

ARTICLE 19

Djibouti: Media and the law

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Foreword

Although the media should play a critical role in enhancing participatory democracy, the media in Djibouti can be described as weak, polarised, and lacking in pluralism and diversity.

While the Djiboutian government, as provided for in Article 15 of its Constitution, clearly guarantees freedom of expression and media freedom, and has also ratified a number of relevant regional and international human rights instruments, it also retains a number of laws that are inconsistent with international human rights standards, severely restricting media freedom.

There is no media diversity, as the media in Djibouti is entirely state-owned and state-run, both in print and electronic media outlets. Through *Radio Television of Djibouti* (RTD), the Ministry of Communication and Culture runs two national FM stations and two national AM stations. It also runs the sole national TV station.

The ministry oversees media licensing, including the accreditation of foreign journalists, and the RTD holds a near monopoly of the airwaves. The sole news service, *Agence Djiboutienne d'information*, and the two main newspapers, French-language *La Nation* and Arabic-language *Al Qarn*, also belong to the government. *La Nation* was inherited from the French Government when Djibouti gained its independence in 1977 and continues to be tightly controlled. The state-owned media outlets, editors and management are allowed little, if any, editorial independence. The only other national print newspaper, *La Republique*, is owned by and affiliated to the opposition.

Professionalism amongst media practitioners is low, made worse by the fact that there are no fully fledged training institutions for mass communication and journalism. Most journalistic outputs lack the depth to adequately serve public interest. The government and its media laws hinder pluralistic and diverse media development.

This report, based on UNESCO's Media Development Indicators (MDIs), presents an assessment of Djibouti's media policy and regulatory framework, highlighting key weaknesses that hinder the ability of the media to contribute effectively to participatory democracy.

Brief profile of Djibouti

Djibouti's history is divided into three main periods: colonial, the first years after independence (1977 to 1999), and modernisation (1999 to date).¹

The French colonisation 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. The city was developed extensively between 1896 and 1939, thanks to large-scale 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.²

Shortly after the 1949 decision to make Djibouti a free port, the country's representatives called on the French authorities to recognise its special economic situation; this led to the introduction of the Djibouti franc, which was pegged to the United States dollar. The 1950s and 1960s saw the emergence of, and increasing support for, pro-independence ideas, to which the colonial authorities responded by developing a huge repressive mechanism. In 1967, Djibouti became the French Territory of the Afars and the Issas with a new political structure.³

Independence was achieved through a combination of approaches: while political movements pleaded the cause of the territory's sovereignty to the international (United Nations) and regional (Organisation of African Unity and the Arab League) institutions, 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.

Hassan Gouled Aptidon, the country's first President, began to organise the new state. 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 several measures aimed primarily at preserving national sovereignty and peace.

Gouled stepped down in 1999, and his nephew, Ismail Omar Guelleh, won the 1999 presidential poll with 74 per cent of the vote. This was regarded as Djibouti's first fair election since independence. In 2001, a peace accord was signed with the remaining Afar rebel groups. A four-party coalition, the Union for the Presidential Majority (UMP), ran against a four-party opposition bloc, the Union for a Democratic Alternative (UAD), in the 2003 parliamentary elections and won all 65 seats.⁴

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 decentralisation process (2008).

In 2005, Guelleh won a second six-year term. The only challenger withdrew from the election, blaming the government's control of the media and repression of the opposition. Legislative elections in 2008 were also boycotted by the main opposition parties.

Unresolved grievances among the Afar led to a revival of Front for the Restoration of Unity and Democracy (FRUD) insurgency, with sporadic violence breaking out in 2010. In April 2010, Guelleh, a member of the Issa majority, pressurised parliament into passing a constitutional amendment that overturned the two-term limit for presidents. The change cleared the way for him to run for a third term in 2011.

In early 2011, a series of protests by university students against failures in the education system quickly degenerated into anti-government demonstrations. In the largest rally, several thousand people gathered outside Djibouti's national stadium to protest against Guelleh's decision to stand for another term. At least two people were killed and another 100 were arrested, including the leaders of three political parties.⁵

The 2011 presidential election campaign was marred by the harassment of opposition leaders and a clampdown on public gatherings. Opposition parties argued that the restrictions made it impossible to contest the election fairly and decided not to select candidates for the presidential race. As a result, Guelleh faced only one challenger in the April election, the independent candidate Mohammed Warsama, and won with 81 per cent of the vote. An International Observer mission comprising of the African Union (AU), the League of Arab States (LAS), the Organisation of Islamic Conference (OIC), and the Intergovernmental Authority on Development (IGAD) declared that the election "was peaceful, calm, fair, and transparent and took place in dignity. It declare[d] that the election was free and democratic".⁶

In February 2013, Djibouti held parliamentary elections, which the opposition, having boycotted the 2008 elections, contested as the Union for National Safety alliance. According to government figures, the ruling Union for the Presidential Majority won 43 of the 65 parliamentary seats⁷. However, the opposition claimed the figures for Djibouti City were falsified and released alternative results, according to which the UMP would only have won 40 seats and increased the opposition's total from 21 to 25. The opposition staged a series of demonstrations which were violently put down by the government.

Djibouti's geographical location is strategic, lying at the mouth of the Red Sea where it serves as an important transshipment location for goods entering and leaving the East African Highlands.⁸ The present leadership favours close ties to France, which maintains a significant military presence in the country, but has also developed increasingly stronger ties with the United States in recent years. Djibouti currently hosts the only United States military base in Sub-Saharan Africa and is a front line state in the global war on terrorism.⁹

Methodology

This study was conducted over a period of six months from June to November 2013 with the aim of assessing the state of freedom of expression in Djibouti. It focuses particularly on Djibouti's media policy and regulatory framework, considering their strengths and weaknesses according to UNESCO's Media Development Indicators. Using the indicators, the study assessed the compliance of the legal framework and the extent to which it contributed to or hindered a media landscape that promotes freedom of expression, democracy and good governance.

The study comprised a literature review of key policy documents and publications, including international human rights instruments; Djibouti's national laws and policies governing media freedom and the wider freedom of expression; reports from the United Nations Universal Peer Review Mechanism; and other relevant publications and periodic reports from organisations working in Djibouti including ARTICLE 19 Kenya, Freedom House, and Reporters without Borders. Data was also collected from interviews with key staff from freedom of expression organisations and journalists in Djibouti.

The study examined a number of areas, including:

- the existing legal and regulatory framework, considering whether it was conducive to freedom of expression and to the pluralism and diversity of the media;
- the level of media pluralism and diversity, considering whether there is a level playing field economically and transparent ownership;
- the role of the media as a platform for democratic discourse;
- the professional capacity of media workers, considering whether the supporting institutions underpin freedom of expression and pluralism; and
- the capacity of the existing infrastructure, considering whether it is sufficient to support an independent and pluralistic media.

1. Background

Djibouti is one of the few African countries without any privately-owned or independent media. Today, only four national media outlets exist: *Radio Télévision Djiboutienne*, *La Nation* and *Al Qaran* (*La Nation's* Arabic-language version), which are controlled by the Ministry of Communications and Culture, and *Le Progrès*, a newsletter published by the ruling Popular Rally for Progress (RPP). They all take a pro-government line.¹⁰

While the BBC and Voice of America can also be received in Djibouti, they rarely carry any sensitive reports about the country.¹¹

Because of high poverty levels, with an estimated 42% of the population living below the poverty line, radio is the most popular news medium, as few Djiboutians can afford newspapers, televisions or computers, or access online platforms.

The years 2011 and 2012 saw a disturbing trend of increased legal and extra-legal repression of opposition reporters and activists. Correspondents of the European-based opposition radio station *La Voix de Djibouti* were targeted, suffering arrests, detention, and alleged torture at the hands of the gendarmerie.¹²

The US military presence in Djibouti creates additional pressures for self-censorship as journalists are discouraged from reporting on soldiers' activities. Journalists generally avoid covering sensitive issues, which include human rights violations, the army, the rebel group the Front for the Restoration of Unity and Democracy (FRUD), and relations with Ethiopia. The official media, which accounts for almost all the outlets in the country, does not criticise the government and practices widespread self-censorship.¹³

The creation of the National Commission on Communication, responsible for the licensing and regulation of the media, mainly television and radio, has been put on hold, hindering any progress towards an independent regulatory authority to manage the frequency spectrum.

2. The media policy and regulatory framework of Djibouti

The restrictions on the legal and policy frameworks relating to the media and freedom of expression are a matter of both form and substance. A country may have good laws relating to media, freedom of expression and the right to information, but these may not necessarily be implemented or enforced for a number of reasons, including a culture of secrecy or corruption, institutional resistance, a lack of political will, or a lack of technical and institutional capacity within the public administration.¹⁴

UNESCO provides five key indicators:

1. Freedom of expression is guaranteed in law and respected in practice;
2. The right to information is guaranteed in law and respected in practice;
3. Editorial independence is guaranteed in law and respected in practice;
4. Journalists' right to protect their sources is guaranteed in law and respected in practice;
and
5. The general public and civil society organisations (CSOs) participate in shaping media policy.

2.1 International guarantees

Djibouti is a signatory to several international and regional instruments and protocols that provide for the right to freedom of expression and access to information. These include the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights. While certain other regional mechanisms are not binding, including the Windhoek Declaration on Promoting an Independent and Pluralistic African Press, and the Declaration of Principles on Freedom of Expression in Africa, Djibouti should still strive to respect the provisions of all these instruments.

Article 19 of the Universal Declaration of Human Rights provides:¹⁵

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Similarly, Article 19 of the International Covenant on Civil and Political Rights declares:

1. Everyone shall have the right to hold opinions without interference;
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

But while the right to freedom of expression is a fundamental right, it is not guaranteed in absolute terms. Article 19(3) of the ICCPR permits the right to be restricted in the following respects:

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are prescribed by law and are necessary:

- a. For respect of the rights or reputations of others;
- b. For the protection of national security or of public order, or of public health or morals.

Restrictions to the right to freedom of expression must, therefore, be strictly and narrowly applied and should not, therefore, jeopardise the right itself. This narrow restriction is often articulated as a three-part test. It is required that restrictions (i) are prescribed by law, (ii) pursue a legitimate aim; and (iii) conform to the strict tests of necessity and proportionality.¹⁶

Article 9 of the African Charter on Human and Peoples' Rights (adopted 27 June 1981) also provides:

1. Every individual shall have the right to receive information;
2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 9 of the Windhoek Declaration on Promoting an Independent and Pluralistic African Press (adopted by the General Assembly of the UN Educational, Scientific and Cultural Organisation - UNESCO - in 1991) states:

(We) declare that

1. Consistent with Article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development.
2. By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of newspapers, magazines and periodicals.
3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.

Article 1 of the Declaration of Principles on Freedom of Expression in Africa states:

Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.

Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination.

The Declaration also emphasises “the key role of the media and other means of communication in ensuring full respect for freedom of expression in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy.”

As a state party to many of the key human rights instruments, Djibouti is required to enact laws that are consistent with their provisions, and to develop mechanisms that support the enjoyment of these rights, both in practice and on paper. Djibouti is also supposed to submit reports to treaty bodies detailing its compliance to the provisions.

In recent years, Djibouti has demonstrated its commitment to working towards the realisation of all human rights at an international level, firstly by assuming the vice-presidency of the Human Rights Council from June 2007 to June 2008. It also served as a member of the Human Rights Council for two consecutive terms.¹⁷

In May 2013, Djibouti underwent its second Universal Periodic Review (UPR) at the Human Rights Council, in which the country's human rights violations were examined. Once again, most of the key recommendations related to freedom of expression and the need for the government to guarantee the respect for media freedom were rejected by the state. They included:¹⁸

1. Removing restrictions on media activity and allowing independent and critical coverage of the government's actions;
2. Authorising the press to work freely, lifting all restrictions to political opposition, putting a stop to the prosecution of journalists and ensuring that cases of harassment against defenders of economic and social rights are investigated;
3. Taking necessary measures to guarantee the freedom of expression of journalists, media workers and members of the opposition, allowing them to operate without being intimidated or arbitrarily arrested and detained;
4. Guaranteeing respect for freedom of information and expression, especially where the press, both local and foreign, and the political realm are concerned.

However, there were some refreshing developments, as the Djibouti government committed to the following recommendations:¹⁹

1. Taking appropriate action to guarantee freedom of expression, association and assembly, including by allowing the participation of opposition parties and civil society;
2. Creating a genuinely favourable environment – free and safe – to promote the functioning of truly independent media;
3. Considering developing and adopting a freedom of information law in accordance with international standards.

However, it is easier to commit and accept than to actually implement. This presents yet another challenge for key actors who must hold the state to account and ensure that it fulfils these commitments. This requires empowering key players, such as the media and civil society organisations, to prepare annual reports on the government's performance and compliance.

2.2 Domestic policy and legal frameworks

2.2.1 The 1992 Constitution

Although Article 15 of the 1992 Constitution guarantees the right to free expression, **“Everyone shall have the right freely to express and disseminate his opinions by word, pen, or image”**, in practice the government imposes restrictions on the independent press. There are a number of laws that restrict media freedom in clear violation of the rights to freedom of opinion and expression.

2.2.2 The 1992 Freedom of Communication Law/The Organisation Act No. 2-AN-92

Article 3 of the 1992 Freedom of Communication Law provides for freedom of communication and access to information:

Freedom of communication is the right of everyone to create and freely use the media of their choice, to express their thoughts by communicating to others, or to access the expression of the thoughts of others.

The citizen is entitled to full and objective information and the right to participate in the information through the exercise of the fundamental freedoms of thought, opinion and expression proclaimed by the Constitution.

Unfortunately, the law poses a challenge for freedom of expression, investigative journalism and media pluralism. It provides for prison sentences for media offences and imposes age and nationality limits on anyone wanting to set up a news outlet.

Article 14 requires participants in the financial management of any press body to be citizens of Djibouti:

“Owners, partners, shareholders, sponsors, donors and other participants in the financial life of a press body must be of Djiboutian nationality. If the press body is a corporation, the shares must be registered”

Article 17 requires the director and deputy director of any media outlet to be a resident of Djibouti; and

“The publication director and, if necessary, the deputy director must reside in the Republic of Djibouti.”

Article 47 requires any director of an audio-visual outlet to be at least 40 years old:

“The director of the publication must:

- be of Djiboutian nationality;
- be at least 40 years old;
- enjoy its civic and civil rights.”

These provisions are inconsistent with international law and 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.

Recommendations

- Articles 14, 17 and 47 of the Organisation Act No. 2-AN-92 should be repealed to promote media independence and plurality.

2.2.3 The Penal Code²⁰

The prohibitions on publication of false news and prohibitions on criminal defamation (Criminal Code, Article 425) may be abused to suppress dissent and imprison those who express views contrary to those held by the government.

Article 425 defines publication defamation as “the allegation or imputation, expressed publicly, in any manner and in any form whatsoever, of a fact detrimental to the honour and reputation of a person or a body, even if they are not specifically named but still identifiable.”

The punishments range from six months imprisonment to one year, with varying fines depending on the gravity of the defamation as defined by Articles 426 and 427:

Article 426: “Public defamation is punishable by six months' imprisonment and a 500,000 franc fine when committed against a private person or entity.”

Article 427: “Public defamation is punishable by both a one year of imprisonment and a fine of 1,000,000 francs when it is made:

- Towards a government official, a deputy magistrate, assessor, juror, public official or person holding public authority or discharging a public service mission; on account of their functions or capacity or due to their testimony as a witness;
- Towards the courts, the army, constitutional bodies and governments.”

Both provisions violate international standards on the right to freedom of expression.

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”.²¹

These provisions also give significant discretion to the government to control media ownership and management in violation of their duty to promote an independent and pluralistic media. The call for states (in this case Djibouti) to provide genuine opportunities for civil society organisations (CSOs), media organisations and the wider public to influence public policy about the media²² is clearly falling on deaf ears.

The UNESCO Media Development Indicators note that “Defamation laws may be used to inhibit public debate or criticism of public bodies or the head of state”.²³

In general, any legal restrictions on the media should be those which are regarded by the courts as necessary in a democratic society: they should be a response to a pressing matter of public interest, be defined as narrowly as possible to meet that public interest, impair freedom of expression as little as possible and be proportionate in their scope and available sanctions²⁴.

UNESCO has provided key indicators for legal restrictions of media and also for defamation that must be considered in order to ensure that they guarantee media freedom and freedom of expression.

Regarding legal restrictions of media, it provides that there should be:

- no legal provisions dictating who may practice journalism, or requiring the licensing or registration of journalists;
- fair and transparently implemented accreditation procedures for coverage of official functions and bodies.

Indicators for defamation laws include:

- they may not inhibit public debate about the conduct of officials or official entities;
- they must provide for sufficient legal defence, e.g. that the disputed statement was an opinion, not an allegation of fact; that publication or broadcasting of the disputed fact was reasonable or in the public interest, or that it occurred during a live transmission and/or before a court or elected body;
- they must provide for a regime of remedies that allow for proportionate responses to the publication or broadcasting of defamatory statements;
- their scope must be defined as narrowly as possible, including details of who may sue;
- defamation suits cannot be brought by public bodies whether legislative, executive or judicial;
- the burden of proof falls upon the plaintiff in cases involving the conduct of public officials and other matters of public interest;
- there is a reasonable cut-off date after which plaintiffs can no longer sue for alleged defamation.

Recommendations

- Prohibitions on the publication of false news should be repealed;
- Criminal defamation should be decriminalised.

2.2.4. Right of access to information

Djibouti is still one of the African nations without an access to information law although there is a general provision in law.²⁵ (The citizen has the right to full and objective information and the right to participate in the information by the exercise of the fundamental freedoms of thought, opinion and expression proclaimed by the Constitution). However, the provision does not indicate how practically to access information and who (journalists and/or every citizen) is entitled to this right. Yet 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.

In Africa, there are only 11 countries with national freedom of Information laws, namely Angola, Ethiopia, Guinea-Conakry, Liberia, Nigeria, Niger, South Africa, Tunisia, Uganda, Rwanda and Zimbabwe.²⁶

The fact that Djibouti committed to Estonia's recommendation - during Djibouti's last UPR - that it "Consider developing and adopting a freedom of information law in accordance with international standards" is welcome.²⁷ However, the country needs to demonstrate this commitment by setting out a roadmap for ensuring the law is developed, with high-level participation and stakeholder involvement.

Recommendations

Legislation (an access to information law) should be adopted to ensure that the right of access to information is exercised in Djibouti.

3. Media diversity

Pluralism and diversity of media, a level playing field economically, and transparency of ownership

Under this category, the key indicators according to the UNESCO MDIs are that:

1. The state takes positive measures to promote pluralist media;
2. The state ensures compliance with measures to promote pluralist media;
3. The state actively promotes a diverse mix of public, private and community media;
4. There is an independent and transparent regulatory system;
5. The state and CSOs actively promote the development of community media;
6. The state plans for frequency spectrum allocation and ensures optimal use for the public interest;
7. The state plans for frequency spectrum allocation to promote diversity of ownership and content.

3.1 Media ownership trends: examining the plurality and diversity of media ownership

The media in Djibouti is either owned by the state or political parties.

The state media organisations are controlled by the Ministry of Communications, Posts and Telecommunications (MCPT), created after Ismail Omar Guelleh became president in April 1999. Between February 1986 and April 1999, the state media in Djibouti was under the auspices of the General Secretariat of Information which is part of the presidential administration.

Djibouti's public media outlets include Radio Television of Djibouti (RTD), which is a single entity with the same staff and the same leadership; the *Djibouti News Agency (Agence Djiboutienne d'Information, or ADI)*; the Arabic-language newspaper *Al Qarn*; and *La Nation*, published five times a week and the only French-language newspaper in the Horn of Africa. In addition to the state media, newspapers from the political parties are also available, though not on a regular basis. Several international broadcasters operate freely in Djibouti, including established terrestrial radio channels such as BBC, VOA, RFI, and RMC that broadcast in FM.

3.2 Management of licences and spectrum

Djibouti lacks a clear licensing and frequency spectrum management structure. The government has a pure monopoly on broadcast media with no private broadcast news outlet. The creation of a National Communication Commission (article 45), with the mandate and power to issue radio and TV broadcasting licences, has been on hold since 1992²⁸. This has undermined the UNESCO MDI requiring the regulatory authority to plan for spectrum allocation in a way that meets ITU rules. Decisions regarding broadcast licensing processes are managed by the state, which is again contrary to the key UNESCO MDI for an independent regulatory authority that meets international standards.

3.3 Methods of state control (taxation, business regulation and advertising)

The state uses a number of methods to control media and freedom of expression in Djibouti. As well as the legal regime explained earlier, there are several other methods, such as the monopoly of public printing and distribution apparatuses that makes it hard for alternative publications to flourish. Taxation and business regulation are used to discourage media development, with the state controlling the sole broadcaster, *Radio Television of Djibouti* (RTD). All government advertising is carried by the state-controlled media: there is no effective regulation governing the use of advertising in the media.

4. Media as a platform for democratic discourse in Djibouti

UNESCO (2008) notes that the media plays an important role in sustaining and nurturing democracy, good governance and human rights and has two distinct, overlapping roles; as a place where democratic debate happens (a marketplace of ideas); as well as a social actor in its own right, acting as a watchdog over powerful institutions (both private and public) and holding governments accountable.

In measuring the compliance of the media as a platform for democratic discourse, the UNESCO MDIs highlight six main areas of concern:

- The media's reflection of society's diversity;
- Public service broadcasting model as opposed to state controlled broadcasters;
- The media's self-regulation;
- The requirements for fairness and impartiality;
- Levels of public trust in the media; and
- The safety of journalists.

Unfortunately in Djibouti, the current structures of the media fall short of any concept of diversity. This is particularly the case regarding ownership, composition and operations. Typically, there are two types of media ownership as earlier highlighted.

The government's newspaper, *La Nation*, is published five times a week; *Al Qarn*, in Arabic, is another government offering. Only about 15 per cent of the population read newspapers because of Djibouti's strong oral culture. This makes broadcasting an important medium, but RTD is the sole broadcaster and offers one radio channel and one television channel. These government-owned media do not criticise the government.

The opposition newspaper, however, does not serve as an independent alternative voice, but rather exists to promote the causes of the opposition's political parties.

In Djibouti, there is no such thing as public service broadcasting, at least as defined by the UNESCO MDIs:

“...a public service broadcaster, even if state-owned, should be not-partisan, not-for-profit, with a public interest remit and, usually national coverage and a national mandate” (UNESCO 2008 p. 55)

4.1 The type of media regulation – self vs government regulation

“The best guarantee for ensuring high ethical and professional standards in journalism is voluntary self-regulation within and among news organisations”.²⁹

UNESCO provides key media indicators to gauge the effectiveness of the self-regulatory mechanism:

- Media organisations have clear codes of ethics, and sound editorial guidelines;
- The codes are actively disseminated to journalists and regularly debated and reviewed;
- At industry level, systems exist for hearing public complaints about alleged violations of ethical standards;
- Self-regulatory bodies and news ombudsmen are independent of government and commercial interests.

Due to several factors, including the lack of truly independent media outlets, the fact that there are hardly any structured training opportunities for journalists, and the lack of professional code of ethics or conduct, it is difficult to evaluate journalists' adherence to professional standards³⁰. However, in April 2013, with support from UNESCO, the journalists' association, Syndicat de la Presse et de l'Audio-visuel de Djibouti (SPAD), developed and adopted a professional code of ethics/conduct for journalists, but the code is yet to be taken up, as it must be adopted by the government before implementation.

During an October 2013 training session for journalists on basic media law organised by ARTICLE 19 in Djibouti, many participants expressed a deep lack of understanding of the concept of self-regulation, and many of them acknowledged that it would be difficult to implement self-regulation in the country.

4.2 Key requirements for fairness and impartiality

Djibouti presents a unique situation in terms of the key indicators on requirements for fairness and impartiality as outlined by the UNESCO MDIs, according to which:³¹

1. The broadcasting code should set out requirements for both public and private broadcasters (e.g. as a condition for retaining private broadcasting licences);
2. Regulation should ensure respect for the principles of fairness, balance and impartiality during elections, (e.g. allocation of air time to candidates, reporting of opinion polls, quotas for political advertising, party election broadcasts, prevention of undue coverage for public authorities as prescribed in the national electoral code);
3. The code should not compromise the editorial independence of the media (e.g. by imposing a prior system of censorship) and should comply with international standards.

Additionally:

1. Any breaches of the code should be investigated and proportional sanctions applied;
2. A proper system for dealing with public complaints should be in place; and the regulation enforced with due regard to editorial freedom and independence.

Unfortunately, the policy and legal framework in Djibouti, as highlighted above, and the type of media ownership in the country do not in any way support fairness and impartiality. This is largely because all the media outlets in Djibouti are political in terms of their ownership and journalists therefore tend to cover issues in such a way that promotes the agenda of their owners.³²

4.3 The safety and protection of journalists

“Freedom of expression guarantees are of little value if journalists cannot exercise this right in safety. Where individual journalists or media organisations are routinely subject to surveillance, threats, harassment or physical attack, media cannot exercise its role as a platform for democratic discourse.” (UNESCO, p. 66)

There are a number of indicators listed by UNESCO that should guarantee the safety and protection of journalist and these include:

1. Journalists and associated media personnel are not subject to threats, harassment or surveillance;
2. Journalists and associated media personnel are not physically attacked, unlawfully detained or killed as a result of pursuing their legitimate activities;
3. Media organisations are not forced to close down or threatened with closure as a result of pursuing their legitimate activities;
4. Crimes against journalists are prosecuted and there is no climate of impunity;
5. Media organisations have policies for protecting the health and safety of their staff;
6. Measures of social protection are available to all staff, including temporary and freelance employees;
7. Journalists do not routinely self-censor because of fear of punishment, harassment or attack; and
8. Confidentiality of sources is protected in law and respected in practice.

However, the practice in Djibouti is quite the opposite as journalists, especially those from private and opposition media outlets, continue to find themselves detained in police cells on frivolous charges. Many have become accustomed to arrests, illegal trials, jails and fines. Cases abound where journalists have been arrested and sentenced for cases relating to their work.

In June 2013, Four *La Voix de Djibouti* contributors, who had been provisionally released on the 23 June 2013 for allegedly “participating in an insurrectional movement”, were ordered to appear in court again on 8 July because the charges against them had been changed. The four included Farah Abadid Hildid, Houssein Ahmed Farah, Moustapha Abdourahman Houssein and Mohamed Ibrahim Waïss. The initial charge was changed to “inciting public order disturbances,” which carries a heavy sentence.

In May 2013, Maydaneh Abdallah Okieh, a technician for the *La Voix de Djibouti* news website was arrested and detained. He was eventually charged in court on 28 May on charges of "insulting a police officer" and "defaming the police." His crime was posting photos on his Facebook page that showed police breaking up an opposition protest. After his arrest at his Djibouti home, Okieh spent four days in police custody before being transferred to Gabode prison under a court detention order.

On 26 June 2013, the appeal court extended the jail sentence that *La Voix de Djibouti* news website editor, Maydaneh Abdallah Okieh, was already serving from 45 days to five months. It also upheld a court decision ordering him to pay 2 million Djibouti francs (8,600 euros) in libel damages to police chief Elmi Daher Miguil, also known as Elmi Gess.

However, beyond the physical attacks and arrests, there are many reported cases of self-censorship within media outlets on both sides as journalists working for the opposition media are fearful of reprisals, and those on the state-run side fear losing their jobs. This extends to editors and managers, who bury news stories that are critical of the government or run counter to accepted government doctrine.³³

5. Supporting institutions that underpin freedom of expression

5.1 The availability of professional media training and academic courses in media practice

Djibouti also suffers from a lack of educational institutions that provide interested students with practical training instead of theoretical knowledge, yet the provision of academic courses in journalism and other aspects of media practice are a way of disseminating both practical, craft-based skills and of encouraging critical thought about media policy and the role of media in society. Academic institutions can provide a forum for public debate about the media, and build links with media organisations and CSOs to develop curricula and foster good practice (e.g. through cross-industry training councils).

In July and August 2011, a UNESCO mission conducted an on-site survey to assess journalism training needs. The findings showed that most media professionals had learned the basics on the job, and that a journalism school is therefore needed.

Until 2012, there were no existing media training institutions, let alone clearly defined courses for journalists. Instead, many would-be journalists and media practitioners seek to acquire the requisite skills outside of the country, and media outlets and the journalists' association (SPAD) routinely organise skills building workshops with support from development organisations such as UNESCO and ARTICLE 19. According to SPAD, most practising journalists have only been educated to high school level.³⁴

In 2012, the University of Djibouti, with the support of UNESCO, established a Faculty of Journalism, with a remit that includes:

- Reviewing the curriculum with respect to the UNESCO model curriculum;
- Conducting 20 train-the-trainer sessions, to be organised by the Yaoundé-based Potential Centre of Excellence, ESSTIC;
- Creating a documentary resource centre for the University of Djibouti's journalism school.³⁵

5.2 Presence of trade unions and professional organisations

The Syndicat de la Presse et de l'Audio-visuel de Djibouti (SPAD), formerly the Association of Djibouti Journalists (AJD), is the only recognised journalists' association in the country. The association was founded early in 2008 as a result of concerted efforts and assistance of the International Federation of Journalists, the Eastern Africa Journalists' Association, and the American Center for International Labor Solidarity. The organisation currently has a membership of over 60 journalists.

SPAD, which became a trade union in July 2013, has been working to bring together journalists and other media staff to show solidarity and address key issues as one body. The association mainly represents state media members—editors, reporters, camera operators, and freelancers. Journalists working for media outlets associated with the opposition are not involved in the association as they are not considered “journalists” by their peers, although the president of SPAD, Mr. Kenedid Ibrahim, says that the reason they are not members is that they have not applied to join the association.

In 2011, the association launched annual awards to recognise exemplary work by journalists, and also as a means of promoting professionalism. The association, with support from different funders, also helps to organise training workshops for journalists.

The country, however, has other less formal types of media worker, including bloggers; these have failed to secure legal registration from the state, thus denying them opportunities for financial support.

5.3 Presence of civil society organisations

In an attempt to shrink the space for critical voices, the Djibouti authorities have used various forms of hindrance to impede the activities of civil society organisations (CSOs). Over the past few years, CSOs' representatives, in particular members of human rights organisations or trade unions, have faced arbitrary arrest and detention and judicial and other kinds of harassment. Until his death of natural causes in April 2012, the chairman of the Djiboutian League of Human Rights, Jean-Paul Noël Abdi, was the country's leading human rights activist. He had been arrested several times, at least three times since 2007.³⁶

This environment of intimidation has seriously jeopardised CSOs' ability to adequately monitor and denounce human rights violations, in particular during electoral periods. But despite these difficulties, CSOs have played a significant role in documenting freedom of expression violations, along with international human rights organisations such as Freedom House, Reporters without Borders, Amnesty International, ARTICLE 19, and International Federation for Human Rights (FIDH). All of these have issued statements and reports on the state of freedom of expression in Djibouti, including submitting reports to the Human Rights Council during the country's Universal Periodic Reviews.

6. Infrastructural capacity to support independent media

Djibouti is one of the last countries in the world still allowing its national telecommunication company, Djibouti Telecom (DT), to have a monopoly on all telecom services, including fixed lines, mobile, internet and broadband. Broadband services in Djibouti itself are still very expensive. Growth in the mobile and internet sector is now accelerating as DT is preparing to launch a third generation (3G) mobile network, but competition and foreign investment is needed to unleash the market's full potential. By the end of 2012, the market penetration of mobile telephones was 39 per cent, with fixed lines at 2.5 per cent and the internet at 17 per cent.³⁷

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 out of a total population of 774,389 people, only 61,320 (7.9 per cent) use the internet.³⁸ This is way below Africa's average internet penetration, which stands at 15.6 per cent as at December 2013.

Djibouti is served by a single internet service provider, which is overseen by the Ministry of Communications and Culture. There are, however, serious 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, as already seen in its blocking of Skype and certain online newspapers, with journalists reporting that they have difficulty accessing certain news sites. The fear of being monitored by the government and the low level of computer literacy, as well as the difficulties in accessing ICTs and materials, are factors that prevent journalists in Djibouti from using internet as an alternative avenue of expression to counter the shrinking space offline for freedom of expression.

Yet, without an independent media, online news platforms are the only alternatives to both government and opposition rhetoric. Despite the fact that the level of internet use is still low in Djibouti, the censorship of *La Voix de Djibouti* and other online news sites show that the government views freedom of information online as a threat and tries to monitor and censor it.

For instance, in August 2012, Djibouti's authorities blocked access to five Somali news websites – *Waagacusub.com*, *Sunatimes.com*, *Galmudugnews.com*, *Halbeegnews.com* and *Qurbejoog.com*.³⁹

7. Conclusion and recommendations

Djibouti still has a long way to go in ensuring that the media landscape is mature enough to support democratisation. As things stand, it is prone to abuse by the ownership structures, coupled with the draconian legislative framework and the practice of limiting media freedom through the arbitrary arrest and detention of journalists. The drive, however, to encourage direct foreign investment and privatisation for development in Djibouti may influence the business environment there to promote greater media freedom as well.

Recommendations

- It is important that any assistance from development partners should be geared at supporting the building of key institutions and structures that will lead to the sustained growth of the media, to its independence, and to its ability to engage in democratisation.
- Particular attention should be paid to work with the state to review and make critical amendments to its national legislation so that it conforms to international standards; to the development of more media training institutions to cater for the growing number of people who want to practice journalism, as a way of building their capacity, enhancing professionalism, and promoting a fair and transparent policy towards private media ownership.
- All legislation governing media freedom should be reviewed and amended to conform to international standards as provided for in the Universal Declaration of Human Rights, the ICCPR and other regional instruments. In particular, the government should seek to amend and repeal Articles 14, 17 and 47 of the 1992 Freedom of Communications Act so as to guarantee and promote media independence and plurality.
- Related to the above, the state should consider developing and adopting a comprehensive freedom of information law in accordance with international standards through a multi-stakeholder consultative process.
- The establishment of a Faculty of Journalism at the University of Djibouti provides a great opportunity to tailor the curriculum to serve the needs and priorities of a young media industry. However, there is need to support the faculty with resources to buy equipment and also new learning materials.
- The government should work together with the media to promote self-regulation through the speedy adoption of the professional code of conduct developed in April 2013 with support from UNESCO.
- The arbitrary detention and torture of opposition activists and journalists must stop; equally, impunity for such violations must stop and victims must be afforded adequate redress.

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- It is important that, together with other relevant stakeholders, the government of Djibouti strengthens the professional capacity and academic freedom of institutions that underpin freedom of expression, such as journalism schools, trade unions and civil society organisations.
 - There is a need for infrastructural development, for example the IT infrastructure, broadband and others, to take place in order to support community engagement in the democratic processes.
 - The right to freedom of peaceful assembly must be fully respected; violations of this right should be investigated and victims afforded redress.
 - Key policies should be developed to ensure that the advantages of the ongoing convergence of communications technologies are guaranteed, and that they take into account public participation and the wider public interest.

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