

Human Rights in Djibouti

by Sir Tony Baldry MP

Commissioned by



I, Sir Tony Baldry MP, have been instructed by “Friends of Djibouti” (FoD) to write an independent report on human rights violations in Djibouti. As a result of my research, I believe there is sufficient evidence to refer Djibouti’s President, Ismail Omar Guelleh, to the International Criminal Court for undertaking, permitting, allowing or sanctioning crimes against international law.

Sir Tony Baldry MP

Sir Tony Baldry MP



Sir Tony Baldry is Conservative Member of Parliament for North Oxfordshire. He is Governor of the Commonwealth Institute and on the Council of the Overseas Development Institute and Chatham House, and served as Chairman of the House of Commons Select Committee on International Development in the last Parliament. He was Chairman of the Conservative Human Rights Commission from 2009-10.

Among his ministerial posts, Sir Tony was Parliamentary Under Secretary of State in the Foreign and Commonwealth Office from 1994-95, with a range of responsibilities including South Asia, Africa, North America and the West Indies.

Friends of Djibouti

Friends of Djibouti Association is a non-profit organization founded in 2012 by concerned Djiboutians and non Djiboutians.

Friends of Djibouti Association seeks to encourage a peaceful change of the current political course in Djibouti, which has failed to address and in some cases aggravated many of the existing problems in the country, such as extreme poverty, infant mortality, unemployment, poor investment climate and corruption. We believe that international communities need to know what the real situation in the country is and we hope to encourage them to put pressure on the Djiboutian government to eliminate corruption and use the money it receives from its international partners to improve the lives of ordinary Djiboutian people.

Key findings

- Djibouti is a strategically important country: its port serves all seaward trade from landlocked neighbouring countries; it hosts military bases for the US and France, among others.
- Despite significant revenue from these assets and from international development aid, little money makes its way to support the lives of the people of Djibouti, many of whom live in poverty.
- Djibouti has no independent media. Journalists and human rights activists face systematic persecution for offering a dissenting voice to Government propaganda.
- Critics of President Guelleh and opposition leaders are subject to arbitrary imprisonment and torture.
- Women's rights are persistently breached.
- Government officials have been linked to improper practices.
- Djibouti has ratified the Rome Statute of the International Criminal Court. Investigation is warranted to assess whether human rights abuses breach this statute as Crimes Against Humanity.

About Djibouti

Djibouti is a "de jure" sovereign state in the Horn of Africa. It has a population of less than 1 million people (approximately 900,000). It is a republic.

In 2010 President Guelleh, who had already served two terms as President, altered the constitution to allow him to remain President for life.

There appear to be no effective checks or balances to the exercise of Presidential power. The National Parliament has not one single opposition MP.

In circumstances where an individual has assumed for life unchecked power over a country, the appropriate description for the exercise of such unfettered power is a dictatorship.

Sources of income

Djibouti provides the only significant functioning international port for the Horn of Africa, thus all seaward trade to and from landlocked countries such as Ethiopia have to go through the Port of Djibouti.

It is estimated that Port revenues through the Port of Djibouti are worth a quarter of Djibouti's GDP in 2011 according to Africa Economic Outlook.¹

Djibouti's GDP in 2011 was estimated at \$1 billion.²

In an interview with the International Consortium of Investigative Journalists in 2011, President Guelleh said that after dividing the revenue with the company that operates the Port, his Government receives just \$40 million from the Port revenues.³

However, none of these Port proceeds appear on the Government's budget and even this amount of proceeds from the Port exceeds the entire "non fiscal income" shown in Djibouti's official Budget.

Djibouti hosts a significant US military presence and a sizeable French military contingent.

Djibouti is the forward operating base of the US Africa Command and some 2,000 troops are based at Djibouti's Camp Lemonnier.

The US pays around \$30 million annually for Camp Lemonnier which is the only official US military base located in Africa.⁴

The French Government pays about \$38 million a year to rent a military camp and training grounds.⁵

The Japanese base generates \$30 million in annual revenue.⁶ Germany pays \$10 million for its base.⁷

In addition to the not insignificant direct payments made by the Governments of the United States and France direct to the Government of Djibouti in return for being able to use military base facilities, spending by American and French service personnel based in Djibouti add to the foreign spend in the local economy.

Despite the existence of a sizeable international port and considerable spending by the US and French Governments in respect of military bases in the country, the personal circumstances of the overwhelming majority of people living in Djibouti are grim. This begs the question as to what happens to the income generated from Port fees and receipts and monies paid to the Government of Djibouti by the United States and French Governments.

It would appear that the revenue from foreign military bases and revenues from the Port of Djibouti are not included in the State Budget, which begs the question as to what purpose and for whose benefit are these funds used?

It also begs the question as to what happens to Development Aid paid to Djibouti. Total official Development Aid to Djibouti according to OECD statistics was \$133 million in 2011.⁸

¹ *African Economic Outlook Report on Djibouti 2011*

<http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/PDF/Djibouti%20Full%20PDF%20Country%20Note.pdf>

²² *World Bank Data Djibouti* <http://data.worldbank.org/country/djibouti>

³³ 'Profiteering on location, Djibouti's repressive regime, not its people, has prospered since 9/11', The Centre for Public Integrity Report on Djibouti <http://www.publicintegrity.org/2007/05/22/5741/profiteering-location>

⁴⁴ *Situation Report about Djibouti*, Institute for Security Studies, April 2011

<http://www.iss.co.za/uploads/15Apr11Djibouti.pdf>

⁵ 'Profiteering on location, Djibouti's repressive regime, not its people, has prospered since 9/11', The Centre for Public Integrity Report on Djibouti <http://www.publicintegrity.org/2007/05/22/5741/profiteering-location>

⁶ *Bloomberg News 2011* <http://www.bloomberg.com/news/2011-07-08/japan-opens-military-base-in-djibouti-to-help-combat-piracy.html>

⁷ 'Profiteering on location, Djibouti's repressive regime, not its people, has prospered since 9/11', The Centre for Public Integrity Report on Djibouti <http://www.publicintegrity.org/2007/05/22/5741/profiteering-location>

⁸ OECD Statistics, ODA DATA http://www.oecd.org/dac/aidstatistics/1885249_gif

The European Union has donated \$53.2 million between 2008 and 2013, i.e. \$8.8 million annually. This money is in the form of donations from EU Member States, administered by the European Commission, and transferred to Djibouti as Humanitarian and Development Aid.⁹

US Aid to Djibouti was \$3.1 million in 2011. Similar to European Union Aid, this money goes to Djibouti as Development Aid.¹⁰

Notwithstanding substantial receipts from the Port, and substantial receipts from military bases in Djibouti, and substantial amounts of International Humanitarian and Development Aid, the reality is that life in Djibouti is still extremely bleak for the overwhelming majority of the population, with little evidence that any of the above money is making its way to support the lives of the people of Djibouti.

Living conditions

In a report published in July of this year, the World Food Programme (WFP), an Agency of the United Nations, found that in rural areas of Djibouti more than 70% of households have poor or borderline food consumption, that 20% of households were dependent on Food Aid, that 24% of households have had to abnormally sell livestock this year and that the overwhelming reason (78% of cases) for this was simply to buy food.¹¹

The most recent Country Strategy Paper on Djibouti produced by the African Development Bank Group found that “studies on living conditions indicate that large sections of the population live in extreme poverty, with a worrying level of unemployment” and observed that “data from 2002 showed that poverty affected 74.4% of the population of whom 42.2% were in a situation of extreme poverty. The Poverty Survey conducted in 2006 confirmed the structural and widespread nature of poverty revealed in 2002. This situation still prevails today.”

And the WFP found that generally throughout Djibouti “unemployment remains high with youth unemployment estimated to be as high as 75%”.

So whatever is happening to the rents from foreign military bases and the income from port revenues from a port strategically located on one of the world’s busiest shipping lanes with unique access to the sea of a number of landlocked neighbouring countries, little of that income appears to be finding its way into the local economy or for the benefit of the comparatively small population of Djibouti. Or, as the WFP put it in their July report “economic growth has not translated into poverty reduction and an improvement of the employment situation”.

Every available report on Djibouti by any international agency describes a deeply alarming situation. So, for example, a UNICEF Report on the condition of children in Djibouti in 2010 found that the majority of children in Djibouti live in abject poverty, which exposes them to life-threatening conditions.¹² According to the UNICEF Report, about two out of three children in Djibouti are deprived of at least one basic right, including the right to shelter, water and sanitation, information, nutrition, education and health. It concluded, “the intensity of the poverty situation in Djibouti tells us of the dangerous environment in which children live, one that exposes them to exploitation and abuse”.

⁹ European Union Humanitarian and Development Aid data 2011-2012
http://ec.europa.eu/europeaid/where/acp/country-cooperation/djibouti/djibouti_en.htm

¹⁰ Foreign Assistance USAid data for 2011
http://foreignassistance.gov/OJ.aspx?OUID=261&FY=2011&AgencyID=3&budTab=tab_Bud_Spent&tabID=tab_sct_Democracy_Disbs

¹¹ The Emergency Food Security Assessment in Rural Areas, Djibouti, July 2012
www.wfp.org/food-security

¹² Unicef Report on Children in Djibouti, http://www.unicef.org/infobycountry/media_53968.html

Treatment of the media

The UNICEF representative in Djibouti has observed that in Djibouti “there is a chronic, but silent, emergency”.

Probably one of the reasons for the silence and one of the reasons why it is extremely difficult getting any authoritative information or data on what is happening in Djibouti is that it is a country without any independent media of any kind.

The non-governmental organisation (NGO) Reporters Without Borders has over the last ten years, recorded the deliberate policy of President Guelleh to close down any access of local people to any local or external media.

As Reporters Without Borders noted in 2007, “little by little Djibouti is closing itself off to the world. It was already worrying to see that despite limited resources Djiboutians had only one Opposition publication offering a different take on the news, now that it has been forced to shut down, the Government have a monopoly of national news”.¹³

Djibouti is now one of only three countries in Africa where no private newspaper is published. The Government of Djibouti actively blocks websites concerning Djibouti hosted overseas.

So, for example, *La Voix de Djibouti*, a news website operated by Djiboutians based in Europe, is blocked inside Djibouti. One of the last remaining journalists within Djibouti reporting for this website, Houssein Ahmed Farah, was arrested in August this year and has been kept in detention ever since. On 18th September 2012, Reporters Without Borders referred Houssein Ahmed Farah’s detention to the UN Working Group on Arbitrary Detention.

Reporters Without Borders has concluded that Djibouti is “a country without media freedom where only Government propaganda is tolerated.”

With no independent media, it means that there is no possibility of any dissenting voice in Djibouti having any access to the media.

In February of this year, Reporters Without Borders reported on the abduction by the police in Djibouti of a radio journalist – Farah Abadid Hildid. Reporters Without Borders referred Farah Abadid Hildid’s detention and the threats and torture to which he was subjected during his detention to the United Nations Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment.

Hildid had previously been detained twice in 2011 and was tortured and mistreated both times according to reports by Reporters Without Borders.¹⁴

As Reporters Without Borders has observed, “these acts of torture are particularly serious since they are aimed at silencing this journalist and Human Rights activist”. In addition to these two examples, there are numerous other instances of Government intelligence operatives acting against journalists.¹⁵

¹³RSF www.rsf.org/djibouti-government-s-authoritarian-26-06-2007

¹⁴RSF www.rsf.org/Djibouti-radio-journalist-threatened-and-03-02-2012

¹⁵ Other reports of Government intelligence operatives acting against journalists can be found at: <http://www.afriquesenlutte.org/afrique-de-l-est/djibouti/article/djibouti-temoignage-de-torture-dhttp://en.rsf.org/djibouti-radio-journalist-threatened-and-03-02-2012.41800.html>

The only reasonable inference of the conduct of the authorities under President Guelleh is a steely determination to bear down and imprison any independent journalist or Human Rights activist working within Djibouti, to arrest and detain them, or to force anyone who disagrees with the dictatorship of President Guelleh to leave the country and go into exile, but then to block or prevent any opportunity for such Djiboutian refugees overseas to communicate with those at home.

There is a clear policy to bear down on any individual who is seen as being a human rights activist, so for example in 2010, Human Rights Watch reported the arrest of Jean Paul Noel Abdi, who is president of the Djibouti human rights organisation Djiboutian League of Human Rights, who had publicly objected to arbitrary arrests. For this, Mr Noel Abdi was charged with "participation in an insurrection movement" under Articles 145 and 146 of the Djibouti Penal Code without, as Human Rights Watch observed, there being any evidence to corroborate such charges. And Human Rights Watch noted "we believe that Mr Noel Abdi has been arrested and detained for exercising his right to free expression which is protected under international law, the International Covenant on Civil and Political Rights, (to which Djibouti is a party) and the Djibouti constitution."

It is to be noted that Mr Noel Abdi's health was fragile. He was a diabetic and in his mid sixties. Jean Paul Noel Abdi died on 13th April 2012 in France, where he was undergoing medical treatment.

The organisation Human Rights Watch observed last year that "the Government of Djibouti has imposed an unconstitutional ban on public assembly, criminalising any gathering in public. Rather than subjecting the electoral process to independent scrutiny, the Government of Djibouti has jailed human rights activists and expelled international observers. An unconfirmed number of political activists remain in custody and held without charge."¹⁶

Humanrights

Over many years such independent reports and observers who have managed to access Djibouti have reported on the appalling human rights situation in the country.

In 2006, the Observatory for the Protection of Human Rights Defenders, which is a joint programme of the World Organisation against Torture (OMCT) and the International Federation of Human Rights (FITH) released a report that concluded that "defenders of economic and social rights, especially independent trades unionists, have been more than ten years the target of the Djiboutian authorities because of their struggle to uphold the rights of workers and freedom of association. Despite the many international commitments, Djibouti international conventions on Human Rights conventions and the authorities ... do not meet the most basic economic and social rights such as workers' rights. In the absence of democratic organisations, human rights and trades unions have become over the years the only form of independent expression of civil society." Their report also observed that Djibouti "is an economy plagued by corruption and profiteering. Djibouti is a rich country but Djiboutians are poor".

The report observed that "examples of the repression of independent trades unionists in Djibouti illustrate ten years of intimidation, police and judicial harassment, imprisonment and dismissals which are the daily lot of independent trades unionists in Djibouti."

¹⁶'A friendly little dictatorship in the horn of Africa', *Foreign Policy*
www.foreignpolicy.com/articles/2011/04/08/a_friendly_little_dictatorship_in_the_horn_of_africa

Last year, the United States Department of State, Bureau of Democracy, Human Rights and Labour, published a damning report on Human Rights in Djibouti. The report observed that the Government of Djibouti sought to limit human rights "by harassing, abusing and detaining Government critics, and by its unwillingness to permit the population access to independent sources of information within the country...

"Other Human Rights problems included the use of excessive force, including torture by security forces, harsh prison condition, arbitrary arrest and prolonged pre-trial detention; denial of fair public trial, interference with privacy rights, restrictions on freedom of speech, press, assembly and association, lack of protection for refugees, corruption, discrimination against women, female genital mutilation, trafficking in persons, discrimination against persons with disabilities, and Government denial of workers' rights."

The report also observed that "officials engaged in corrupt practices with impunity".

Corruption appears to permeate every part of the machinery of Government in Djibouti. So for example although Djibouti does not meet International Civil Aviation rulings, in fact, Djibouti is 100% non-compliant with International Civil Aviation rulings. I attach a list of those who allegedly illegally received an Air Transport Certificate from the Djiboutian Civil Aviation Authority, a position held by a brother-in-law of the President, Almis Mahamoud Haid.

On 10th February 2010, Abdolkarim Abdi Guedi was fired from his job by the Director-General of the National Civil Aviation Authority, Almis Mahamoud Haid (brother-in-law of the President), who appears to have no qualifications for his position. Abdolkarim Abdi Guedi was apparently fired after he reported Mr Haid for violations of the international aviation rulings by allowing an Antonov belonging to an airline company called Jubba Airways to illegally enter national Djiboutian airspace. It is understood that Inspector Guedi alleged that the Director-General had taken money from Jubba Airways in payment to turn a blind eye against violations of international aviation rules.

Given that this is a report by an official department of the United States Government, which in turn is one of the main funders of President Guelleh, I attach the US Department of State's Report in full.

The report sets out concerns about arbitrary and unlawful deprivation of life in Djibouti, and numerous allegations of torture and other cruel, inhuman or degrading treatment or punishment carried out in Djibouti.

What permeates every page of the US Department of State's report is that there is a complete disregard for human rights in Djibouti, so, for example, on arbitrary arrest or detention "the law prohibits arbitrary arrest and detention; however, the Government did not respect these prohibitions."

Treatment of women

Women and children in Djibouti are as likely to be arbitrarily detained as men. For example, in 2010, the Organisation Mondiale Contre la Torture and the International Secretariat of the World Organisation against Torture, requested urgent intervention in the arbitrary detention of Ms Halima Bil'a, aged about 35, and her four children, aged between 1 and 9 years, who were imprisoned.

This woman was detained by security forces, held for a while in a police camp, then held with her four children in the same cell, where they were all ill with vomiting and diarrhoea. She was not charged with any offence, did not have

access to her lawyer, and it would appear that she and her children were only arrested and detained because her husband was wanted by the authorities.

There is compelling evidence that women's rights in Djibouti are persistently breached. For example, in August 2009, the NGO Women's Solidarity condemned the attacks of the Djibouti army against civilian Afars, especially against women.

On August 3rd 2009, Houmad Mohamed Ibrahim, head of the customary area of Mousa Ali Djibouti was arrested along with five members of his family. Mr Mohamed Ibrahim suffered physical abuse. However the soldiers were particularly hostile to his daughters: Fatuma Ibrahim Houmad; Houmad Howa Ibrahim; Robi Houmad Ibrahim; Momina Mohamed Hasan; Haich Houmad Koulayeles. It is alleged that all five daughters were tortured and left for dead. These women remained in a serious condition for some time.

Many women from Djibouti have fled the region to Ethiopia and Eritrea and women's NGOs in Djibouti have asked for the implementation of the convention on the elimination of violence against women, which under Article 4c states that the United Nations has a duty to "act with due diligence to prevent violence against women whether those acts are perpetrated by the State or by private persons and punish them in accordance with national legislation."

There are numerous reports of women being arrested and detained so it is alleged that:

- Fatouma Bil'a was arrested and detained for four months in 2010 with her four children.
- Lokki Mohamed was arrested and held in barracks at Galela between January and June of 2012 with her children – as a consequence she lost her son of six months because of lack of care.
- It is alleged that at least twenty women were raped or suffered sexual violence in Syaru (District of Tadjoura) and Hilou (Dikhal district) in May 2010.

Justice system

Given the arrest and detention of human rights monitors in Djibouti, and given the complete absence of any independent media, it is extremely difficult obtaining independent, verifiable information about the plight of those arbitrarily arrested, detained and tortured.

Indeed, that is the whole purpose of President Guelleh seeking to ensure that neither human rights monitors, nor any independent media are in a position to report on what is happening in the country.

There is, however, evidence of persistent and continuous detention and torture of individuals for no valid reason. The numbers have to be put into context of the comparatively small overall population of Djibouti:

- Aboubakar Ayoub was allegedly murdered deliberately by elements of the Army on May 7th 2008.
- Mohamad Hamad Youssouf, a 55 year old civilian of Afar origin, was shot dead in the head on the 5th November 2008 by Government troops, accusing him of sympathy for opposition party FRUD in Wedio Hoflo, two kilometres from Ass Guela in the north of Djibouti. The soldiers buried him on the spot.
- Mahdi Ahmed Abdillahi, a 54 year old opposition supporter of Somali origin, a relative and friend of Abdourahman Boreh, died on 14th April 2009 in the central prison of Gabode, where he had been detained solely

for political reasons and solely for his friendship for a Djiboutian exile opposed to the Government. He died of ill treatment and lack of medical attention.

- Mohamed Said Halloyta Redo, killed on August 18th 2009 deliberately by the Army.
- Colonel Abdi Bogoreh Hassan, head of the National Constabulary and a Djiboutian of Somali origin, was found shot dead by several bullets in the yard of his house in the capital of Djibouti on 11th May 2010.
- Sergeant Moumin Ibrahim Waiss, a member of the Republican Guard (the Presidential Security Unit) died following what is understood to have been poisoning on 12th November 2010. When he died, he was one of the drivers of the President's wife. Sergeant Waiss, a Djibouti of Somali origin, was a relative of opposition politician Daher Ahmed Farah, and was suspected of having political sympathies for him.
- Aicha Mohamed, an Ethiopian citizen living in the Afar region of Arhiba in the capital was burnt to death on 17th December 2010. The allegations are that the Intelligence Service was behind this murder.
- Moustapha Mohamed Darar, a young Djiboutian of Somali origin, was shot dead on 6th January 2011 by the police in the town of Ali-Sabieh, in the south east of Djibouti during a peaceful protest against President Guelleh claiming Presidency for life.
- Dirir Ibrahim Bouraleh, a Djiboutian of Somali origin living in Balbala, outside the capital of Djibouti, died on the 27th April 2011 under torture, in a police station called Cheik Osman.
- Hassan Chideh Ali, a young Djiboutian of Somali origin, opposed to the present Government and who was living in the Somali neighbourhood in the capital, died under torture in the central police station of the capital on 12th July 2012. Arbitrarily arrested and beaten up on 7th July 2012, he was allegedly detained and tortured until he died.
- Abib Ali Doualeh, a Djiboutian who lives in the neighbourhood of Balbala, and who is a supporter of an opposition political party, was arrested on 14th June 2012 by police who detained him and tortured him until 19th June. He was detained in a central prison in Gabode, released, then re-arrested on 1st August, then detained and tortured by the Intelligence Service (called the Service of Documentation and Security, or SDS). On 28th August, he was handed over to the section of the SDS in the Gendarmerie Section, called SRD, and has subsequently been detained in prison. Witnesses who have seen him say that he is in a very bad physical state due to persistent torture, and so far no charges have been publicly put forward against this man.

Summary of human rights abuses

In the report of the US State Department, it notes that the most serious human rights problem in Djibouti is the Government's restrictions on the right of citizens to influence the Government or hold political opinions that are not aligned with those of President Guelleh.¹⁷

The report found that other human rights violations such as torture, arbitrary arrest, and prolonged pre-trial detention in harsh prison conditions also occurred, often as a form of punishment for those holding certain political beliefs.

Certain civil liberties, especially freedom of speech, press and association are severely limited. Limitations are broad and include the fact that there is no privately owned or independent media source in Djibouti, and all opposition newspapers or radio stations have been closed by the Courts or "economically asphyxiated".¹⁸

¹⁷ Bureau of Democracy Human Rights and Labour Country Report on Human Rights Practices for 2011: Djibouti, US Department of State

Individuals who criticise the Government publicly or privately face reprisals such as arbitrary arrest and conviction. For example, in February 2011 approximately 25 protesters were arrested and convicted of assault or arson following a protest at the Hassan Gouleb Stadium.¹⁹

Opposition journalists are routinely arrested or arbitrarily detained and sometimes tortured. According to Reporters Without Borders, Dirir Ibrahim Bouraleh died as a result of injuries inflicted during torture during a four day detention.²⁰ Farah Abadid Heldid and Housein Robleh Dabr, radio reporters, were each arrested and reportedly tortured on two separate occasions.

In February 2011, six persons who provided reporting through the opposition radio station, *La Voix*, to DE Djibouti, a European broadcast, including Farah Abadid Heldid and Housein Robleh Dabr, were arrested without warrant. Whilst in custody Heldid was tortured. After four months in Gabode Prison, and appeals to the Supreme Court, all six reporters were released. Heldid and Dabr were arrested again in November of 2011 and both were tortured and interrogated for four days before their release.²¹

Leaders of opposition political parties are also targeted through arbitrary arrests. Three leaders of opposition parties were arrested on the 19th February 2011, after demanding the release of thirty demonstrators who were detained the previous evening allegedly for vandalism and looting. The three leaders – Aden Robleh Awaleh, President of the National Democratic Party (PND), Mohamed Dauad Chehem, President of the Djiboutian Party for Development (DPD), and Ismael Guedi Hared, President of the Union for Democracy and Justice Party (UDJ), were released later the same day.

Numerous people were detained for political reasons in the months prior to the elections and released afterwards. For example, the Government charged eight men, including Human Rights activist Jean Paul Noel Abdi, with conspiring against the State. Noel Abdi was released after two weeks whilst the others were detained for two months.

Djibouti and international law

Djibouti ratified the Rome Statute in 1998(Rome Statute of the International Criminal Court, Article 7, July 17, 1998 – 2187 U.N.T. S. 90 hereinafter referred to as the Rome Statute).

The International Criminal Court is a permanent international institution that has the power to exercise jurisdictions over persons for the most serious crimes of international concern in accordance with the Rome Statute. The ICC is complementary to national criminal jurisdiction.

The jurisdiction of the International Criminal Court (ICC) is limited to the most serious crimes of concern to the international community as a whole, one of which is Crimes Against Humanity.

For the purposes of the Rome Statute, Crimes against Humanity included “inhumane acts... intentionally causing great suffering or serious injury to body or to mental or physical health. In order for a Human Rights violation to

¹⁸ Reporters without Borders: Report on Djibouti <http://en.rsf.org/report-djibouti,14.html>

¹⁹ Bureau of Democracy Human Rights and Labour Country Report on Human Rights Practices for 2011: Djibouti, US Department of State, Note 1 and 2

²⁰ Reporters Without Borders' Report on Djibouti <http://en.rsf.org/report-djibouti,14.html>

²¹ Bureau of Democracy Human Rights and Labour Country Report on Human Rights Practices for 2011: Djibouti, US Department of State

reach the level of a Crime Against Humanity for the purposes of laying information before the Prosecutor, that crime must fulfil all the elements of one of the crimes listed in the Rome Statute.²²

There is clear evidence of violation of human rights against certain groups, particularly political opponents of President Guelleh, which prima facie would appear to constitute a Crime Against Humanity, specifically persecution.

Persecution is the "intention of severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectively".²³

There is further recent evidence of widespread suffering being caused in Djibouti by corruption and the misappropriation of funds intended to provide drugs to combat AIDS, Tuberculosis and Malaria.

In its report of the 29th October 2012 (Report number GF-OIG-10-015-1) the Office of the Inspector-General (OIG) of the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Fund) published an investigation of Global Fund Grants to the Republic of Djibouti.

It is a damning Report.

The investigation "found that of US\$ 23.1 million of funds dispersed under these grants as of June 2012, US\$ 8.2 million, or approximately 35%, was either not used for purposes consistent with the grant agreement or in violation of it. Of this amount US\$ 755,553 was linked to transactions constituting fraud, theft and abuse: US\$ 2.45 million related to ineligible expenditures, and US\$ 115,000 related to an improper transfer of grant funds to an unauthorised bank account; and an additional US\$ 5.4 million of expenditure, did not have sufficient, or any, documentation to support the expenditures".

The OIG Report sets out a whole number of fraudulent schemes that were identified through the investigation, including the creation of falsified documentation to trigger payment of Grant Funds, i.e. documents purported to show that people in Djibouti had received medical help under the funds, when in fact those documents were forged.

The OIG Audit findings concluded that there was "absence of documented policies and procedures; deficiencies in the financial accounting system, lack of budgetary control; lax cash controls; failures to record income in the books of account; inadequate archiving controls; incomplete asset records; failure to reconcile payroll records; and the absence of procedures for selecting and evaluating sub recipients."

The OIG found that officials in the Ministry of Health falsified minutes and documents in an attempt to deceive the Global Fund secretariat. "There is substantive and credible evidence that representatives of the Ministry of Health provided a falsified document to the Global Fund making it appear as though the TCM members expressly approved and endorsed the full over budget amount when in fact this had not been the case".

The result of this abuse is that large numbers of people in Djibouti who should have benefited from medical treatment were not given that medical treatment. If it had not been for the investigation of the OIG, such abuses would have undoubtedly continued unabated.

²² Rome Statute, Article 7, para. 1

²³ Rome Statute, Article 7, para. 2

It has to be remembered that Djibouti is a small country of less than 1 million people. It is very difficult to believe that such widespread abuse such as international donor funding could take place in the Ministry of Health without being known at the very senior levels of Government.

The OIG has no powers of prosecution, but in its report recommended that all those concerned “be held accountable as applicable under national administrative civil and criminal laws”.

Based in this research, I submit that there is sufficient evidence of Crimes Against Humanity under the Rome Statute for these matters to be properly investigated by the International Criminal Court.

Sir Tony Baldry

**1 Essex Court
Temple
London EC4Y 9AR**

Djibouti: Useful links

Human rights watch:

http://www.hrw.org/search/apachesolr_search/djibouti

USA State Department annual report human rights in Djibouti:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

Foreign policy article:

http://www.foreignpolicy.com/articles/2011/04/08/a_friendly_little_dictatorship_in_the_horn_of_africa

UN reports:

<http://www.irinnews.org/Report/82971/DJIBOUTI-High-malnutrition-rates-in-slums-alarming>

<http://www.irinnews.org/Report/89031/DJIBOUTI-Half-rural-population-need-emergency-food-aid>

<http://www.irinnews.org/Report/94210/DJIBOUTI-Migrants-risk-all-for-better-life>

http://www.unicef.org/infobycountry/media_53968.html

<http://www.wfp.org/countries/djibouti>

EU resolution on Djibouti and other countries:

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2009-0026&language=EN>

International federation for human rights (IFHR) on Djibouti:

<http://www.fidh.org/-Djibouti,63->

<http://www.fidh.org/Les-defenseurs-des-droits>

<http://www.fidh.org/-Djibouti,208->

About Presse freedom:

<http://www.ifj.org/en/articles/ifj-calls-for-end-of-media-repression-in-djibouti>

<http://en.rsf.org/djibouti.html>

<http://en.rsf.org/djibouti.html>

<http://cpj.org/africa/djibouti/>

<http://africa.ifj.org/en/articles/the-ifj-calls-on-djibouti-to-release-a-detained-journalist>

<http://en.rsf.org/djibouti-two-ministers-sent-letter-after-14-08-2012,43219.html>

<http://www.lavoixdedjibouti.com/?p=2575#more-2575>

World Observatory against torture:

<http://www.omct.org/human-rights-defenders/reports-and-publications/djibouti/2006/08/d18141/>

African Development bank about Djibouti:

<http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Djibouti%20-%20CSP%202011-15.pdf>