

The logo for ARTICLE 19, featuring the words "ARTICLE 19" in white, bold, sans-serif capital letters. The text is centered within a red, stylized shape that resembles a folded piece of paper or a banner, with a white diagonal line cutting through it.

**ARTICLE 19's submission to the UN Universal Periodic Review of
the REPUBLIC OF DJIBOUTI**

*For the consideration at the 16th session of the UPR Working Group 22nd
April - 3rd May 2013*

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Executive summary

1. In this submission, ARTICLE 19 outlines its concerns that, over the last four years, there has been an escalation in violations of the right to freedom of expression and information, and the right to freedom of peaceful assembly in Djibouti. In particular:
 - Journalists and opposition activists continue to be harassed and intimidated, and in the worst cases have been arbitrarily detained and tortured.
 - Peaceful assemblies have been brutally suppressed, with the right to freedom of peaceful assembly suspended entirely during election campaigns.
 - The Criminal Code and Communications Law retain criminal prohibitions on false news and defamation that continue to threaten the right to freedom of expression and information.
 - The Organization Act No. 2-AN-92 continues to place substantial restrictions on the operations of the media despite recommendations for reform at Djibouti's first UPR.
 - Djibouti does not have legislation to implement the right of access to information, and therefore this right cannot be practically exercised.
 - Internet access in the country remains available to only 7% of the population, severely limiting the right to freedom of expression and information.

- Djibouti has continued to fail in its obligations to report on the implementation of international human rights treaties to which it is party.
- Djibouti has failed to issue invitations to any UNHRC appointed Special Mandate, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Arbitrary arrests and torture of journalists

2. During its last UPR, Djibouti rejected the recommendation to cease the intimidation of journalists and promote a climate of tolerance so that opinions from opposition politicians can be freely expressed. ARTICLE 19 has observed that a climate of intolerance towards freedom of expression persists, and that practices of intimidation against journalists continue. This includes instances of arbitrary detention and torture.
3. In August 2012, Houssein Ahmed Farah, a contributor to the Europe-based news website *La Voix de Djibouti* ("The Voice of Djibouti") was arrested and jailed for a week without being charged or given access to a lawyer or family. Houssein was accused of selling membership cards of the banned opposition party, the Movement for the Renewal of Democracy and Development (MRD), which was banned by President Ismail Omar Guelleh in 2008. He accused the MRD of supporting neighbouring Eritrea in a plot to invade Djibouti.
4. In November 2011, two journalists working with "*La Voix de Djibouti*," Farah Abadid Hildid and Houssein Robleh Dabar, were arrested and tortured for four days before they were conditionally released, subject to judicial control. The two were charged with encouraging an illegal demonstration and insulting the president. The same journalists had also been arrested in February.
5. In February 2011, six journalists working for "*La Voix de Djibouti*" were among the demonstrators arrested during antigovernment protests. These included; Farah Abadid Hildid, Houssein Robleh Dabar, Houssein Ahmed Farah, Abdillahi Aden Ali, Joustapha Abdourahman Houssein, and Mohamed Ibrahim

Waiss. The six were charged with insurrection and held for four months before being released in June, pending trial.

6. These instances constitute clear violations of Djibouti's obligations under international human rights law; most notably of the right to freedom of expression and information, as well as the prohibitions on arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment. These violations must be promptly and thoroughly investigated and adequate redress provided to victims.

Lack of media diversity and pluralism

7. The Organization Act No. 2-AN-92 regulates the media in Djibouti. Following its last UPR, Djibouti rejected recommendations to reform this Act to bring it into compliance with the protection for the right to freedom of expression under Article 19 of the International Covenant on Civil and Political Rights (the ICCPR).
8. Article 13 of the Organization Act No. 2-AN-92 on Freedom of the Press and Communication provides for "the right of everyone to create and use freely the media of their choice to express their thoughts by imparting them to others and to gain access to the expression of the thoughts of others."
9. ARTICLE 19 observes that people in Djibouti are not free to establish their own media or use it freely to seek, impart or receive information. The state continues to dominate the media in Djibouti. Through the Radio Television of Djibouti (RTD), the Ministry of Culture and Communications runs 2 national FM stations and 2 national AM stations. It also runs the sole national TV national station. The ministry oversees media licensing including accreditation of foreign journalists and the RTD holds near monopoly of the airwaves.
10. The sole news service, *Agence Djibouti d'information*, and the two main newspapers, French-language *La Nation* and Arabic-language *Al Qarn*, are government owned. *La Nation* was inherited from the French colonial Government at independence in 1977 and continues to be tightly controlled by the state. All the state-owned media outlets, editors and managers enjoy little if any editorial independence. The only other national print newspaper is *Le Republique*, which is owned by and affiliated to the opposition.

Restrictive media laws

11. A number of laws restrict media freedom, contradicting the guarantee for freedom of opinion and expression in Article 15 of the 1992 Constitution and the regional and international instruments to which Djibouti is party.
12. The prohibitions on publication of false news (Criminal Code, Article 425) and prohibitions on Criminal Defamation (Law on Communication, Article 425) may both be abused to suppress dissent and imprison those who express views contrary to those held by the government. Both provisions violate international standards on the right to freedom of expression. In particular, the African Commission stated in Resolution 169 of 2010 that criminal defamation laws "constitute a serious interference with freedom of expression and impedes on the role of the media as a watchdog, preventing journalists and media practitioners to practice their profession without fear and in good faith".
13. The Organization Act No. 2-AN-92 imposes a number of illegitimate qualifying criteria on those seeking appointment to senior positions in media organisations. These provisions give significant discretion to the government to control media ownership and management, in violation of their duty to promote an independent and pluralistic media. These provisions include:
 - Article 14 requires participants in the financial management of any press body to be citizens of Djibouti;
 - Article 17 requires the director and vice-director of any media outlet to be a resident of Djibouti; and
 - Article 47 requires any director of an audiovisual outlet to be at least 40 years old.
14. Entry requirements for the journalist's profession, even for senior positions, are inconsistent with international law; they fail to recognise that the right to express oneself through the mass media belongs to everyone, not only persons who the government considers particularly qualified or suitable. They also deprive the general public of the right to receive information and ideas from diverse sources of their own choice.

15. ARTICLE 19 notes that following its last UPR, Djibouti rejected a recommendation that it repeal Articles 14, 17 and 47 of the Organization Act No. 2-AN-92.

The right to freedom of peaceful assembly

16. The government has continued to intimidate and harass political opponents and their supporters. The most notable examples include blanket bans on assemblies, as well as the brutal suppression of opposition rallies, both of which violate the right to freedom of expression and the right to freedom of peaceful assembly:

- February 18 2011: Security forces used tear gas and rubber bullets to disperse young protestors who remained following a peaceful demonstration. One civilian and one police officer were killed, and numerous demonstrators were injured. The subsequent security crackdown resulted in numerous arrests, detentions, and criminal proceedings against demonstrators.
- March 25 to April 8 2011: During the campaign period for elections, the government imposed a blanket ban on opposition rallies.

As well as violating international human rights standards, these incidents also violate Article 15 of the Djiboutian constitution, which guarantees the right to freedom of expression.

Internet access

17. Internet penetration levels in Djibouti remain incredibly low; the telecommunications infrastructure is severely underdeveloped and access is prohibitively expensive. The International Telecommunications Union has reported that only 7% of people in Djibouti use the Internet.

18. Djibouti is served by a single Internet Service Provider, which is overseen by the Ministry of Culture and Communications. There are concerns that this control may be exploited by the government to monitor the content of Internet communications and restrict access to content it finds unfavourable.

Right of access to information

19. ARTICLE 19 observes that Djibouti has not adopted a law to implement the right of access to information. The right of access to information is widely regarded as central to the right to freedom of expression and essential for the exercise of all human rights. Ten countries in Africa have national freedom of Information laws, namely Angola, Ethiopia, Guinea-Conakry, Liberia, Nigeria, Niger, South Africa, Tunisia, Uganda and Zimbabwe. Djibouti should consider the adoption of an access to information law.

Failure to report compliance to treaty monitoring bodies

20. The government of Djibouti has failed to submit periodic reports on its compliance with international human rights treaties to which it is party. These include:

- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: the initial report was due in 2003 and remains outstanding;
- The Convention on the Elimination of all forms of Discrimination Against Women "the CEDAW": the initial report was due in 2000, and remains outstanding;
- The International Covenant on Civil and Political Rights ("the ICCPR"): the initial was report due 2004 and is outstanding.

Failure to issue any standing invitation to the UN special rapporteurs

21. Despite mounting pressures, Djibouti has failed to issue any standing invitation to any UN Special Mandate holder to visit the country, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

Recommendations:

22. In response to these concerns ARTICLE 19 calls upon Member States to put forward clear and strong recommendations to the Djiboutian government, namely:

- The arbitrary detention and torture of opposition activists and journalists must be thoroughly investigated, perpetrators must be prosecuted and victims must be afforded adequate redress.
- Prohibitions on the publication of false news should be repealed.
- Defamation should be decriminalised.
- Articles 14, 17 and 47 of the Organization Act No. 2-AN-92 should be repealed to promote media independence and plurality.
- Legislation should be adopted to ensure that the right of access to information can be exercised in Djibouti.
- The right to freedom of peaceful assembly must be fully respected; violations of this right should be investigated and victims should be afforded redress. No further blanket prohibitions on assemblies should be imposed.
- Djibouti should comply with its treaty obligations to report on the implementation of international human rights treaties, including the ICCPR, the CAT, and the CEDAW.
- Invitations should be issued to all relevant UN thematic special mandate holders to visit Djibouti, in particular the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.