



International Covenant on Civil and Political Rights

Distr.: General
29 April 2013

Original: English

Human Rights Committee

List of issues in relation to the initial report of Djibouti (CCPR/C/DJI/1), adopted by the Committee at its 107th session (11 – 28 March 2013)

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please indicate cases, if any, where judges have directly applied the provisions of the Covenant. In addition, please provide information on any steps, such as training of judges and lawyers so as to raise awareness of the Covenant. Please describe the procedure in force for implementing the decisions adopted by the Committee under the Optional Protocol. Please indicate whether the Covenant has been integrated into judicial training curricula and, to the extent that it has, please provide further information on how it has been integrated.
2. Please indicate how the National Human Rights Commission complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles); any steps taken by the National Human Rights Commission to apply for accreditation by the International Coordinating Committee for National Human Rights Institutions; the mandate, if any, of the Commission to conduct regular and unannounced visits to places of deprivation of liberty in order to issue independent findings and recommendations; any steps the Government has taken to implement recommendations and follow-up on individual complaints it receives from the National Human Rights Commission; and, also, the human and financial resources provided to the Commission. Please provide information on the activities of the Office of the Ombudsman in the field of civil and political rights and provide information on any implementation or follow-up by the Government to the recommendations of the office.
3. Please provide information on the use of traditional law and Sharia law and its consistency with the provisions of the Covenant and explain which provisions take precedence in case of conflict. In this context, please identify the steps taken to raise awareness among the general population of the Covenant and its Protocols and to encourage them to resort to the rights and procedures included therein, particularly in rural areas; the steps taken to translate the Covenant in Afar and Somali and to disseminate it widely in all the languages used in the State party.

Non-discrimination and equality between men and women (arts. 2, para. 1; 3, 23 and 26)

4. Please indicate the measures taken to ensure equal rights of women and men in marriage through repealing or amending provisions of the Family Code that require women

to have the consent of a guardian to marry; restrict marriage to non-Muslim men; condition validity of a marriage on the payment of a dowry; allow derogations to the minimum marriageable age for women subject to the consent of a guardian or judge; permit polygamy in certain situations; indicate the husband as head of the family; subject requests for divorce by a woman (but not a man) to provision of justification; and discriminate between men and women in inheritance matters. In this context, indicate the steps taken to revise family and other laws relating to marriage taking into account progressive interpretations of Islamic law that is in line with the provisions of the Covenant. Please identify any sustained and systematic action through programmes and awareness-raising to abolish the practice of polygamy.

5. Please indicate whether the State party has any plans to repeal laws criminalizing same-sex sexual conduct.

6. Please respond to the claim that the Government grants prima facie refugee status to refugees from south Somalia while persons with other nationalities seeking asylum must register with the National Assistance Office for Refugees and Disaster Stricken People (ONARS) and that non-Somalis in practice rarely receive asylum. In responding, please indicate how such a situation is compatible with the Covenant and constitutional guarantees against discrimination.

Right to life (art. 6)

7. Please provide information on the investigation, as well as on the prosecution and sentencing of perpetrators, of the alleged torture and killing of Dirir Ibrahim Bouraleh in April 2011. Was any compensation paid to family members of the victims?

Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of the person; treatment of prisoners (arts. 7, 9 and 10)

8. Please provide information on (a) the number of cases of alleged torture and cruel, inhuman or degrading treatment on the part of police officers or prison officials that have been investigated since 2005; (b) the outcome of these investigations, including prosecutions, and the action taken against those found guilty; and (c) the measures taken for the rehabilitation and compensation offered to victims. In responding, please refer specifically to the claims of torture or ill-treatment in relation to: (a) arrests during election-related demonstrations on and after 18 February 2011 of more than 300 people; (b) journalists and political prisoners, including Hassan Amine, Ismaël Hassan Aden, Ismaël Abdillahi Doualeh, Abdi Osman, Mohamed Ahmed Abdillahi, Mohamed Hassan Robleh, Adan Mahamoud Awaleh, Hamoud Elmi Ahmed (Gedaleh), Mohamed Ahmed (Jabha), Zakaria Awaleh, Mahdi Abdillahi, Zeinab Mohamed Robleh, Idriss Mohamed Robleh Mohamed Robleh, Houssein Robleh Dabar, Farah Abadid Heldid, Jean-Paul Noël Abdi and Ahmed Aidahis; (c) the case of two Ethiopian nationals Captain Behailu Gebre and Abiyot Mangudai sent back to Ethiopia without any avenue of appeal to challenge an expulsion order; (d) alleged torture of a Yemeni national Mohammed al-Asad prior to being transferred to Afghanistan; and (e) the arrest and beating of Houmad Mohamed Ibrahim, a local leader in Tadjourah district, and his family.

9. Has the State party taken steps to establish a dedicated, independent and effective complaints mechanism competent to receive complaints, conduct prompt and impartial investigations into allegations of torture, in particular of prisoners and detainees, and ensure that those found guilty are punished. Please expand on the measures, including training, referred to in paragraphs 92 and 94 of the State party's report that have been taken to ensure that acts of torture or ill-treatment do not occur in the future.

10. Please respond to reports that a high proportion of the prison population is in pretrial detention and that it is not uncommon for detainees to wait two, three and even eight years for trials to begin.

11. Please provide additional information on measures taken to improve conditions in prisons and places of detention in the State party. In particular, indicate the measures taken to address overcrowding; inadequate hygiene and cleanliness as well as lack of water and adequate food; care for detainees with mental disabilities; and, co-detention of convicted persons and persons awaiting trial. What supervisory or monitoring mechanisms are in place to receive complaints from detainees and monitor conditions of detention?

12. Please provide information on measures, including strategies and public awareness campaigns, taken to enforce legislation (art. 333 of the Criminal Code) concerning gender-based violence against women and harmful traditional practices, including the practice of female genital mutilation (FGM) and early marriage. Please respond to claims that 93 per cent of the female population in Djibouti have undergone FGM. What actions have been taken to prosecute and punish the perpetrators of FGM and to provide redress for victims of FGM? Indicate why the recommendation concerning Female Genital Mutilation from the first universal periodic review of Djibouti was subject to further consideration by the State party rather than be accepted and provide information on the outcome, if any, of the further consideration. Please indicate any steps taken to criminalize marital rape. Please also indicate the measures taken to establish additional exceptions to the prohibition and criminalization of abortion for example when the pregnancy is the result of rape or incest. Please report on the protocols adopted for regularizing the practice of therapeutic abortions in the country. Please report on the measures taken to inform women and adolescents properly about contraceptive methods and to prevent unwanted pregnancies, as well as to promote the incorporation of sexual and reproductive health education for adolescent boys and girls in school syllabuses.

13. What measures has the State party taken to ensure that the Criminal Code, Family Code and other laws explicitly prohibit corporal punishment in all settings, including at home? Has the State party taken any steps to raise awareness among the public of non-violent forms of punishment for children?

Elimination of slavery and servitude (arts. 8 and 24)

14. What steps has the State party taken to enforce the national Human Trafficking Act, including through prosecution of perpetrators, and to adopt a comprehensive national plan of action to combat trafficking of persons, bearing in mind the State party's limited resources and capacity? Please indicate how the State party intends to collect reliable statistical data on the prevalence of exploitation of migrants and refugees and of trafficking, and strengthen the investigation and prosecution skills of police and immigration officers in this field. Please indicate the measures taken to improve early identification of as well as assistance to victims of trafficking and other forms of related exploitation?

Right to a fair trial (art. 14)

15. Please respond to allegations that constitutional provisions for a right to a fair trial are not always respected – in particular through restricting defendants' access to a lawyer, and harassment of defence lawyers - and that politically motivated prosecutions sometimes occur. In particular, please respond to allegations that the foreign attorney defending businessman Abdourahman Boreh against charges of terrorism as well as the foreign attorney defending Jean-Paul Noël Abdi, President of the Djibouti League for Human Rights, against charges of conspiring against the State, were denied entry into the country and were not allowed to have physical access to their clients.

Freedom of expression, freedom of assembly and freedom of association (arts. 19, 21 and 22)

16. Please respond to the information that the Government has almost complete control of the print and broadcast media and that there is no private press, due in part to strict age and nationality requirements for press ownership in the Freedom of Communication Law as well as delays in issuing licences due to the failure to create the National Communication Commission; access to certain news Internet websites has been blocked; opposition newspapers have been closed; free speech is limited through the use of libel laws; and there is a lack of political will to change the situation. Please indicate how the restriction on speech or assertions contrary to Islamic morals referred to in the State party's report is compatible with the Covenant? What is the State party doing to reform the press law and adapt it to democratic standards, eliminating prison terms for offences related to the press currently in the 1992 Freedom of Communication Law, providing credible regulation of the media and promoting the role of the private sector in a pluralist media? Please provide information why the State party did not support a series of recommendations during its universal periodic review concerning freedom of the press and compatibility of domestic laws with the Covenant.

17. Please respond to allegations that the State party has curtailed freedom of expression through the harassment of journalists, trade unionists and human rights defenders. In this context, please respond to the allegations sent to the State party by the Special Rapporteur on freedom of expression concerning: the arrest of Mohamed Ahmed Mohamed and Djibril Ismael Egueh on 20 February and 5 March 2006; the treatment of Adan Mohamed Abdou, Hassan Cher Hared, Mohamed Ahmed Mohamed, Djibril Ismael Egueh and Ibrahim Mayaki; and, the arrest of Jean-Paul Noël Abdi on 4 April 2009. Please also provide information in relation to: the arrest of Jean-Paul Noël Abdi on 14 December 2005 allegedly for denouncing police brutality; the arrest of Jean-Paul Noël Abdi on 9 February 2011 allegedly for investigating and reporting on student protests; the arrest of Houssein Rbleh Dabar Hildid in February 2011 and then again on 21 November 2011 for allegedly encouraging an illegal demonstration and insulting the President; as well as the arrest and harassment of Houssein Ahmed Farah on 8 August 2012 and of Jean-Paul Noël Abdi, Farah Abadid Hildid and Hassan Amine Ahmed in February and May 2012. Please indicate the steps taken by the State party to investigate the complaint lodged by Farah Abadid Hildid on 19 February alleging police misconduct related to his arrest. Please respond to the allegation that on 2 July 2010, Ahmed Darar Robleh was arrested for writing poetry critical of the President and how this is compatible with freedom of expression. Please respond to allegations that the State party has curtailed freedom of expression and freedom of assembly in the context of the 2011 Presidential elections.

18. Please respond to claims that the State party fails to recognize independent representative trade unions, places certain restrictions on the activities and membership of independent trade unions, and has brutally repressed strikes and harassed trade union leaders and members. Please respond, with explanations, to the allegation that the police, upon instruction from the Office of the Prime Minister, prevented the Union of Djibouti Workers from holding a seminar on 13 October 2010. Please provide information why the State party did not support the recommendation in its universal periodic review to respect the rights of unions, especially by refraining from arrest and arbitrary detention of, physical violence against and harassment of union representatives and from preventing union action.

Rights of the child (art. 24)

19. Please indicate what steps the State party has taken to establish a juvenile justice system in accordance with international standards, and in particular a system of specialized courts for juvenile offenders, ensure that juvenile offenders are separated from adult

offenders in detention, protect juvenile offenders from ill-treatment in prison, and develop alternative sanctions so that detention of juvenile offenders is for only short periods and as a last resort.

20. Please indicate the steps being taken to implement laws and policies established to protect children against economic exploitation including child labour, violence and sexual abuse, in particular in relation to street children.

Right to take part in the conduct of public affairs (art. 25)

21. Please respond to allegations that the State party has arrested, harassed and threatened opposition leaders, restricted the operations of opposition parties and denied opposition groups permits to organize protests in and around the 2011 Presidential elections.

22. Please provide further information in relation to the organization of regional elections and how this has impacted and will impact on regional development and the involvement of local populations through new decentralized entities as referred to in the State party's report.

Rights of persons belonging to minorities (art. 27)

23. Please indicate steps being taken to address the perception that the Afar minority suffers marginalization in comparison to the Issas, including in relation to employment and job advancement, participation in the ruling party, the civil service and security service as well as in business.

Dissemination of information concerning the Covenant and the Optional Protocol (art. 2)

24. Please provide information on the steps taken to inform public officials and the public in general of the reparations available under the first Optional Protocol to the Covenant. Please provide additional information on the participation of civil society, in particular of representatives of ethnic and minority groups, in the preparation of the State party's initial report.
