



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined initial and second periodic reports of Djibouti*

1. The Committee considered the combined initial and second periodic reports of Djibouti (CERD/C/DJI/1-2) at its 2560th and 2561st meetings (CERD/C/SR.2560 and SR.2561), held on 9 and 10 August 2017. At its 2574th meeting (CERD/C/SR.2574), held on 18 August 2017, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission, in a single document, of the State party's initial and second periodic reports. The Committee notes that the report was overdue. It also notes that the report does not contain sufficient information on the practical application of the Convention and is not fully in line with the guidelines for the CERD-specific document to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/2007/1).

3. The Committee thanks the delegation for the information provided orally during the consideration of the report and emphasizes the importance of maintaining a constructive dialogue in the implementation of the Convention.

B. Positive aspects

4. The Committee welcomes the following legislative and policy measures taken by the State party which contribute to the implementation of the Convention:

- (a) Elevation of the Ombudsman to the rank of a constitutional institution in 2010;
- (b) Reform of the judicial system between 2000 and 2010, including the
 - (1) Establishment of personal status courts
 - (2) Establishment of juvenile courts
 - (3) Establishment of mobile hearings
 - (4) Increase in the number of judges
- (c) Legal aid reform in 2011;
- (d) Establishment, in 2012, of an office within the Ministry of Justice to receive enquiries and provide information;

* Adopted by the Committee at its ninety-third session (31 July-25 August 2017).



- (e) Enactment of the Act on Cybercrime in 2014;
 - (f) Act No. 133 of 2016 on combatting human trafficking and migrant smuggling;
 - (g) Adoption of the Family Code in 2002;
 - (h) Adoption of the Djibouti Education Policy Act, adopted in 2000;
 - (i) Establishment of a universal health insurance scheme in 2014.
5. The Committee notes with satisfaction the State party's accession to a number of core human rights treaties.

C. Concerns and recommendations

Collection of data

6. The Committee takes note of the explanations provided by the State party regarding the reasons that prevent it from collecting data that refer to the ethnicity of persons constituting its population, in particular the need to avoid the biased exploitation of such data. The Committee nevertheless regrets the absence in the State party report of statistical and socioeconomic data on the ethnic groups of Djibouti and on non-citizens residing in its territory (art. 1).

7. In the light of its general recommendations No. 8 (1990) concerning the interpretation and application of article 1 (1) and (4) of the Convention and No. 30 (2004) on discrimination against non-citizens, and paragraphs 10 to 12 of its guidelines for the CERD-specific document, and with reference to Sustainable Development Goal No. 17, the Committee recommends that the State party provide any available information on the population of Djibouti, including non-citizens living in its territory, disaggregated by sex and nationality, to allow the Committee to assess the extent to which these groups enjoy their rights under the Convention on an equal footing with the rest of the population. During data compilation, the Committee recommends that the State party take into account the guidance note of the Office of the United Nations High Commissioner for Human Rights on a human rights-based approach to data.¹

Definition of racial discrimination

8. The Committee notes that article 1 of the Constitution and article 390 of the State party's Criminal Code contain some elements of the definition of racial discrimination. The Committee is nevertheless concerned at the absence in the State party's legislation of a specific definition that is fully in line with article 1 of the Convention (art. 1).

9. The Committee recommends that the State party include in its legislation a definition of racial discrimination that is in line with article 1 of the Convention and that establishes it as a separate criminal offence.

The National Human Rights Commission

10. The Committee takes note of the information provided by the delegation concerning the reform of the National Human Rights Commission to provide it with the financial and human resources necessary for its operation (art. 2).

11. Bearing in mind its general recommendation No. 17 on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party take all measures necessary to ensure the independence of the National Human Rights Commission, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). It also recommends that every effort be

¹ <http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>.

made so that the National Human Rights Commission obtains “A” status accreditation from the Global Alliance of National Human Rights Institutions.

Civil society

12. The Committee expresses concern at the lack of information sent by non-governmental organizations (NGOs) on the State party’s efforts and challenges in implementing the Convention (art. 2).

13. The Committee underscores the importance that it attaches to reports submitted by NGOs, which serve to enrich the dialogue between the Committee and the State party’s delegation during the consideration of the State party’s reports. The Committee recommends that the State party consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, in connection with the preparation of its next periodic report.

Compatibility of criminal legislation with article 4 of the Convention

14. The Committee notes with concern that, although some provisions of the State party’s legislation define certain acts related to racial discrimination as criminal offences, including article 6 of the Constitution, article 4 of Act No. 1/AN/92/2e L of 15 September 1992 on political parties in the Republic of Djibouti, and the Act on Cybercrime of 2014, they do not include all the elements contained in article 4 of the Convention and therefore are not in line with it (art. 4).

15. Recalling its general recommendations No. 1 (1972) concerning States parties’ obligations, No. 7 (1985) relating to the implementation of article 4 and No. 15 (1993) on article 4 of the Convention, according to which the provisions of article 4 are mandatory and preventive in nature, as well as its general recommendation No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party amend its current legislation to include provisions that give full effect to all the elements set out in article 4 of the Convention. The State party will have to follow up on such amendments by prosecuting and punishing perpetrators of hate crimes and hate speech to deter further crimes and to prevent impunity of perpetrators.

Participation of minorities in political and public life

16. The Committee takes note of the explanations provided by the State party on the distribution of seats in the National Assembly among the various communities and regions according to an unwritten rule that enjoys the support of all political parties. Nevertheless, the Committee is concerned that this rule is not sufficient to ensure that all ethnic groups, especially minority and marginalized groups, are represented in decision-making bodies of the State party (arts. 2 and 5).

17. The Committee recommends that the State party adopt legislative safeguards to ensure the equitable representation of all communities and regions in its decision-making bodies. In addition, the Committee recommends that the State party adopt special measures to facilitate the effective integration of all ethnic groups, especially minority and marginalized groups, in political and public affairs, by ensuring that they have access to senior-level posts in the public administration, the police, the army and elected assemblies. The State party should pay particular attention to women belonging to minority groups.

Economic, social and cultural rights of nomadic peoples and other vulnerable groups

18. The Committee takes note of the information provided by the State party on the enjoyment of economic, social and cultural rights by the people living in its territory, in particular regarding the establishment of a universal health insurance scheme, the employment of mobile health teams and basic education, which is compulsory for children between the ages of 6 and 16 years. However, the Committee is concerned about the information that nomadic peoples, migrants and persons living in rural and remote areas

have more limited access to water, education and health, as compared to the national average (arts. 2 and 5).

19. **Recalling its general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party take special measures to prevent the marginalization of certain ethnic groups or groups from certain regions and to ensure their inclusion in its development policies and programmes, particularly those related to basic services.**

Harmful traditional practices

20. The Committee notes that traditional practices are often widespread throughout Djibouti by virtue of the fact that almost the entire population is Muslim. The Committee is particularly concerned about harmful practices such as early marriage and female genital mutilation, which continue to exist despite being prohibited under the Family Code and the Criminal Code, respectively. The Committee is concerned about the entrenchment of these practices, especially in rural and nomadic areas.

21. **The Committee recommends that the State party redouble its awareness-raising efforts including among the religious and traditional authorities in these areas. It calls upon the State party to enforce rigorously article 333 of its Criminal Code in order to shield girls and women in these areas from such harmful practices. Victims should be encouraged to file complaints and should be afforded legal, moral and psychological support.**

Situation of refugees and asylum seekers

22. The Committee notes with satisfaction the efforts undertaken by the State party to host a large number of refugees in its territory. Nevertheless, it is concerned at the length of the asylum application procedure, which can result in expulsion or even refoulement, in violation of international norms. Furthermore, the Committee is concerned about reports of violence against women and children in refugee camps (art. 5).

23. **In the light of its general recommendation No. 22 (1996) on article 5 of the Convention and refugees and displaced persons, the Committee recommends that the State party take the measures necessary to expedite the processing of asylum applications and to ensure that it is possible to appeal against expulsion decisions and that there are no cases of refoulement. It also recommends that the State party take steps to reduce overcrowding and address the lack of privacy, which can lead to sexual violence and child abuse in refugee camps and to improve safety conditions and legal assistance for victims of abuse.**

Promotion of the Somali and Afar languages

24. The Committee notes with interest the information provided by the State party on the measures taken to promote the Somali and Afar language and culture and on the strengthening of the capacity of the Languages Institute of the Djibouti Study and Research Centre. However, the Committee is concerned that these languages are still not included in school curricula or in the administration of justice (art. 5).

25. **The Committee encourages the State party to facilitate the use of Somali and Afar languages in public life, for example in the public administration and the justice system. In addition, the Committee encourages the State party to ensure that these languages are gradually incorporated into school curricula.**

Human trafficking

26. While noting Act No. 133 of 2016 on combating human trafficking and migrant smuggling, the Committee is deeply concerned that the State party has become a hub of trafficking, whose victims are most often foreign women and children (arts. 5 and 6).

27. **The Committee recommends that the State party take all measures necessary not just to punish perpetrators of human trafficking but also to afford legal and**

institutional protection and adequate redress to victims, in particular non-citizens who do not have a valid residence permit.

Access to justice and provision of data relating to the application of article 6

28. The Committee notes with regret that the State party has not provided information concerning complaints, prosecutions, sanctions or compensation in cases of racial discrimination handled by the courts, the National Human Rights Commission and the Office of the Ombudsman (art. 6).

29. **With reference to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recalls that the absence of complaints and legal action for racial discrimination may reveal a lack of suitable legislation, poor awareness of the legal remedies available, a lack of will on the part of the authorities to prosecute the perpetrators of such acts, a lack of trust in the criminal justice system or a fear of reprisals against victims. The Committee requests that the State party provide statistics on the complaints received, the prosecutions initiated, the sanctions against the perpetrators of such offences and the redress provided to the victims. Lastly, the Committee requests the State party to incorporate into its domestic legislation adequate provisions in this regard and to ensure that the public, including persons living in refugee camps and rural areas, and nomadic and semi-nomadic peoples, know their rights, including all legal remedies in the area of racial discrimination.**

Human rights education to combat prejudices and promote understanding

30. The Committee takes note of the information provided by the delegation on the master's degree on human rights and the human rights module in the secondary school curriculum. Nevertheless, it is concerned at the absence in Djibouti of human rights education for teachers, law enforcement officials and the military. The Committee is also concerned about the lack of measures aimed at fostering dialogue and reconciliation among the various ethnic groups and in particular between the Afars and the Somali-Issas (art. 7).

31. **The Committee recommends that:**

(a) **Human rights education, including on the Convention, be included in the training of teachers, law enforcement officials and the military;**

(b) **The State party take measures to promote national reconciliation, in particular between the Afars and the Somali-Issas. The State party will first need to address the consequences of the internal conflict by putting an end to the impunity enjoyed by some soldiers who carried out the systematic and organized rape of Afar women during and after the conflict.**

D. Other recommendations

Ratification of other treaties

32. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Follow-up to the Durban Declaration and Programme of Action

33. **In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome**

document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on the action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

34. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and carry out a suitable programme of measures and policies. It requests that the State party include in its next report detailed information on the specific measures taken in this regard, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

35. The Committee recommends that the State party begin a dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, when preparing its next periodic report and in its follow-up to the present concluding observations.

Amendment to article 8 of the Convention

36. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Common core document

37. The Committee encourages the State party to submit an updated version of its core document, which dates to 2010, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to concluding observations

38. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 11, 23 and 27.

Paragraphs of particular importance

39. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 7, 9, 17, 19 and 31, and requests the State party to provide detailed information in its next periodic report on the specific measures taken to implement them.

Dissemination of information

40. The Committee recommends that the State party's reports be made readily available to the public as soon as they are submitted and that the Committee's concluding observations with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

41. The Committee recommends that the State party submit its combined third and fourth periodic reports by 30 October 2020, taking into account the reporting guidelines adopted by the Committee at its seventy-first session and addressing all the points raised in the present concluding observations. In accordance with General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.
