the traditional legal system to the benefit of vulnerable groups.

107. The legal framework for the application of this law introduces the Ma'adoun Al-Chari (2002 act on the status of the Ma'adoun Al-Chari), who is responsible for the conclusion and dissolution of marriages in place of the Cadis in the local satellite courts of the sharia court system and in regional courts in the hinterland. The Ma'adoun Al-Chari is appointed by the Council of Ministers and must abide by the provisions of the Family Code, particularly with regard to the consent of the two spouses, their age and the lack of impediment to the marriage (art. 8). The divorce rulings issued by the Ma'adoun Al-Chari first take into consideration the amount of maintenance payments and custody of the children (art. 11). The decisions issued by the Ma'adoun Al-Chari in the areas within his jurisdiction are communicated to the administrations concerned and to the personal status court (art. 13).

108. The 2003 act on personal status courts establishes personal status courts of first instance to replace the sharia courts that existed in every district and regional capital. Their headquarters is in Djibouti, and its jurisdiction extends over the entire country. A personal status chamber of appeal has been established within the Djibouti Court of Appeal to replace the Central Sharia Court of Djibouti (art. 1). Appeals against the decisions of this chamber are heard before the Supreme Court (art. 26).

109. The judges of the personal status court of first instance decide on all disputes concerning marriage, parentage, divorce, inheritance and property disposal (art. 6). They also decide on disputes involving debts and rent, and on civil and commercial cases involving an amount of 5 million francs or less (art. 7). The judge who presides over the court of a regional capital also sits on the personal status court of first instance.

110. The implementation of these provisions has helped greatly to adapt the traditional legal system to the current realities of society in Djibouti and to establish greater equity among citizens with regard to human rights.

111. Nevertheless, despite many efforts to raise awareness among the general public and certain professionals, old practices related to the exercise of customary and religious law still continue in parallel with the new legal framework. It is not surprising that this is the case during this transitional phase marked by the rearrangement of the existing legal system, and given the population's strong attachment to the underlying values of customary and religious law. It is also explained by the lack of human resources in the personal status courts, which means that they are not operational in the hinterland regions.

**Media coverage**

112. The national media were previously a State monopoly, but the situation is now being transformed through new Government measures in support of democratization and human rights. The Press (Organization) Act No. 2 of 15 September 1992 confirms this openness of the media and regulates the various aspects of the right to communication guaranteed under the Constitution. It also provides for the establishment of the National Commission on Communication, an independent authority responsible for ensuring respect for pluralism of information.

113. While it does not affect television or radio, this legal authorization to establish private media outlets has particularly encouraged the development of the press. Citizens can now benefit from a variety of political, cultural, professional and practical information. The life expectancy of privately owned newspapers remains particularly low, however, in part because of the high investment costs involved.

114. No study has yet been conducted to estimate the impact of the various media, but it appears that the influence of public media outlets still dominates, because they provide information on a regular basis.

**Non-governmental organizations**

115. The registration and supervision of non-governmental organizations (NGOs) is governed by the act of 1 July 1901 on non-profit associations. While associations can be formed freely without any administrative restrictions, they are not granted legal capacity that would allow them to take action before the courts, nor are they allowed to make purchases or to hold or administer the dues from their members, the premises used for their administration and meetings of their members, or the buildings strictly necessary for the achievement of the association's aims (art. 6).

116. In order to obtain legal capacity, the association must be made public by its founders by means of a prior declaration to the regulation services of the prefecture of Djibouti. A receipt may be issued in acknowledgement of the declaration, which must include basic information about the association (such as its title, purpose, headquarters, and the names, professions and addresses of its leading members). The association is then required to give notification within three months of any changes to its makeup or operation (art. 5).

117. Generally speaking, legal capacity is not granted if the association is of an illicit nature, contravenes laws and moral standards, or is likely to violate the integrity of the national territory or the republican nature of the Government (art. 3). In the case of nullity of article 3 or violation of article 5, the association is dissolved by the civil court at the request of any concerned party or by order of the public prosecutor's office (art. 8). Article 9 stipulates that the goods belonging to a dissolved association shall be devolved in accordance with the relevant statutes or with the rules laid down in general assembly.

118. The associations of the country's Community Development Centres are supported by the Ministry of Youth, Sport, Leisure and Tourism, which provides them with various facilities and qualified coordinators who organize social, cultural, sport, artistic or scientific activities for the local communities. The Ministry also ensures that community associations are managed in accordance with the specific regulations set out in ministerial order No. 99-0655/PRE/MJSLT, which establishes a common status for all such associations, along with procedures for establishing and dissolving them that involve the ministry responsible for internal organization under the direction of the Ministry of the Interior. These associations play a key role in stimulating the sociocultural life of the community by encouraging:

- Initiatives and the collective involvement of the population in local development projects

- The emergence of and support for the voluntary sector in the community
- The empowerment of the inhabitants, including in the creation, management and preservation of local infrastructure

119. Religious groups can only be legally recognized once the relevant declaration has been submitted to the Council of Ministers, with the assent of the administrative court. Their dissolution is subject to the same procedure (art. 13).

120. Articles 22 et seq. concern the restrictions imposed on the establishment of foreign associations and their exercising or cessation of activities. The establishment of a foreign association requires prior authorization, which is sometimes temporary, from the Ministry of the Interior. This authorization can be cancelled by decree of the Council of Ministers.

121. Civil society organizations have seen unprecedented growth ever since the democratization of the country and the advent of the rule of law. The constitutional and legislative provisions on freedom of association have thus made it possible to create a more favourable framework for the diversification of their activities, including in the field of human rights, and their expansion throughout the whole country.

122. Their initiatives encourage activities to raise awareness and disseminate information among the general public or among target groups, participation in the decision-making process, and the drafting of recommendations to draw the Government's attention to specific aspects of rights and freedoms.

123. The following are the most influential NGOs:

- L'Union Nationale des Femmes de Djibouti (National Union of Women of Djibouti) (UNFD), the oldest organization working to defend women's rights
- Atu Yoo Fan, an association in support of women that advocates better integration of their activities
- Oui à la Vie (Yes to Life), an association that supports persons living with HIV/AIDS
- Al Biri and Bender Djedid, organizations that support widows and orphans

## **Administration of justice**

### *Offences and prisons*

124. The Criminal Code of 1995 sets out the various offences and corresponding penalties applicable in Djibouti, according to the nature and seriousness of the offence committed and the status of the perpetrator. The promulgation of the Criminal Code and the Code of Criminal Procedure has enabled the country to definitively abolish the death penalty. In actual fact, the existence of the death penalty prior to 1995 had no effect in practice, because the one time such a sentence was handed down by a court it was commuted to a sentence of life imprisonment.

125. As in other areas of civil administration, it is difficult to provide specific and regularly updated statistics on criminality and the treatment of legal cases by the various bodies concerned. Improvements such as the recent provision of computer hardware should be pursued; at the same time, judicial personnel should be given better training and awareness should be raised among all those responsible about the importance of statistical data. The Ministry's plan to improve the performance of the justice system incorporates this initiative in a number of ways.

126. Although recently there have been regular violent clashes between young people from different neighbourhoods of Djibouti city and in some regional capitals, which could

pose a threat to individuals and to property, there is not an alarming level of crime in the country.

127. In the face of this upsurge in urban violence, and in order to re-establish public order, legal proceedings brought against young offenders led to their arrest and imprisonment in the remand home for minors in the Gabode prison. They were eventually granted amnesty in June and September. In an effort to create alternatives to imprisonment for young offenders, the Ministry of Education and the Ministry of Islamic Affairs have been charged with implementing prevention initiatives to help reverse the current trend towards violence.

128. The Gabode prison is the only detention institution in the country that currently has inmates. Women are separated from men, and adolescents are subject to special treatment taking into account their needs in the light of their age (in the remand home). The conditions of detention in the remand home are in accordance with the Penitentiary Code and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). Since 2007, the police officers who had previously worked in the institution under the supervision of the Ministry of the Interior have been replaced by a special corps of prison guards who have undergone training on the main international human rights instruments. The Government, in cooperation with the United Nations Children's Fund (UNICEF), has launched various projects to renovate the prison and to improve conditions for prisoners.

#### *Judges and prosecutors*

129. The lack of human and material resources was cited by the Committee for the National Consultations on Justice in 2000 as one of the reasons for the slowness of the judicial system. Government efforts to establish a fair, just and efficient justice system have resulted in:

- The creation of a new status and a salary increase for judges
- A more thorough codification of legislation (Family Code)
- A restructuring of the courts (personal status courts)

130. The increase in the number of judges is also a significant advantage in the effort to modernize the judicial system. Efforts are under way to transform the Supreme Court into a court of cassation that judges cases only on the merits, and to strengthen the court of appeal in the same respect. Consequently, the State has significantly increased the capacities of judicial institutions with a view to better implementation of the fundamental rights and freedoms guaranteed to its citizens.

131. It is in this regard that the act of December 2006 aims to improve protection for persons living with AIDS and their families through measures to combat discrimination and stigmatization. This legislation thus confirms the right of persons affected by the pandemic to respect, to dignity and to equal treatment in their efforts to obtain access to justice and various social services.

132. The public prosecutor's office, with strict respect for the independence of judges, is responsible for promoting equity and human rights. Thanks to its supervision of the activities of criminal investigation police officers, the public prosecutor's office is regularly informed of all cases in progress. It ensures that arrests and conditions of detention are in accordance with the law, and it is competent to decide on the follow-up to be given.



*Maximum and average time of pretrial detention*

133. The Code of Criminal Procedure provides a legal framework for judicial action, applicable both to adults and to children, and governs procedures for arrest and placement in detention. It sets the legal duration of police custody at 48 hours for adults, and stipulates that police custody for minors, which is closely supervised, can only be adopted by “special substantiated ruling” and that its duration must not exceed 24 hours (art. 498). While in most cases involving minors in conflict with the law the minors are released once their parents or guardians have been located, pretrial detention for adults can be extended by decision of the public prosecutor’s office, according to the needs of the investigation or in order to protect the individual. However, the maximum duration of pretrial detention cannot exceed one year and two months. In the absence of sufficiently detailed data, it is not possible to estimate the average duration of pretrial detention. Since the reform of 1995, the strengthening of the powers of the public prosecutor’s office compared to those of the police, and of a policy favouring greater protection of fundamental freedoms, has helped to protect the rights of individuals in pretrial detention.

134. It is rather difficult to obtain complete data on the number of criminal investigation officers, because some of them are police officers while others are gendarmes. Statistical data on the number of police officers show a decrease, owing to the demobilization initiated after the end of the civil war. There are currently 2,000 police officers, or 3 officers per 1,000 inhabitants. No data on gendarmes are available.

*Legal aid*

135. Article 10 of the Constitution guarantees the right to defence and the right to the assistance of legal counsel of one’s own choosing. Legal aid is provided automatically to all persons suspected of a crime. No specific data on the percentage of persons who request such aid are available.

### **III. General framework for the protection and promotion of human rights at the national level**

#### **A. Acceptance of international human rights norms**

##### **Ratification of main international human rights instruments**

136. In recent years, Djibouti has made a major effort in the area of human rights by ratifying or acceding to the relevant United Nations core treaties:

- The Convention on the Rights of the Child, in 1990, and its Optional Protocols on the sale of children and on children in armed conflicts
- The International Covenant on Civil and Political Rights and its two Optional Protocols, in 2002
- The International Covenant on Economic, Social and Cultural Rights, in 2002
- The International Convention on the Elimination of All Forms of Racial Discrimination, in 2007
- The Convention on the Elimination of All Forms of Discrimination against Women, in 1998
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2002

- The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2009

137. Djibouti is thus a party to the main international human rights instruments, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

138. The country has also acceded to the Protocols to the treaties, with the exception of those relating to:

- The International Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Elimination of All Forms of Discrimination against Women
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The International Covenant on Economic, Social and Cultural Rights

#### **Reservations and declarations**

139. The Djibouti authorities expressed reservations during the ratification of the Convention on the Rights of the Child and declared that the State shall not consider itself bound by any provisions or articles that are incompatible with its religion and its traditional values.

For Djibouti, this very general declaration about religion and traditional values was a way of preserving the cultural rights of the country's children, who are all Muslim. The greatest concern was that certain provisions of the Convention might contradict the precepts of Islam. The wording of the reservation did not, however, have any particular effect on national legislation and policy to promote child protection because the efforts already under way in this direction were continued, notably on the favourable basis provided by Islamic law.

140. Nevertheless, comments made by various partners while the second report for the Committee on the Rights of the Child was being drafted helped advance the issue. After a national consultation, it was deemed necessary to replace the initial general reservation by a more specific declaration in respect of articles 14 and 21 of the Convention, as formulated in the Djibouti delegation's written replies to the list of issues.

141. On the other hand, Djibouti has not made a declaration under article 41 of the International Covenant on Civil and Political Rights and therefore accepts the competence of the Human Rights Committee to examine complaints from other States parties.

#### **Derogations, restrictions, or limitations**

142. No derogation affects the implementation of the rights recognized in the various international human rights instruments in Djibouti, although the Constitution does allow derogations in exceptional situations, notably to re-establish the regular functioning of the authorities and to safeguard the nation.

#### **Ratification of other international human rights instruments**

143. The State's commitments on human rights have been extended to other relevant international treaties, in particular to the conventions of the International Labour Organization (ILO). The most fundamental conventions were ratified in 2004:

- The Forced Labour Convention, 1930 (No. 29)

- The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- The Migration for Employment Convention (Revised), 1949 (No. 97)
- The Equal Remuneration Convention, 1951 (No. 100)
- The Abolition of Forced Labour Convention, 1957 (No. 105)
- The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- The Minimum Age Convention, 1973 (No. 138)
- The Worst Forms of Child Labour Convention, 1999 (No. 182)
- The Maternity Protection Convention, 2000 (No. 183)

144. Djibouti is a party to 67 ILO conventions, mainly, as in the case of the Unemployment Provision Convention, 1934 (No. 44), ratified in 1978, through succession, the State thus being bound by commitments concluded with ILO before independence.

145. Similarly, Djibouti has also ratified and acceded to relevant regional instruments such as:

- The African Charter on Human and Peoples' Rights, in 1991
- The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, in 2004
- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, in 2005
- The Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969, in 2006
- The African Charter on the Rights and Welfare of the Child, in 2009

146. Djibouti is also a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and its two Additional Protocols of 1977. Djibouti is bound by these instruments through succession, in 1978, and the declaration it made after independence, that it would continue to be bound by the treaties that had been applicable before independence.

147. Accession to the two Protocols dates from 1991. Djibouti has not expressed a reservation against article 90 of Protocol I and accepts the competence of the International Humanitarian Fact-Finding Commission (IHFFC).

148. Djibouti is the only country in the Horn of Africa to have ratified the Rome Statute of the International Criminal Court.

## **B. Legal framework for the protection of human rights**

149. Through the various constitutional provisions and clauses in its ordinary laws, Djibouti's domestic legislation guarantees the protection of human rights and fundamental freedoms.

150. The Constitution recognizes human rights as a basic principle. Its preamble proclaims commitment to the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, the provisions of which are directly transposed into the Constitution. Title II, on human rights, guarantees a broad range of rights and lays down the fundamental principles essential for the realization in domestic legislation of other rights set out in the core international human rights instruments.

151. In its article 10, the Constitution guarantees many human rights and institutes the sacred character of the human person: the protection of human rights is an obligation of the State. Thanks to this provision, respect for the right to life, to freedom, to security and to integrity of the person is guaranteed by the Constitution. The right to life thus stipulated should allow the better realization of economic, social and cultural rights; notably in the areas of health, education and other public services, in particular for vulnerable groups such as children, persons with disabilities and older persons. The right to freedom provides a guarantee against arbitrary proceedings, arrest, charges and convictions, which are forbidden by the Constitution. Article 16 reinforces a person's right to integrity by prohibiting torture, physical abuse or inhuman, cruel, degrading or humiliating treatment.

152. This article also decrees the fundamental principle of equality before the law and of non-discrimination in the enjoyment of guaranteed rights. Equity thus defined should also permit equal protection by the law, eliminating all forms of discrimination. Article 18 reaffirms this equality before the law. Equality is also guaranteed to non-nationals, who must enjoy proper legal protection of their person and their belongings.

153. Lastly, article 10 of the Constitution lays down the essential guarantees offered by the criminal justice system in terms of procedure and protection of the fundamental rights of persons in case of arrest, charge or deprivation of liberty. The Constitution thus guarantees the presumption of innocence, the right to defence and assistance by a lawyer of the defendant's choice. Guilt may be established only by a competent court headed by a judge authorized to rule on the deprivation of liberty and to protect the rights of prisoners. The non-retroactivity of laws and its corollary, *res judicata*, are guaranteed by these excellent provisions on human rights.

154. Civil and political rights are provided for in articles 11 to 16. Articles 12, 13 and 14 are based on the right to privacy and guarantee the right to own property, the right to inviolability of the home, the right to secrecy and the inviolability of correspondence and the right to freedom of movement. They are established as a defence against illegal house searches and inspections and social-protection orders.

155. Article 15 of the Constitution deals with fundamental political and social rights and gives a specific guarantee of the right to freedom of opinion, which includes the right to freedom of all forms of expression (speech, writing and image). Article 11 includes this guarantee and extends it to the right to freedom of thought, conscience, religion and worship. The right to form and join a trade union, including the right to strike, is also guaranteed within this article.

156. Articles 5 and 6 set out the necessary conditions to guarantee the right of citizens to vote and to participate in the conduct of public affairs. The right to vote is guaranteed and exercised particularly via the formation of free political parties and the unrestricted conduct of activities within these parties.

157. These constitutional provisions regarding human rights and fundamental freedoms are subject to various restrictions that limit the scope of their guarantee of human rights.

158. These reservations occur in different clauses of the Constitution and relate to specific situations regarding the protection of the rights and freedoms of others, but also regarding the honour of the person, public order, national security, the public peace, protection against the threat of danger and prevention of criminal offences.

159. The "requirements" for the human rights recognized in the Constitution are justified by subsequent changes to domestic legislation in the areas mentioned above. The adoption of specific laws, regulations and procedures should allow for better protection of individual or collective rights and freedoms and ensure that the public interest is upheld.

160. **Emergency situations** constitute crisis contexts in which the State is justified in **derogating from the human rights** recognized by the Constitution. Article 40 of the Constitution specifies that a state of emergency may be decreed on a national level in the case of a severe and immediate threat to the institutions of the Republic, national independence, territorial integrity or the fulfilment of international commitments that undermine the normal functioning of the authorities. The threat may be linked to a variety of events such as natural or epidemiological disasters, invasion of the national territory by foreign entities or an institutional crisis.

161. The President of the Republic, on the advice of the President of the National Assembly and the President of the Constitutional Council and after having informed the nation via a public address, may take any measure necessary to re-establish the normal functioning of the authorities and to safeguard the nation, with the exception of a constitutional amendment.

162. Although a state of emergency allows the authorities to take any measures intended to reduce risks and in particular to take action and measures that could reduce or eliminate fundamental rights and freedoms for a certain amount of time, the constitutional provisions do not specify which are basic rights and therefore remain intact at all times, even in extraordinary circumstances.

### **Legislation on human rights**

163. Whilst the Constitution lays down the essential principles and necessary guarantees for incorporating human rights into Djibouti's legal framework in general, other specific acts and regulations issued by the executive branch or by Parliament set them out in more detail and facilitate their enforcement.

164. The most relevant acts are:

- Organizational Act No. 1/AN/92/3ème L, which amends the Election (Organization) Act
- The Freedom of Communication (Organization) Act No. 2/AN/92/3ème L
- The Constitutional Council (Organization and Functioning) Act No. 4/AN/93/2ème L
- The Status of the Regions Act No. 174/AN/02/4ème L
- National Risk and Disaster Management Policy Act No. 140/AN/06/4ème L
- The Health Policy Act No. 48/AN/99/4ème L
- The Education System Act No. 96/AN/00/4ème L
- The Labour Code Act No. 133/AN/05/5ème L
- The Civil Service Act and Regulations
- The National Social Security Fund Act No. 212/AN/07/5ème L
- The Nationality Code Act No. 79/AN/04/5ème
- Decree No. 99-0059/PRE establishing the Ministry for the Advancement of Women, Family Welfare and Social Affairs
- Decree No. 2008-0093/PRE establishing the State Secretariat for National Solidarity
- The Family Code Act No. 152/AN/02/4ème L
- Act No. 192/AN/02/4ème L which introduces a quota system for women in elected office and in central administration

- Office of the Ombudsman Act No. 51/AN/99/4ème L
- Decree No. 2008-0103/PRE establishing the National Human Rights Commission
- Act No. 210/AN/07/5ème L on combating trafficking in human beings
- The Environment Act No. 106/AN/00/4ème L
- The Criminal Code Act No. 59/AN/94
- The Code of Criminal Procedure Act No. 59/AN/94

#### **Incorporation of human rights into domestic law**

165. Articles 37 and 63 of the Constitution determine the procedures, practical arrangements and competent institutions for incorporating into domestic law the treaties binding the country at international level. The executive branch is responsible for negotiating international agreements and submitting them to the National Assembly for ratification. International instruments on human rights can therefore only be incorporated into national legislation through ratification by Parliament. The Constitution specifies that ratification of these international human rights conventions can only be approved under a law adopted by the National Assembly indicating which treaty has been approved and declaring it ratified.

166. The laws adopted by the National Assembly are then enacted by the President of the Republic (article 34 of the Constitution). The laws on ratification of international human rights instruments are not exempt from this legal procedure. In the process of incorporating international human rights treaties into domestic legislation, an enacted law cannot be executed as a law of the State until it is published in the Official Gazette. Accessible online, the legislative and administrative provisions that appear in the Official Gazette, including ratified conventions, are organized chronologically and by subject.

167. The Constitution states that, from the date of their publication, international human rights provisions take precedence over ordinary laws. The primacy of these instruments in domestic law should mean that they are applied in practice and used to contribute to reflection on the provisions of the Constitution, including by judges referring to them when dealing with human rights cases.

168. Even before the Family Code Act was adopted, judges dealing with cases of divorce by mutual consent tended, in the name of the best interests of the child, to base their decisions concerning children's social and economic rights on the principles of the Convention on the Rights of the Child.

169. In addition to the guarantee of implementation given by the Constitution, Djibouti has also gradually incorporated into its legislation the provisions of certain international instruments, in particular the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the ILO Minimum Age Convention, 1973 (No. 138).

#### **Competent authorities on human rights**

170. The protection of human rights is assured by various bodies, under State authority or not, that work according to their own methods of operation in specific areas and with specific competencies defined by the Constitution and other current legislation.

171. A number of constitutional provisions lay down the State's obligation to respect, protect and provide for the full enjoyment of the human rights included in the Constitution (art. 10). This State responsibility is exercised through further actions which are carried out at different levels by State institutions (art. 8): the legislative branch exercises its

prerogatives to adopt laws; the executive branch enacts the laws and oversees their execution; and the judiciary is responsible for their interpretation.

### **National Assembly**

172. In the exercise of its legislative tasks and its monitoring of Government policies, Parliament has important prerogatives that can positively influence the practical implementation of human rights and fundamental freedoms. Its areas of competence are defined in the section of the Constitution on the legislative branch.

### **Office of the Ombudsman of the Republic**

173. This institution, in accordance with Act No. 51/AN/99/4ème L on its establishment and Decree No. 2000-129/PRE, which regulates it, plays an essential role in promoting and respecting equality of treatment and the proper application of the law by intervening in disputes between citizens and the authorities. It receives, examines and investigates complaints from members of the public who believe they have been wronged as a result of decisions made by the administration. Through its conciliation activities and the powers granted to it by the Act, the Office of the Ombudsman contributes to resolving numerous disputes, re-establishing the primacy of the law and allowing for the effective enjoyment of human rights and fundamental freedoms.

174. The Office of the Ombudsman ensures the promotion and protection of human rights by means of legal information distributed to the public and the administration via its documentation and archive services. It draws up proposals for regulatory and legislative reforms in the form of circulars to the relevant ministerial departments or institutions with the aim of ensuring the fairer application of constitutional rights.

175. The establishment of the Office of the Ombudsman and the prerogatives attributed to it are a major factor in the gradual strengthening of the institutional framework for the promotion and protection of human rights in Djibouti.

### **National Human Rights Commission**

176. The recent establishment of an institution to defend human rights is consistent with the authorities' determination to strengthen the national institutional mechanism for protecting human rights.

177. The Commission is responsible for alerting the authorities to situations in which human rights are being violated and proposing initiatives to end such violations in the form of warnings, recommendations and the publication of reports.

Proposals put forward by the Commission for the attention of public institutions may concern any initiative likely to promote the protection and promotion of human rights and, in particular, the ratification of international human rights instruments and the harmonization of national legislation and practice to bring them into line with these instruments. In the fight against racism and all forms of discrimination, it encourages the broad dissemination of information on human rights through awareness-raising and public information.

The Commission is a unique context for consultation between the authorities and representatives of civil society involved in the issue of human rights.

178. The establishment of the Commission responds to paragraph 16 of the concluding observations of the Committee on the Rights of the Child to the examination of the periodic report of Djibouti (September 2008). This recommends the establishment of an independent institution capable of monitoring the implementation of the Convention. The text providing for the establishment of the Commission clearly indicates that it is empowered, in

particular, to call the Government authorities to account on the implementation of the human rights recognized by domestic legislation and in the international instruments ratified by the country.

### **Judicial bodies**

179. Within the framework of the constitutional separation of powers (which makes the judiciary independent of the executive and legislative branches), the judicial institutions, the Supreme Court, other courts and tribunals and the Court of Audit and Budgetary Discipline are responsible for overseeing the implementation of the human rights and freedoms recognized by the Constitution.

180. The organization and functioning of the courts and tribunals remain in line with the fundamental principles established in particular by international instruments on justice, these being: the independence and impartiality of the judiciary; equality before the law without discrimination; presumption of innocence; the rule requiring that offences and punishments shall be strictly defined by law; the right to a second hearing and the right to a defence, to assistance and to legal aid.

181. These principles should nonetheless be reaffirmed and translated into domestic legislation as in the case of the Status of the Judiciary (Organization) Act No. 09/AN/01/4ème L, which strengthens the independence of judges. This law thus contributes to the implementation of more equal justice and increases essential guarantees, particularly for the equality of treatment of citizens before the law.

182. The independence of judges and their security of tenure as established by the Constitution ensure a considerable measure of autonomy for the various judicial bodies. However, this autonomy is exercised under the control of the public prosecutor's office, which is represented by the prosecution and is responsible for initiating proceedings intended to bring the perpetrator of an offence before the criminal courts and punish that individual.

183. **The Supreme Court**, in accordance with Ordinance No. 87-074/PRE on its reform (arts. 2 and 3), is, as a final court of appeal, empowered to review decisions made by domestic courts, in particular those regarding the human rights and fundamental freedoms recognized in domestic law (art. 2).

In cases where an appeal before the Supreme Court is judged to be admissible, it is generally subject to an examination on points of law, although it may also undergo a full examination on the facts of the dispute in cases where it is found that the legal principles have not been properly applied. The Court's jurisdiction is currently undergoing reform to endow it with all the powers of a true court of cassation.

184. The Supreme Court has an advisory capacity to issue findings on the constitutionality of pre-independence legislation. Lastly, its powers extend to disputes arising from administrative law, such as appeals regarding the abuse of power.

185. Other State initiatives aim to strengthen the national judiciary by introducing new courts to deal with the specific area of human rights.

186. The Personal Status Court was established by Law No. 8/AN/03/5ème L to replace sharia courts and in response to the need to take account of the evolution in Djiboutian society, particularly in terms of family structure, which is now governed by the Family Code. Long dealt with by the *cadi*, whose knowledge was religious and based on cultural traditions, family matters now come under professional members of the judiciary in the new courts. The Family Code is consistent with the modernization of Djiboutian law in that it provides the country with legislation that reflects its national identity and links its cultural



and religious characteristics with openness to new ideas, particularly in respect of the rights of women and children as recognized by international conventions.

187. The Court of Audit and Budgetary Discipline, previously the Chamber of Audit and Budgetary Discipline of the Supreme Court, has been raised to the status of a constitutional institution following an amendment to article 71 in January 2008. This Court, which monitors public finances, is made up of professional members of the judiciary who enjoy every guarantee of independence necessary for them to perform their duties in respect of public accounting officers and State commitments officers in local authorities and public establishments and enterprises (article 1 of Act No. 122 of 1 April 2001).

188. As a judicial body which assists the fight against corruption and supports good governance, the Court is called upon by the President of the Republic and the National Assembly in every case or matter judged to be of national importance that falls within the scope of its powers. The results of these investigations are reported to the complainants. In exercising its dual function of monitoring and jurisdiction, it enjoys managerial autonomy and independence, which guarantee the objectivity, neutrality and efficiency of its work.

189. The **Constitutional Council** is the principal guarantor of public freedoms and the fundamental rights of the individual. It exercises this role by monitoring the constitutionality of legislation, the legality of elections, the regulation of institutions and the activities of the authorities. Its decisions are not subject to appeal and apply to the public authorities, the administrative and judicial authorities and to all natural and legal persons.

190. Any complaint regarding the unconstitutionality of a legal provision concerning fundamental human rights as recognized by the Constitution may be submitted to the Constitutional Council as long as it is invoked by the litigant before a court and the Supreme Court has made a statement on the well-foundedness of the complaint. The Constitutional Council is invited to rule on the matter and, if the unconstitutionality of the provision is confirmed, it ceases to be applicable (art. 80).

#### *Human rights expert administrative bodies*

191. In implementing their policies to promote the enjoyment of socio-economic, cultural and political rights, the different ministerial departments adopt various measures and actions according to predefined strategies and use appropriate mechanisms to achieve the goals set.

192. The main task of the State Secretariat for National Solidarity, which was established within the Prime Minister's office in March 2008, is to implement the new poverty reduction policy on the basis of the National Social Development Initiative (INDS). The bodies under its authority, such as the Djibouti Social Development Agency, the Microfinance and Microenterprise Development Project and the Savings and Loans Fund System, enable it to fulfil its tasks.

193. By the powers conferred on it, the Secretariat has several responsibilities. Its political and strategic duties include:

- Providing technical support and advice to the Prime Minister on the coordination of Government action
- Organizing and establishing a framework for strategic reflections, and contributing to the development of poverty reduction policies
- Conducting macroeconomic and multisectoral studies
- Advising and maintaining regular dialogue with sectoral political actors
- Acting as an interface for technical and financial partners

- Communicating and mobilizing resources for INDS

Its supervisory, monitoring and evaluation duties involve:

- Implementation and monitoring of the INDS poverty reduction policy
- Implementation and monitoring of national solidarity through relevant programmes such as the Adapted National Service programme, the National Agency for Employment, Training and Vocational Guidance, the Djibouti Economic Development Fund, the Diwan Al Zakat foundation, the Adult Vocational Training Centre, community development centres and the Djibouti Property Company
- Monitoring of the poverty profile, the structures under its supervision and the major global challenges such as the Millennium Development Goals
- Evaluation of the impact of the policies, strategies, projects and programmes

194. The principal measures aim to reduce the social divide and improve realization of the socio-economic rights of vulnerable groups in both rural and peri-urban environments, by encouraging income growth and improving living conditions. In this respect, they provide assistance to groups with special needs, older persons, and nomadic populations.

195. The General State Inspectorate is an administrative and financial institution responsible for internal and retrospective monitoring, which was established in law in 2004 to ensure good governance and combat corruption. To achieve these objectives, the Inspectorate evaluates public policies and programmes in order to improve their efficacy and performance, especially regarding their relations with users. The work of this body, which comes under the direct authority of the Prime Minister, makes it possible to assess the efficiency of procedures and public spending, especially in tackling poverty. Consequently, it can contribute to the effective implementation of many socio-economic rights.

196. The Ministry of National and Higher Education is responsible for the implementation of the government policy on formal and informal education. Following the national education conference in 1999, the Ministry embarked on an ambitious reform, which is quantitative as much as structural and institutional. The new education policy, which has been implemented in compliance with the Education System Act and the 2000–2009 Ten-year Strategic Plan, has led to the sustained and unprecedented development of the right to education at all levels of study, mainly due to a greater mobilization of public resources.

197. The draft master plan 2010–2020, which is nearing completion, further highlights the quality of teaching and the values of equal rights and opportunities in schools by giving all school-age children, including children with disabilities, every chance to enjoy personal development and social inclusion. In this respect, access to primary school must be provided for all without any form of discrimination. The promotion of education and further training must contribute to the acquisition of quality scientific, cultural and vocational knowledge. Education and technical and vocational training will therefore be reformed to meet current and future employment needs. Secondary school curricula will henceforth be “contextualized” and implemented, while higher education will be strengthened and research will be supported.

198. The Ministry of Justice and Prisons, responsible for human rights, implements general legal policy and prison practice, and addresses human rights issues. The Ministry has therefore introduced a number of programmes with the aim of strengthening the capacity of the legal system to promote and protect economic, social and cultural rights.

199. The Ministry is working to codify legislation that takes account of constitutional and international provisions on human rights (Nationality Code, act on people living with

HIV/AIDS), the need to improve the functioning of the courts (act on personal status courts, act instituting judges responsible for the execution of sentences, legislation being developed to change the Supreme Court to a court of cassation, decree on the status of prison officials, etc.) and to revitalize the work of the members of the judiciary (Status of the Judiciary Act) with the aim of improving the efficiency of the legal system and access to justice.

200. In collaboration with UNICEF, the Ministry is also studying the situation of minors in conflict with the law and is currently reviewing the practical considerations of establishing a juvenile justice system.

201. The process, started by the Ministry of Justice, responsible for human rights, of setting up an institutional body to ensure the effective implementation of human rights has led to the establishment of the National Human Rights Commission and the Intersectoral Committee responsible for drafting and submitting reports to the treaty bodies in order to make up for the delay accumulated in this area. As well as efforts to increase human resources and provide them with proper training on the protection of human rights, other measures aim to improve working conditions in courts and prisons.

202. The Ministry for the Advancement of Women, Family Welfare and Social Affairs is responsible for the implementation of policies and programmes, the aims of which are to guarantee respect for women's rights and to promote the family in the development process. It is also responsible for social affairs.

203. In collaboration with different actors (public institutions, NGOs, development partners), it draws up and monitors the action taken in the framework of the strategy for the integration of women in development in the priority areas of decision-making, health, education and the economy, in order to promote gender equality.

After ratifying the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol), the Ministry launched an important programme to combat the violence that is female genital mutilation. This resulted in the national strategy for the abandonment of all forms of excision and community activities to promote human rights.

204. The Ministry has also proposed bills and regulations to combat gender-based discrimination and to protect vulnerable groups (the Family Code, the acts on the quota system for elected office and public administration, and the new act on female genital mutilation). Lastly, the Balbala Women's Training Centre (in Balbala, a suburb of Djioubti city) comes under the authority of the Ministry.

205. The Ministry of Employment and its National Agency for Employment, Training and Vocational Guidance are responsible for implementing observation and intervention mechanisms that enable them to regulate the needs of the labour market and improve access to employment for the country's workforce.

206. Thus, the main actions undertaken to reduce unemployment help to combat exclusion and poverty in vulnerable groups (young girls/boys with or without qualifications, and women) by bringing labour supply and demand closer together, by encouraging internships in companies and in training centres, and by collecting, compiling, monitoring and disseminating statistics on these three areas.

207. The Agency contributes to other welfare departments' initiatives to help women victims of violence enter the work force, by collaborating with the Ministry for the Advancement of Women, Family Welfare and Social Affairs in training peer tutors for the Executive Secretariat for HIV/AIDS control and preparing the national conference on technical and vocational training in cooperation with the Minister of National and Higher Education.

208. The establishment of the National Social Security Fund under the aegis of the Ministry of Employment is a result of the social security reform of 10 years ago, which aimed to ensure the sustainability of the various benefits available to workers and other persons entitled. The Fund, which is the result of the merger of the Social Security Institute and the National Retirement Fund, is responsible for allocating benefits to workers covered by the general scheme and the special schemes, with the exception of the Djibouti Armed Forces.

The Fund also supports the efforts of the State to improve the social welfare of those persons who are not employed in the formal sector or are particularly vulnerable (the creation of community health-care centres, greater availability of generic medicines, the issuance of a certificate of lack of means that gives the right to free treatment), and is working on the introduction of a community micro-insurance scheme to provide the most underprivileged with minimum social welfare coverage.

209. The Ministry of the Interior and Decentralization is responsible for ensuring public and civil security, organizing elections and implementing the Government's decentralization policy.

It has the duty to provide refugees with protection through the National Commission on Eligibility for Refugee Status, which meets under its aegis and is authorized to grant asylum. The National Office for Refugees and Disaster Victims supports the groups within its remit as well as internally displaced people. Individuals whose request is refused can still receive support by registering with its services. Djibouti has always been a place of peace, refuge and of paid employment for many nationals from neighbouring countries (Ethiopia, Somalia and Eritrea) affected by war or natural disaster. Beyond this tradition of hospitality, the country is strongly involved in diplomatic efforts to establish peace in the region, providing sustained support to the efforts to rebuild the State of Somalia.

210. The different branches of the National Police Force ensure internal security (along with the National Gendarmerie, which falls under the Ministry of Defence) and border control. They play an important role in the protection of human rights and the upholding of the rule of law, inasmuch as they receive complaints and carry out judicial investigations of cases submitted to them, under the responsibility of the public prosecutor's office. They are also authorized to deport illegal aliens. Border control officials have benefitted from training and awareness-raising measures to strengthen the rights of migrants, organized in collaboration with the Office of the United Nations High Commissioner for Refugees.

211. In terms of decentralization, the Ministry coordinates the State's activities in the regions through prefects, and is gradually transferring powers to regional councils, which are henceforth authorized to issue civil registration documents, such as birth certificates.

212. The National Youth Council of Djibouti was set up following the National Conference on Youth Development, which was held in February 2007. The Conference helped to focus Government policy on issues affecting young people. Reporting to the Ministry of Youth and Sports, the Council functions as a discussion forum for young people and a meeting space for partnership between them and public bodies and development assistance organizations; it also serves as a proactive force against the difficulties that young people face on a national scale.

213. The Independent National Electoral Commission was instituted by Organizational Law No. 11/AN/02/4ème L to oversee elections. To ensure that elections are fair, the Commission is responsible for the practical organization of the various polls, as well as the monitoring and control of all the voting procedures. It must, in particular, ensure that the principle of access to the media for all election candidates is respected.

214. Complaints and claims concerning electoral procedures can be addressed to the Independent National Election Commission, which rules on their merits. In the event of rejection, the political parties can take their requests to the Constitutional Council. In regional elections, the Dispute Tribunal can provide a further legal channel to contest irregularities.

215. The National Commission on Communication, which was established as a result of the law concerning freedom of communication, is an independent authority responsible for ensuring that plurality of information sources is respected.

216. The National Commission for Sustainable Development, established in 2004 and presided by the Prime Minister, brings together different Government bodies concerned with the environment in order to define the basis for a coherent global policy, devise an appropriate strategic framework and prepare periodic reports for the treaty bodies dealing with protection of the environment.

#### *Other bodies*

217. UNFD is present throughout the country. It therefore has the ability to mobilize large numbers of people and proven experience. As part of its vision to defend women's rights in all areas of life, it focuses its efforts on fighting illiteracy, poverty and all forms of violence against women. It also undertakes a variety of activities aimed at improving the living conditions of rural women, protecting the environment and promoting crafts and culture.

218. UNFD, which also provides support for various associations, has become an essential partner in all government-run awareness-raising and information campaigns promoting the right to better health and education for all.

219. With the support of the Ministry for the Advancement of Women, the organization also continually lobbies public authorities for enhanced legal protection for women from all forms of violence. As a result of these efforts, legislation prohibiting **female genital mutilation** was introduced in 1995; it was recently amended (Act No. 55/AN/09/6èmeL) to make it more effective. Lastly, the organization has set up a counselling centre so that women victims of violence can lodge complaints with either the gendarmerie or the national police.

220. The **Caisse Populaire d'Épargne et de Crédit** (savings and loan bank) was set up within UNFD in 2008 as part of its efforts to fight poverty and unemployment. It works to promote the social and economic life of vulnerable groups by providing microcredits for income-generating activities and collecting savings with the technical and financial support of the Djibouti Social Development Agency.

221. The **Diwan Al Zakat Foundation** is an independent body working to fight poverty and promote social development by collecting alms tax (zakat) and providing assistance in accordance with sharia. Since its establishment in 2004, the Foundation's funds have risen steadily and stood at approximately 96 million in 2007. It has helped more than 5,861 people, the main beneficiaries being orphans, older persons, persons with disabilities and widows (in 2007, funds were distributed as follows: orphans, 50.5 per cent; older persons, 21.05 per cent; persons with disabilities, 7.95 per cent; widows, 6 per cent; alms collectors, 12.5 per cent, operating costs, 2 per cent). Assistance is provided mainly through child sponsorship initiatives, training programmes (computing, driving) and income-generating projects (phone booths for persons with disabilities, retail sale of various products, etc.).

**Direct enforcement of human rights instruments by the courts, other tribunals or administrative authorities**

222. International human rights instruments may be invoked before national judicial and administrative authorities in accordance with the Constitution (art. 63). Article 37 states that international instruments ratified by Djibouti are incorporated into the domestic legal order as soon as they are promulgated and shall then take precedence over national law. This constitutional requirement is taken into account in all legislation governing the organization and functioning of judicial authorities; judges are therefore required to make maximum use of these international instruments in resolving disputes.

223. In daily practice, judges regularly invoke international instruments when resolving disputes. The Convention on the Rights of the Child is among the international instruments most often referred to by the courts. It was particularly invoked before the Family Code was introduced in 2002 and, during that decade, its use by judges ensured greater protection for children in Djibouti. Although national laws promote children's rights, courts and tribunals have sought to strengthen them, particularly in social and economic areas, by invoking the principle of the best interests of the child in family disputes. This has made it possible in judicial practice to interpret laws in a manner favourable to children in view of their inherent vulnerability.

**Remedies available to an individual who claims that his or her rights have been violated and systems of compensation and rehabilitation**

224. The various remedies available to individuals who claim that their rights have been violated are established by the Constitution and other domestic laws. National legislation also upholds the basic rights of the individual by providing for compensation for damages once the competent judicial authorities have established that those rights have been violated.

225. Citizens who believe that their guaranteed fundamental rights have been violated may refer the matter to one of the country's courts. The criminal courts are competent to hear cases relating to rights violations and property offences. The civil, commercial and social courts are competent to hear civil and commercial cases and individual labour disputes.

226. The Constitution provides (Title VIII and article 75) that the **Constitutional Council** shall rule on the constitutionality of laws and uphold fundamental human rights. Consequently, matters relating to those rights may be referred to it as a defence (art. 80). A constitutional challenge to any legal or regulatory provision or administrative decision may be made by any party whose fundamental rights guaranteed under the Constitution are threatened. The challenge may be made before any court; the court should immediately suspend the case and forward all relevant information to the Supreme Court, which will consider the admissibility of the challenge. If the application is approved, the Supreme Court refers the matter to the Constitutional Council which decides and gives a final ruling. Any provision declared unconstitutional is no longer applicable and therefore has no legal force.

227. While the above-mentioned provision defines the role of the Supreme Court, the constitutional principles set out in Title VII on the judiciary relate to the organization of the courts and specify the Supreme Court's position within the system. Ordinance No. 84 074/PR/J on the reform of the Supreme Court sets out its powers, which are those of the highest judicial authority responsible for considering human-rights-based appeals against decisions of the trial courts.

228. Constitutional principles relating to the protection of fundamental human rights are applied through ordinary statutes enacted for that purpose.

229. Appeals concerning administrative matters are now heard by the Administrative Tribunal, which has jurisdiction in administrative disputes. In accordance with article 2 of Act No. 56/AN/09/6ème L, the administrative division of the Supreme Court is responsible for hearing appeals on matters of fact and law. These bodies are also competent to hear disputes relating to regional and communal elections. The Office of the Ombudsman can also review disputes between citizens and the public administration.

230. Any individual who is dissatisfied with a decision handed down by a court of first instance may appeal to the court of appeal in all civil, commercial, criminal and social matters. Under Act No. 8/AN/03/5ème L on the organization of personal status courts, their powers and rules of procedure and in accordance with article 2 of the Act, a division of the court of appeal is responsible for hearing appeals against decisions of the personal status court.

231. Political rights set forth in article 6 of the Constitution, which are guaranteed to all citizens, are further elaborated in ordinary law through the organizational acts on political parties (No. 1/AN/92), elections (No. 11/AN/92) and communication (No. 2/AN/92/2ème L). In accordance with democratic and constitutional principles, these legal provisions lay down the essential guarantees for the practical exercise of these rights by all. In the event of a violation of these rights, a complaint for irregularity may be lodged with the Independent National Election Commission and a final appeal may be made to the Constitutional Council.

232. The rights to life and protection of the human person, enshrined in the Constitution, are upheld by the Criminal Code of 1995. The Code abolishes the death penalty, which in any case was not applied in practice, and provides safeguards against all forms of violence, arbitrary detention, torture and other cruel, inhuman or degrading treatment.

233. Any person who feels that his or her rights have been violated may in the first instance report the matter to the police and the gendarmerie, which are placed under the public prosecutor's office. Officers and judicial assistants receive complaints and subsequently carry out investigations under the supervision of the prosecution service.

#### **National machinery with responsibility for overseeing the implementation of human rights**

234. In addition to the judicial and administrative authorities and other bodies previously mentioned responsible for ensuring respect for human rights in their respective areas, mention should also be made of the National Human Rights Commission. It was set up in April 2008 as an independent body specially created to follow up on and monitor the implementation of human rights nationwide. Other institutions are also involved in this major drive to implement human rights and fundamental freedoms and to establish them as part of the everyday life of Djibouti's citizens in general and of the most vulnerable in particular.

235. The Commission undertakes this specific role by drawing on the resources made available to it under the presidential decree laying down the conditions for the performance of its tasks. It can draw the authorities' attention to human rights violations and suggest corrective measures. The decree specifies that the Commission can, at any time, recommend that the authorities take measures to promote effective implementation of constitutional rights and fundamental freedoms.

236. In this regard, the Commission is fully competent to consider any situation and to receive individual or group complaints, receive testimony, have access to all relevant information and documents except in cases pending before the courts. Lastly, the chairperson of the Commission can ask relevant ministries to prepare a report on an issue within its sphere of competence.

237. As discussed below, the particular focus of the Commission's task of monitoring human rights must be on the implementation of the socio-economic and cultural rights of vulnerable groups (children, women, older persons, individuals with special needs, minorities, indigenous peoples, refugees and displaced persons, etc.). The law text providing for the establishment of the Commission states that: "subcommittees may be established within the Commission to study specific issues and prepare special reports" (art. 17 (1)), thereby enabling it to monitor the specific situation of children and women. This initiative is therefore an indicator of the Djibouti authorities' will to take account of treaty body recommendations to strengthen the institutional framework for promoting human rights.

238. The National Assembly monitors the implementation of human rights by questioning the Government on the implementation of sectoral policies.

239. Associations and NGOs also monitor follow-up and implementation of human rights at the national level thanks to constructive partnerships established with Government ministries. They make recommendations on Government sectoral policies, disseminate information to the public through the press or their websites and organize events.

240. Following independence, UNFD campaigned actively and courageously in favour of women's rights, but it was only in 1999 with the creation of the Ministry for the Advancement of Women that a genuine **policy for women** was established. Today, this policy is a national priority.

241. Government efforts to achieve equal rights for men and women have resulted in:

- Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (the combined initial, second and third periodic reports on its implementation were prepared in 2009)
- Ratification of the Maputo Protocol on the rights of women in Africa
- Ratification of various ILO conventions including the Convention concerning Discrimination in Respect of Employment and Occupation (No. 111) and the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (No. 100) with a view to boosting the role of women
- Launch of the National Strategy for the Integration of Women in Development in 2002 with the aim of reducing social inequalities between men and women and ensuring women's active participation in the economy through education, literacy and training, while combating gender-based violence
- Adoption of legislative measures to empower women, change the relationship between men and women in the private sphere (Family Code, personal status court), fight against female genital mutilation and promote affirmative action (laws on quotas for political representation and in public administration)
- Implementation of practices aimed at eradicating the simplistic image of women based on a division of roles between sexes that is presented as natural in the media and publications, for example school textbooks published by the National Education Centre for Research and Pedagogical Information

## **C. Legal framework for the promotion of human rights**

### **National and regional parliaments and assemblies**

242. The National Assembly takes a leading role in promoting and protecting the human rights principles enshrined in the major international instruments. It does so through its



various constitutional prerogatives (legislative function) and its oversight of Government action. Parliament is regularly kept informed of developments in the human rights situation through various special reports and studies produced by Government ministries. Where a violation has been found, it can intervene and request the body concerned to rectify the situation.

243. Members of Parliament also take part in the numerous initiatives organized by the authorities, civil society organizations and/or development partners to promote human rights. They contribute to the national debate on the issue and also inform the general public about their own work in the field.

244. Members recently approved an action plan to promote and protect human rights. This addresses the requirement for parliamentary bodies to adapt their work to the need to promote human rights and strengthen cooperation between national institutions and Parliament in this area. Accordingly, Parliament is at present considering ways and means of improving the current status of the National Human Rights Commission. In addition to establishing a human rights subcommittee, Parliament is debating the possibility of the Commission participating in the legislative work of the various committees.

### **National human rights institutions**

245. As indicated above in the section on human rights bodies, the National Human Rights Commission is an independent institution created in 2008 to promote human rights. It informs and educates the public, ensures the protection and effective implementation of human rights and also draws the authorities' attention to rights violations. In the performance of its functions, the Commission can freely address any issue, including the protection of the rights of children, women and persons with disabilities. To this end, the Commission is authorized to receive individual complaints, interview any person and obtain all information and documentation necessary to ascertain the facts (art. 16). The Commission receives the human and financial resources necessary to accomplish its objectives and has managerial independence (art. 20).

246. The Commission consists of members from a wide range of social and professional backgrounds and with a strong involvement in human rights issues (Decree No. 2008-0103/PR/MJAP, art. 9). They are appointed by presidential decree for a renewable term of three years (art. 10). Representatives of ministerial departments have no voting rights within the Commission. The governing board consists of a chairperson and a vice-chairperson selected from among representatives of associations and NGOs working in the human rights field and appointed by a decision of the Council of Ministers. As part of the selection process, consultations are held with those bodies and prominent moral, religious and community leaders well known for their attachment to human values, and human rights experts (art. 13). The board is assisted by a secretary-general (art. 12).

247. Although it has only recently been established, the Commission has launched various initiatives to promote and protect human rights. It has promoted human rights awareness among professionals during events to mark International Detention Week and World Refugee Day in partnership with United Nations agencies and several national NGOs. The Commission played an active role in the ad hoc committee set up by the Ministry of Justice for the sixtieth anniversary celebrations of the Universal Declaration of Human Rights. It took part in organizing and conducting awareness-raising activities in schools and universities and at the offices of associations and NGOs as well as holding debates and discussions that attracted wide media coverage.

248. The Commission has also carried out summary assessments of the situation of certain vulnerable groups during visits to the Djibouti prison and the Ali Adde refugee camp. It has also organized in cooperation with the Ministry of Justice and the Office of the

United Nations High Commissioner for Human Rights a training workshop on the drafting and submission of periodic reports to the treaty bodies and the Human Rights Council. It is therefore very involved in the drafting and submission of periodic reports and contributes to the work of the Inter-ministerial Committee set up in September 2008 for this purpose. Lastly, the Commission carried out activities to raise awareness of Human Rights Day (10 December), which was held under the patronage of the Prime Minister on the theme of diversity and the fight against all forms of discrimination.

249. The establishment of the Commission represents an important step forward in the process of building an institutional framework in Djibouti for promoting and protecting human rights. In order to increase the success of initiatives to promote the effective enjoyment of human rights, the public authorities have emphasized the need to take steps to strengthen the Commission and to obtain accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

#### **Dissemination of human rights instruments**

250. The Convention on the Rights of the Child is unquestionably the most widely disseminated international human rights instrument in Djibouti. It has been translated into the national languages (Somali and Afar) and, as part of activities to disseminate the periodic report and the text of the Convention undertaken by the Ministry of Justice responsible for human rights and UNICEF, 6,300 documents have been distributed to local elected officials and NGOs. Thanks to this partnership, it has also been possible to conduct awareness-raising campaigns among secondary school pupils and to publish and distribute 3,000 brochures about the Convention.

251. The Ministry of Justice has prepared and printed 1,000 copies of a resource kit outlining the main relevant provisions of national and international human rights law. The kit was distributed to prison service trainees at the end of their human rights training.

252. In cooperation with the National Human Rights Commission and with the assistance of the regional office of the United Nations High Commissioner for Human Rights and funding from United Nations agencies, the Ministry of Justice, responsible for human rights, has distributed documents on international human rights instruments to representatives from Government ministries and civil society, as well as to judges, lawyers and law enforcement officials.

253. This review of the dissemination of human rights instruments does not include initiatives undertaken by all ministerial departments, which publish and distribute documents on certain aspects of these instruments when promoting their sectoral policies. Nevertheless, further efforts need to be made to publish, translate and disseminate fundamental national, regional and international instruments.

#### **Human rights training and education**

254. Ministerial departments responsible for promoting and protecting human rights have conducted a number of activities in cooperation with development partners to enhance the human rights skills of staff in the civil service and civil society organizations.

255. The Ministry for the Advancement of Women has undertaken numerous initiatives to raise awareness among police staff of the 2002 Family Code. This major piece of legislation reorganizes family law for the benefit of vulnerable groups and incorporates the provisions of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. The intention is to enhance awareness of children's and women's rights issues and to encourage professional conduct and practices aimed at eliminating discrimination. The various measures taken in this regard cover the whole country and include the distribution of 6,000 copies of the Code.

The Ministry of Justice, with the support of UNICEF, provides training for judges from the specially created personal status court in order to familiarize them with national and international human rights standards. Officials from the various judicial bodies which took part in preparing and implementing the training modules are responsible for ensuring that the principles covered are applied in practice.

256. Human rights education was already part of primary school and civic education programmes, covering in particular the principles and concepts contained in the Convention on the Rights of the Child. Djibouti, which is party to the Geneva Conventions, has now taken a further step in promoting human rights by undertaking to insert humanitarian law education into the official history and geography curricula in lower secondary schools. The Ministry of Education and the International Committee of the Red Cross have introduced several teacher training programmes and made available to teachers study packs entitled “Exploring Humanitarian Law”. The introduction of humanitarian education into history and geography textbooks provides another opportunity to raise awareness among adolescents of issues relating to the application of international humanitarian law and humanitarian action undertaken in the name of human dignity. Specially adapted school textbooks have been developed for eighth and ninth grade pupils and teachers by the National Education Centre for Research and Pedagogical Information. Despite the progress made by the Ministry in meeting its obligations to disseminate and teach the concepts promoted in the various international human rights instruments, support should also be given to measures to promote in a planned and effective way human rights education and training at all levels of education and among all staff in the education system.

257. The Ministry of Justice, responsible for human rights, has launched a training programme for prison officials in order to develop their skills and teach them to carry out their functions and duties in compliance with human rights norms. The training scheme was designed as a collaborative project involving experienced practitioners from relevant fields and appropriate technical resources. As a result, prison officials now have a range of materials at their disposal including various national, regional and international human rights instruments relating to the administration of justice, rules on the duties of prison officials, practical recommendations, topics for discussion and case studies.

258. Members of Parliament have received human rights training in order to equip them better to perform their leading role in promoting and protecting human rights. Sessions focused on providing general knowledge about the main international and regional instruments and national laws, the role of human rights institutions, Government sectoral policies (children, women, older persons) and their impact on human rights protection and promotion at the national level. Brainstorming workshops on the institutional changes required to take proper account of human rights in Government policies produced a number of recommendations and suggestions.

#### **Promotion of human rights awareness through the mass media**

259. The media play a key role in promoting human rights in Djibouti, and the various players in this area involve them in all their initiatives. Journalists, whose status has been improved, have received training sessions on international human rights instruments. Although the media are mostly in the public sphere, they regularly make their news available online. Radio and television make a substantial contribution to raising awareness of human rights through news broadcasts, debates and discussions and special programmes in the national languages.

#### **Role of civil society, including non-governmental organizations**

260. There are numerous civil society organizations working to promote and protect human rights. Despite the relative youth of these organizations, they undertake a wide range

of activities aimed at prevention and awareness-raising, reporting violations, making recommendations and supporting vulnerable groups. They play a key role as partners in implementing public policies, particularly with regard to social mobilization and community projects.

261. It has proved difficult to obtain sufficiently disaggregated and reliable data to estimate the proportion of the budget allocated specifically for the implementation of human rights obligations. The same applies to development cooperation and assistance.

#### **Difficulties affecting the implementation of international human rights obligations**

262. The main factors impeding greater implementation of international human rights obligations are:

- The weight of tradition that undermines efforts to promote women's and children's rights
- Inadequacy of the media, which makes it difficult to disseminate human rights information very widely
- High illiteracy rates among adults, particularly in rural areas
- Lack of human rights training
- Structural deficiencies in civil society
- Insufficient incorporation of international conventions into domestic law
- An inadequate system for the protection of human rights
- A glaring lack of resources in the administrations responsible for the protection and promotion of human rights

### **D. Reporting process**

#### **The existence of a national coordinating structure for reporting under the treaties**

263. In accordance with the action plan to implement the recommendations of the workshop on the prospects for strengthening human rights (May 2004), an inter-ministerial committee for the drafting and submission of periodic reports to the treaty bodies and the Human Rights Council was established to address the country's reporting delays. This core document has been prepared with the support of the Committee, whose members are senior officials from the main public sector bodies involved in human rights, members of Parliament and civil society representatives. The Committee's input has enriched the report with information on recent measures taken by administrative departments and ensured greater compliance with the reporting guidelines. A subcommittee was established within this body to carry out research, collect data and make them available for the preparation of this report.

264. The present report will be approved following a workshop with all parties involved in human rights issues. The finalized report will then be sent for information to various public institutions such as Parliament, the Office of the Ombudsman and the National Human Rights Commission. Its content will be widely disseminated among the public, local elected officials and NGOs throughout the country using all necessary media.

265. When the report has been considered, a workshop will be organized to present the comments and concluding observations of the treaty bodies and to make stakeholders aware of their inclusion in the planning and implementation of relevant policies. The report will

be made widely available to the public through the mass media including in the national languages.

## **E. Other related human rights information**

266. Djibouti's participation in international conferences enables it to take note of and then approve new standards for the protection and promotion of human rights. In order to meet its commitments vis-à-vis bodies responsible for monitoring these international instruments, Djibouti has made declarations on the application of programmes and the achievement of the goals set in them. It has prepared communications on environmental conventions (climate change, biodiversity and desertification) and the Beijing Platform for Action, which is designed to empower women.

267. The provisions of the various treaties have been widely debated and discussed throughout the process of acceding to them and preparing treaty body reports. These discussions have contributed to the preparation of planning documents, which are essential for implementing sectoral policies (education, health, water and sanitation, housing, etc.), and the introduction of laws to consolidate the protection of rights in the areas concerned.

268. More specifically, the main national policy documents, such as the Poverty Reduction Strategy Paper and the National Social Development Initiative, take account of these international frameworks whose objectives, like the Millennium Development Goals, are in line with those of the Millennium Summit.

## **IV. Information on non-discrimination and equality and effective remedies**

269. In order to guarantee equality and combat discrimination in all its forms, Djibouti has introduced a series of legislative, administrative and legal measures and implemented numerous initiatives which have contributed to the major progress made over the last decade. Because of its fundamental character, the principle of equality is enshrined in the Constitution and further elaborated in several domestic laws. The application of international human rights treaties ratified by Djibouti through the incorporation of relevant provisions into national legislation and the prominence given to them in the Constitution strengthens the national legal framework guaranteeing non-discrimination and equality.

270. In the legal system, equality is enshrined in the 1992 Constitution, which states in article 1 that Djibouti shall ensure the equality of all before the law without distinction as to language, origin, race, sex or religion. The Constitution also upholds this principle in article 10 (Title II, rights and duties of the person), which provides that all human beings are equal before the law. The Constitution thus enshrines equality as a fundamental human right and therefore all individuals are entitled to the same rights and treatment without distinction. Consequently, it prohibits all discrimination based on an individual's civil status, wealth or social and cultural status.

271. The institutional, legislative, executive and judicial authorities are responsible for implementing the principles of equality guaranteed under the Constitution and its preamble. In addition to the creation of the Constitutional Council, the machinery responsible for ensuring respect for the right to equality and non-discrimination has been strengthened by the establishment of the National Human Rights Commission and the Office of the Ombudsman, which intervene in the event of rights violations, and the Court of Audit and Budgetary Discipline, which is responsible for fighting corruption.

272. Article 390 of the Criminal Code details the various situations covered by the principle of equality. It specifies that discrimination shall be taken to mean any distinction between natural persons by reason of their origin, sex, family situation, state of health, disability, customs, political views, trade union activities, or affiliation to a specific ethnic group, nation, race or religion. Such discriminatory acts are punished by terms of imprisonment. In order to give effect to the right to equality, several measures taken following the National Consultations on Justice are designed to reform the judiciary, adapting it to changes in society. Measures include an increase in judges' salaries, the consolidation of their status, improved budgetary allocations for the functioning of the justice system, better working conditions for staff and an effort to codify legislation. As part of initiatives to improve the performance of the system, large numbers of staff have been recruited (judges, registrars, prison officials, etc.) and the necessary theoretical and practical training courses have been provided.

273. As indicated above, the Djibouti authorities are particularly aware of the need to promote the right to equality of vulnerable groups (children, individuals with special needs, older persons and women) and seek to provide adequate protection of their human rights through numerous legal, economic and social initiatives. The situation of women, who make up nearly half of the country's population, was for a long time marked by several disabling factors (illiteracy, poverty) excluding them from the national development process.

274. In order to address this situation and meet international commitments, the general legal framework promoting women's basic rights has been strengthened by further laws and regulations contributing to their development specifically in the areas of education, health, justice, employment and the economy.

275. In order to ensure that women's de jure equality is fully reflected in reality, efforts are being made to speed up the advancement of women's rights.

276. In this context, the Ministry for the Advancement of Women, established in 1999, is implementing the national strategy for the integration of women in development. The establishment of the Ministry marked the beginning of women's participation in the executive branch, while the acts on quotas for elected office and in public administration seek to facilitate women's involvement in decision-making. These measures have improved the representation of women in the National Assembly and regional and municipal bodies.

277. In the private sphere, the Family Code and the establishment of the personal status court have significantly improved regulations on marriage and alimony. Women judges account for 20 per cent of judges in the new court.

278. In order to provide women with the same protection as men before the courts, the Criminal Code's provisions against female genital mutilation have been amended to make them easier to enforce. This initiative is accompanied by campaigns to raise public awareness of the law and discrimination against women.

279. The establishment of a counselling centre (March 2008) at the office of UNFD was aimed at ensuring the effective exercise of equal rights in everyday life and is part of the fight against violence towards women. The centre, through a free hotline, provides a reporting, information and guidance service for victims of conjugal violence. It also provides psychological support to enable them to exercise their rights, including by lodging complaints with the gendarmerie or the police. It is directed by a steering committee consisting of the Ministry for the Advancement of Women and UNFD and works in close collaboration with neighbourhood committees and gendarmeries and police stations. Psychological, administrative and legal support enables women and girls to cope better with family and social pressures and traditional considerations. Since its establishment, the

centre has dealt with numerous matrimonial cases related mainly to divorce and social problems.

280. Other measures are designed to address socio-economic and geographical disparities experienced by women. The main policy papers guiding the work of all stakeholders in the fight against poverty and social exclusion, such as the National Social Development Initiative, incorporate a gender perspective. In keeping with this approach, measures in favour of women's empowerment promote their access to employment, training and education, credit and microfinance. Government ministries and NGOs, with the support of development partners, implement aid and assistance programmes to facilitate access for rural populations to basic social services and income-generating activities.

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