



Economic and Social Council

Distr.: General
14 November 2013

Original: English

Committee on Economic, Social and Cultural Rights Fifty-first session

Summary record of the 40th meeting

Held at the Palais Wilson, Geneva, on Monday, 11 November 2013, at 3 p.m.

Chairperson: Mr. Kedzia

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The meeting was called to order at 3.10 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Combined initial and second periodic reports of Djibouti (E/C.12/DJI/1-2; E/C.12/WG/DJI/Q/1-2; E/C.12/DJI/Q/1/Add.1)

1. *At the invitation of the Chairperson, the delegation of Djibouti took places at the Committee table.*
2. **Ms. Kayad** (Djibouti), introducing her country's combined initial and second periodic reports (E/C.12/DJI/1-2), said that technical factors had delayed that document's submission. Its preparation had involved broad consultations with all stakeholders, including civil society. Her remarks would focus on developments since its presentation in 2010.
3. Since that time various institutions had been established to foster the promotion and protection of human rights. Their activities were overseen by the Ministry of Justice. Djibouti had acceded to almost all international and regional human rights treaties, and a national committee had been established to bring national legislation into line with the provisions of the various instruments ratified by Djibouti, including the Covenant. The Constitution recognized and safeguarded all the rights enshrined in the Covenant.
4. By investing heavily in education, which received 22 per cent of the national budget, Djibouti had in the past decade been able to greatly boost primary school attendance. The Government's second priority was health care, which received 10 per cent of the national budget. As a result, maternal and infant mortality rates had fallen, and legislation establishing a national health insurance scheme was currently before the National Assembly.
5. The Government had established an array of programmes and measures to improve the lives of the poor while streamlining the underlying institutional framework. It had taken steps to reduce unemployment among young people and to improve their lives in other ways. Measures had also been adopted to enhance land security and ensure decent housing for all.
6. Finally, the promotion of direct foreign investment and the construction of four new harbours and a railway line linking Djibouti with Ethiopia were developments that promised to reduce poverty and thereby enhance enjoyment of human rights among the population.
7. **Mr. Kerdoun** (Country Rapporteur) said that, while the combined report contained encouraging information, it also pointed to weaknesses and issues requiring clarification. He acknowledged that, as a small country with few natural resources, unstable neighbours and an economy focused on the services sector, Djibouti faced unique challenges. Since 1994 internal conflict had further strained the economy, and the country depended heavily on foreign aid. Commending the State party for acceding to a number of international human rights instruments and ratifying the Rome Statute of the International Criminal Court, he nevertheless pointed out that it had not acceded to the optional protocols to instruments such as the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and for that matter the Covenant itself.

8. **Mr. Atangana** said that the Committee looked forward to learning whether the Covenant had been invoked in court cases. Turning to the issue of corruption, he said that in order to be eradicated it needed to be tackled at the highest levels of society and government. He requested statistics on anti-corruption efforts and information on cases in which people accused of corruption had been prosecuted, and on the sentences handed down. He asked whether the legislation that required political leaders and high-ranking officials to disclose their assets was being implemented.

9. **Ms. Bras Gomes** asked whether the State party intended to seek accreditation by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights of its national human rights institution, which had been established in 2008. She asked what financial constraints affected the State party's ability to protect economic, social and cultural rights, and whether it was prepared to establish a framework law that would reflect all of the Covenant's provisions on discrimination.

10. She noted that, while there were many refugees in Djibouti, comprehensive legislation on refugees seemed to be lacking. Also, the National Eligibility Commission had been quite ineffective and there were many pending cases and undocumented refugees. What was the status of the draft decree regarding the Commission?

11. **Mr. Schrijver** asked where the State party stood with regard to the Paris Principles. He enquired whether human rights institutions in Djibouti were allowed to work independently and whether the authorities welcomed the involvement of non-governmental organizations (NGOs) in reviewing the human rights situation in Djibouti. Were they free to publish their findings? If their doing so was restricted, then on what grounds?

12. He asked what steps the State party planned to take to familiarize the legal community with the contents of the Covenant, given that merely circulating the texts of the relevant treaties would probably not suffice.

13. He enquired about development assistance received by the State party from the European Union or individual donor countries, and asked to what extent human rights programmes were part and parcel of such assistance.

14. **Ms. Shin** said that the core document, the report and the replies to the list of issues were lacking in data, especially disaggregated figures. She asked how often censuses were taken, and whether data collection included systematic disaggregation of data by sex and other significant characteristics such as disability.

15. Given that most births occurred at home, how did the State party ensure that all births were registered? Were parents expected to initiate the process? How were births in refugee camps registered?

16. Turning to the issue of gender equality, she noted that personal status law currently functioned under the Family Code, which contained provisions that severely discriminated against women. She asked whether the State party intended to address that issue. She further enquired when the law prohibiting female genital mutilation would be implemented. Finally, she noted that the quotas specifying that at least 10 per cent of elected public officials and 20 per cent of civil servants must be women were too low, and that even those quotas were reportedly not being met.

17. **Mr. Sadi** asked whether national legislation had been reviewed for compliance with the Covenant and amended where necessary prior to ratification or whether the State party's usual practice was to harmonize legislation after ratifying international instruments. He would also like to know whether the new provisions of the Criminal Code that made discrimination a criminal offence had been implemented and, if so, what sanctions had been applied.

18. **Mr. Ribeiro Leão** asked the delegation to explain the basis and guiding principles of the customary law of the Sultanate and the *Xeer Issas* system of common law referred to in paragraph 15 of the report.

19. **Ms. Cong** asked for information about measures adopted in the State party to prevent and eliminate gender-based discrimination and violence and to enhance dialogue with traditional and religious leaders and win their support.

20. **Mr. Tirado Mejía**, noting that legislation penalizing gender-based discrimination was ineffectual if not supported by awareness-raising activities, asked what the authorities were doing to ensure that women were aware of their rights.

21. **Mr. Kerdoun** said that information from certain sources indicated that the State party's efforts to stamp out corruption had not been effective. The national commission established to combat corruption in 2013 was not yet operational and it appeared that corruption continued to be tolerated. What steps were being taken to reverse that situation? He would also like to know about the strategy used to fight trafficking in human beings, how the State party dealt with trafficking victims and whether the 30-year prison term established for perpetrators of trafficking offences constituted a minimum or maximum.

The meeting was suspended at 4.15 p.m. and resumed at 4.35 p.m.

22. **Mr. Hersi** (Djibouti) said that the ratification of an international instrument was a dynamic process that involved detailed planning, consultation with the committee concerned and a comprehensive review of the relevant national legislation to ascertain what, if any, adjustments were needed. Article 37 of the Constitution established that if any provision of an international treaty was contrary to a provision of the Constitution, an amendment was required before the treaty could be ratified. As mentioned in the opening statement, a national committee had been established to assume responsibility for the harmonization and transposition process.

23. The fact that Djibouti had ratified the core United Nations human rights treaties relatively recently did not mean that protection for human rights had previously been absent from its legal framework. The provisions of the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights had already been incorporated within the Constitution and, with article 37 of the Constitution also establishing the primacy of international instruments over national laws, there was henceforth no possibility of the legislature adopting a new law that might be in conflict with those provisions.

24. Prosecutions had been brought in application of the anti-corruption provisions of the 1995 Criminal Code, although he was unable to provide specific figures. Cognizant of the seriousness of the problem, the Government had adopted the United Nations Convention against Corruption and was working to ensure full implementation of its provisions. That endeavour had entailed the promulgation of the 2013 law which provided not only for the establishment of a national anti-corruption commission but also for the adoption of a declaration of assets to be signed by all persons assuming high public office. The declaration was in the drafting stages and should be finalized and ready for use in early 2014.

25. As a small country with a relatively large number of migrants, many of them in transit to neighbouring countries, Djibouti had a well-developed legal framework for combating trafficking in human beings, including a specific law adopted in 2007, and extensive case law in that area. The scale and complexity of migration flows in Djibouti had led the Government to join forces with the countries of origin to establish a common subregional anti-trafficking policy, which was being implemented through the Intergovernmental Authority on Development.

26. The provisions of ancestral, customary law were not codified and could not therefore be considered authentic sources of law, although they were sometimes used to resolve disputes outside the organized judicial system. As such, they could have a positive role in communities, besides helping to reduce the volume of cases brought before the judiciary. However, any provision of customary law that was in conflict with positive law or an international instrument could not be applied. The authorities were also doing everything in their power to put an end to unacceptable traditional practices such as female genital mutilation, which was a specific offence under the Criminal Code.

27. **Ms. Kayad** (Djibouti), acknowledging the lack of centralized official statistics on the situation of persons with disabilities in Djibouti, said that the only data currently available were provided on an ad hoc basis by the NGO sector. However, the Government was fully committed to promoting the rights of persons with disabilities and many agencies had begun work to adapt public buildings and improve accessibility. A survey of children living with disability was planned, as well as an in-depth population study. That research would provide detailed statistical information about vulnerable groups that would equip the authorities to draw up an action plan and take appropriate measures.

28. A system of grants to help students with disabilities through university was currently in its third year of operation and to date all programme beneficiaries had successfully graduated to the next academic year. As persons with disabilities were recognized as being particularly vulnerable to poverty, an expansion of the range of social assistance available to them was envisaged for the future.

29. There was no wage discrimination in the State administration. Male and female officials who performed the same function earned exactly the same salary. The minimum quotas for women in political office and women in central government administration and public enterprises were 10 per cent and 20 per cent respectively. In practice, however, the number of women in central administration far exceeded the quota and the many women in high-profile positions had been promoted on merit, not because of quotas. For example, more than 45 per cent of judges were women and women outnumbered men in higher education. As a result, many high-ranking female decision-makers were not in favour of quotas. Nonetheless, they continued to insist that women must account for at least 10 per cent of candidates on political parties' electoral lists and that the State should do more to encourage women to stand for office and ensure that discrimination did not impede their progress.

30. The extensive legal framework providing protection against gender-based violence was supported by an NGO-run mechanism to which women exposed to spousal abuse could turn for advice and assistance. Where appropriate, their cases were referred to the judiciary for legal follow-up.

31. Birth registration was free of charge, but issuance of a birth certificate was subject to payment of a fee of around DF 1,000. Mindful of the importance of registration, in recent years the authorities had considerably reduced, and in some cases waived, the fee, besides running awareness-raising campaigns at the community level. To ensure that children born in rural areas were not deprived of the right to a legal identity, officials from the Population Directorate sometimes travelled to remote areas specifically to issue birth certificates.

32. **Mr. Douale** (Djibouti), noting that Djibouti had a higher concentration of refugees per square metre than any other country, said that with the Ali Addeh camp having reached full capacity, in 2011 the Government had had to reopen the site at Holl-Holl to be able to meet requirements. It was aware of the need to strengthen national legislation on refugees and migration and, with support from the Office of the United Nations High Commissioner for Refugees, had drafted a new law that conformed to international standards and was expected to be approved in the near future. The National Asylum Eligibility Commission

had also been strengthened and was meeting with greater frequency to address the backlog of asylum applications. There were no obstacles to the registration of refugee children and a dedicated birth registration team was in place in the camps.

33. **Mr. Abdou** (Djibouti), President of the National Human Rights Commission, established by Presidential Decree in 2008, said the Commission was the fruit of an extensive consultation exercise that had produced recommendations to establish the Interministerial Coordinating Committee for the Preparation and Submission of Reports to the Treaty Bodies as well as the National Human Rights Commission. The consultations had drawn on input from various sectors, including civil society, the judiciary, trade unions and the media. Since its establishment, the Commission had been engaged in a concerted effort to increase awareness among the people of Djibouti of the fundamental rights established in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, both of which were integral components of national legislation.

34. The Commission had organized workshops in order to hone the report-writing skills of the senior officials and members of civil society organizations who drafted periodic reports for submission to treaty monitoring bodies and in order to familiarize the judiciary and lawyers with the human rights instruments which Djibouti had ratified. The Commission counselled individuals who wished to file a complaint of a breach of their human rights.

35. In order to increase its independence the Commission was seeking more financial autonomy and immunity from criminal prosecution for past and serving members. To that end, it had submitted a draft organic act which would place the Commission on a footing consonant with the Paris Principles and enable it to apply for accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

36. **Mr. Abdillahi** (Djibouti) said that foreign aid made up less than 25 per cent of the national budget, while spending on education currently accounted for 22 per cent of that budget. The amount of tax revenue as a percentage of gross domestic product worked out at 22 per cent. In order to cushion the impact of the higher prices generated by a series of economic crises, the Government had abolished tax on foodstuffs. That action had resulted in a loss of revenue of some US\$ 5 million per annum, but had preserved social cohesion. Welfare measures targeted poor areas rather than specific sectors of the population. A register of vulnerable persons was, however, being prepared. The authorities were in the process of reducing hydrocarbon subsidies. The resources which would be released by that move would boost the National Solidarity Fund.

37. **Ms. Kayad** (Djibouti) said that civil society organizations representing women and persons living with HIV/AIDS or with disabilities were very active and worked closely with the Government on human rights issues. The Government regarded dialogue with civil society as extremely constructive and it encouraged the capacity-building of those organizations, because they could best voice the human rights concerns of vulnerable sections of the population.

Articles 6 to 9

38. **Ms. Bras Gomes** asked what income-generating activities and social protection measures were available for women in the informal sector. She wondered if it was fair that, under the Family Code, a man could prohibit his wife from working outside the home. Would the Government of Djibouti consider the adoption of an employment policy comprising measures targeting on women and youth and the introduction of disaggregated indicators making it possible to monitor compliance on an ongoing basis? She asked

whether social assistance programmes offered coverage for all vulnerable categories of the population. She wished to know if there were any plans to introduce contributory unemployment insurance and whether there was a minimum, universal, old-age pension allowing senior citizens to live in dignity.

39. **Ms. Cong** asked whether the State party had a comprehensive national employment policy or programme covering women, youth, older workers and persons with disabilities. What was the current rate of inflation in Djibouti? Had the Government adopted any measures to curb the inflation rate in order to guarantee vulnerable groups' access to staple foodstuffs and medicine?

40. **Mr. Ribeiro Leão** requested disaggregated statistics shedding light on the impact of the laws and regulations mentioned in paragraph 81 of the report.

41. **Mr. Martynov** requested additional statistics on unemployment among women, young people, older workers and persons with disabilities. He enquired as to the annual average number of microcredit loans extended to women and young graduates. He was anxious to learn more about the tax incentives to encourage free-zone companies to hire workers. How did they function? What results had they achieved? He also wished to have more details about tax incentives to motivate employers to hire persons with disabilities.

42. He requested information about the staffing, financing, terms of reference and rights of the labour inspectorate. Could it halt hazardous manufacturing activities? Who were the State contractual staff referred to in paragraph 36 of the replies to the list of issues? What percentage of workers received the US\$ 200 minimum monthly wage? Did trade union rights and the Labour Code apply to workers in the export-processing zones?

43. He wished to know whether medical assistance was the only purpose of the community micro-insurance scheme, or whether coverage included other forms of assistance for the disadvantaged and marginalized sections of the population. He would welcome the inclusion of information in the next periodic report on the impact of the wider social protection measures mentioned in paragraphs 49 to 52 of the replies to the list of issues. Lastly, he asked whether Djibouti had ratified the major social security conventions of the International Labour Organization.

44. **Mr. Kerdoun** asked if it was true that some independent institutions did not contribute regularly to the National Social Security Fund and what steps could be taken to ensure that they did so.

Articles 10 to 15

45. **Mr. Atangana** noted that the State party's report said nothing about the scale of domestic violence in Djibouti, or indicate whether it had been criminalized. How many people had been prosecuted for such violence? What sentences had been passed?

46. **Mr. Pillay** said he wished to know what had been done to reduce the substantial disparities in access to safe drinking water and sanitation and in poverty rates between urban and rural areas. He also asked what measures had been adopted to deal with the food insecurity experienced by people living in extreme poverty. Why was the poverty reduction strategy not working? Had any adjustments been made to it? Did it encompass economic, social and cultural rights? Did it take account of the Committee's statement on poverty of 4 May 2001?

47. **Mr. Ribeiro Leão** enquired about the existence of a national plan to combat poverty and of specific measures to implement it.

48. **Ms. Cong** invited the delegation to describe the main priorities of policies to secure adequate food and water for the population. Would it be possible to join with neighbouring countries to prospect for new sources of water and to improve water quality?

49. **Mr. Abashidze** asked if water companies were national or international enterprises. If the right to water was violated, was it possible to lodge a complaint with an administrative body or the courts?

50. **Mr. Martynov** asked if there were any street children in Djibouti. He was eager to know the purpose behind the setting up of the Djiboutian Food Security Company and what results it had achieved. Had the Government considered abolishing import duties on factors of food production such as fuel, machinery, fertilizers and water pumps? Had Djibouti waters been overfished by locals or by foreign fleets? Why had the coastguards not taken effective action to prevent overfishing?

51. **Ms. Ravenberg** enquired whether access roads and irrigation systems were being built to improve food security. Were there enough rural health-care centres? What was the situation with regard to mental health care? Were mental health-care services governed by regulations? What steps had been taken to overcome the scarcity of psychiatrists and psychiatric nurses?

52. **Mr. Tirado Mejía** asked how generic drugs were distributed in Djibouti. Had the Government mounted a campaign to promote their use? Did any company have a monopoly over their distribution, or were special licences required for that purpose? Had the State party entered into any international agreements which restricted the production of generic drugs? Lastly, he was curious to know how the policy of renting agricultural land in the Sudan and Ethiopia worked in practice.

53. **Mr. Sadi** asked how the minimum age of marriage was enforced. What measures were taken to combat polygamy? To what extent had action to prevent female genital mutilation been effective? Lastly, he enquired about the existence of laws prohibiting marital rape.

The meeting rose at 6.05 p.m.