



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

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

1. The Committee on Economic, Social and Cultural Rights considered the combined initial and second periodic reports on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/DJI/1-2) at its 40th, 41st and 42nd meetings, held on 11 and 12 November 2013 (E/C.12/2013/SR.40-42), and adopted, at its 68th meeting held on 29 November 2013, the following concluding observations.

#### A. Introduction

2. The Committee notes with satisfaction the submission of the combined initial and second periodic reports of Djibouti and the written replies to the list of issues (E/C.12/DJI/Q/1-2/Add.1). The Committee also welcomes the constructive dialogue with the State party, represented by a high-level delegation, and appreciates the replies made by the delegation to the questions raised during the dialogue.

#### B. Positive aspects

3. The Committee welcomes the recent ratification of or accession to the following human rights instruments by the State party:

(a) The International Convention on the Elimination of All Forms of Racial Discrimination, on 30 September 2011;

(b) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, on 27 April 2011; and

(c) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 18 June 2012.

4. The Committee notes the adoption by the State party of a policy of acceding to or ratifying all international and regional instruments that strengthen the protection and promotion of human rights.

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\* Adopted by the Committee at its fifty-first session (4–29 November 2013).



5. The Committee welcomes the adoption of legislative and policy measures that contribute to the realization of economic, social and cultural rights, in particular:

- (a) The adoption of Act No. 55/AN/09/6 L on violence against women, particularly female genital mutilation;
- (b) The adoption of Act No. 174/AN/07/5 L on protection measures appropriate to the situation of persons living with HIV/AIDS and vulnerable groups;
- (c) The abolition of import duty on basic food products;
- (d) The implementation of a project to upgrade the urban water supply network;
- (e) The provision of medicines for pregnant women and tuberculosis drugs, triple-combination therapy and contraceptives free of charge;
- (f) The improvement of access to prenatal and postnatal care, particularly through the provision of such care free of charge;
- (g) Somali and Afar language preservation and study activities carried out by the Language Institute of the Study and Research Centre of Djibouti and the establishment of the Regional Somali Language Academy in June 2013; and
- (h) The issuance since July 2013 of birth certificates to children born in refugee camps.

### **C. Principal subjects of concern and recommendations**

6. The Committee regrets that there is a lack of information on cases in which the provisions of the Covenant have been invoked in the domestic courts of the State party, despite the fact that the provisions take precedence over ordinary statutes, and on activities to raise awareness about economic, social and cultural rights among members of the justice system and civil society (art. 2, para. 1).

**The Committee recommends that the State party include education on economic, social and cultural rights and the courts' ability to uphold those rights in the training programmes for judges and lawyers. The Committee also recommends that the State party carry out campaigns to raise public awareness about human rights and economic, social and cultural rights, in particular in the languages spoken in the country and through the use of appropriate communications media that are available and accessible to all. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

7. The Committee is concerned about the lack of independence of the National Human Rights Commission and the inadequacy of resources that are given to it, which constitute an obstacle to its role of protecting and promoting economic, social and cultural rights (art. 2, para. 1).

**The Committee recommends that the State party expedite the current legislative process to establish an independent human rights institution in accordance with the Principles relating to the Status of National Institutions (annex to General Assembly resolution 48/134 of 20 December 1993, the Paris Principles) and ensure that due attention is given to economic, social and cultural rights in its mandate and that the institution has the necessary resources to fulfil its mandate. The Committee invites the State party to seek the support of the Office of the United Nations High Commissioner for Human Rights in this undertaking.**

8. The Committee regrets the absence of reliable statistics that would help to assess progress made in achieving economic, social and cultural rights (art. 2, para. 1).

The Committee recommends that the State party take steps to collect data and produce statistical indicators on human rights, including economic, social and cultural rights. The Committee refers the State party to the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3). The Committee calls on the State party to include comparative annual statistical data on the exercise by persons in Djibouti of each right enshrined in the Covenant, broken down by age, sex, rural/urban population, tribe and other pertinent criteria.

9. The Committee is concerned about the prevalence of corruption in the public service of the State party (art. 2, para. 1).

**The Committee recommends that the State party intensify its effort to combat corruption and related impunity and ensure that public affairs, in law and in practice, are conducted in a transparent manner. It also recommends that the State party make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law.**

10. While noting the provisions of articles 390 to 393 of the Criminal Code on the prohibition of discrimination, the Committee regrets that the law of the State party does not fully prohibit discrimination in the exercise of all economic, social and cultural rights and does not provide for the implementation of special measures to this end (art. 2, para. 2).

**The Committee invites the State party to adopt a framework non-discrimination law that prohibits discrimination on any grounds and aims to eliminate de jure discrimination and de facto discrimination. The Committee recommends that the State party ensure that its legislation sets out a definition of indirect discrimination and provides for temporary special measures to reduce or eliminate situations that put a segment of the population at a disadvantage in the enjoyment of economic, social and cultural rights. Furthermore, the Committee encourages the State party to reassess and, if necessary, to amend its laws in order to ensure that they are not discriminatory and do not lead to discrimination, either in terms of form or substance, as regards the exercise and the enjoyment of the rights covered by the Covenant. The Committee refers the State party to its general comment No. 20 (1999) on non-discrimination in economic, social and cultural rights.**

11. The Committee regrets the absence of legislation that defines the rights of persons with disabilities. The Committee also regrets the absence of reliable information and data on their enjoyment of economic, social and cultural rights (art. 2, para. 2).

**The Committee recommends that the State party adopt legislation that incorporates the provisions of the Convention on the Rights of Persons with Disabilities and provides for administrative and legal remedies in the event of violations of these rights. The Committee also recommends that the State party collect information and produce statistical data on the exercise of economic, social and cultural rights by persons with disabilities and develop a national plan for their economic and social inclusion accordingly. Furthermore, the Committee calls on the State party to increase its efforts to make public services accessible to them.**

12. While noting that the State party hosts a significant number of refugees and that the National Asylum Eligibility Commission has resumed its work, the Committee regrets the absence of legislation on refugees (art. 2, para. 2).

**The Committee encourages the State party to expedite the adoption of a framework law to guarantee the protection of all persons in need of international protection and their enjoyment of a minimum set of economic, social and cultural rights in**

**accordance with international standards. The Committee recommends that the State party hold regular meetings of the National Asylum Eligibility Commission in order to clear the backlog of applications.**

13. The Committee notes with concern that provisions that discriminate against women have been retained in the Family Code of 2002. The Committee notes with concern that provisions aimed at promoting gender equality, such as those prohibiting female genital mutilation and the Labour Code provisions on protection against sexual harassment, are not effectively enforced (art. 3).

**The Committee encourages the State party to:**

(a) **Repeal, as a matter of priority, any provisions in the Family Code that discriminate against women, as part of its efforts to bring national legislation into line with the conventions and treaties that the State party has ratified;**

(b) **Support that work with a campaign to raise public awareness of the equal entitlement of men and women to the enjoyment of their rights and of the legal remedies available in cases of gender-based discrimination;**

(c) **Strengthen the capacity of traditional and religious leaders to speak out against all forms of gender-based discrimination, including forms of violence against women such as female genital mutilation; and**

(d) **Assess the impact of initiatives aimed at changing behaviour, in particular by establishing and monitoring gender equality indicators.**

14. The Committee regrets that the quotas for proportional representation of either sex, of 10 per cent and 20 per cent, respectively, in elected office and in the public service, falls short of establishing the equal participation of men and women. The Committee is also concerned that women are disproportionately affected by unemployment (art. 3).

**The Committee recommends that the State party take steps to ensure that the implementation of the National Gender Policy 2011–2021:**

(a) **Includes the adoption and application of more ambitious quotas for the equal participation of men and women in political life and in the public service;**

(b) **Removes the obstacles to the equal participation of women in the formal labour market, including by ensuring that legislation prohibiting sexual harassment is enforced;**

(c) **Helps mothers, in particular by ensuring compliance with maternity leave regulations, introducing flexible working hours and opening day-care centres; and**

(d) **Includes the organization of adult literacy campaigns for women along with the promotion of income-generating activities.**

**The Committee draws the State party's attention to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

15. The Committee is concerned by the scale of unemployment in the State party, particularly among young persons, women, persons with disabilities and older adults (art. 6).

**The Committee urges the State party to develop and implement a comprehensive national employment policy based on the right to work and on the inclusion, in particular, of underprivileged and marginalized groups, and long-term measures to promote employment in all the priority sectors identified in its development plans.**

**The Committee encourages the State party to diversify and develop its vocational training programmes accordingly. The Committee refers the State party to its general comment No. 18 (2005) on the right to work.**

16. The Committee notes with concern the inadequate enforcement of the regulations governing workers' rights and occupational health and safety in the State party, in part because it does not have a labour inspectorate with inspectors (art. 7).

**The Committee encourages the State party immediately to grant the labour inspectorate legal status and the powers required to perform its duties and the human and budgetary resources required to fulfil its oversight function and uphold the right to just and favourable conditions of work. The Committee also encourages the State party to develop specific occupational health and safety regulations for its various industries and to train inspectors to enforce them.**

17. The Committee notes with concern that the State party has halted efforts to establish a minimum wage, thus depriving workers of the protection of their right to remuneration which provides a decent living for themselves and their families, in accordance with the provisions of the Covenant (art. 7).

**The Committee recommends that the State party reintroduce a minimum wage and ensure that workers in both the public and private sectors receive wages that are above subsistence level.**

18. The Committee is concerned that the Labour Code and trade union rights are not effectively enforced in the companies operating in the free trade zone (art. 7).

**The Committee recommends that the State party ensure that the Labour Code and trade union rights are enforced in the companies operating in the free trade zone.**

19. The Committee regrets that the State party has not taken any steps to uphold the economic and social rights of workers in the informal economy or their families (art. 7).

**The Committee recommends that the State party adopt a long-term strategy that involves the systematic and sustained implementation of measures to protect the economic and social rights of workers in the informal economy and their families, in accordance with the provisions of the Covenant, by:**

(a) **Expanding the scope of the Labour Code and social protection provisions to the informal economy;**

(b) **Tackling the regulatory obstacles that are hampering the creation of companies and jobs in the formal economy; and**

(c) **Subsequently facilitating the regularization of workers in the informal economy.**

20. The Committee is concerned about the information provided by the State party regarding politicization of trade union activities and the decreasing number of union members. The Committee is also concerned about the allegations of repression of trade union members and striking workers by the State party's authorities (art. 8).

**The Committee encourages the State party to guarantee workers the free exercise of their right to form and join independent unions. The Committee also encourages the State party to refrain from any act that infringes on union rights or the right to strike.**

21. The Committee notes with concern that a large portion of the population in the State party is not covered by social security, including social insurance schemes. The Committee also notes with concern reports that some independent bodies have fallen behind in the payment of their contributions to the National Social Security Fund (art. 9).

The Committee calls on the State party to expedite the reform of the social security system to establish universal health-care coverage. The Committee recommends that the State party expand the scope of social security by guaranteeing a minimum income for the elderly and for persons who are of working age but incapable of earning sufficient income, particularly those who are unemployed, ill or have suffered an accident. In addition, the Committee recommends that the State party take the necessary steps to recover the outstanding amounts owed to the National Social Security Fund and to ensure that social protection systems are based on financially sustainable institutions and procedures that are accessible to all. The Committee refers the State party to its general comment No. 19 (2007) on the right to social security.

The Committee recommends that the State party ratify the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) and the Equality of Treatment (Social Security) Convention, 1962 (No. 118) of the International Labour Organization (ILO).

22. The Committee is concerned about the large number of children living or working on the street in the State party and regrets that their care is managed entirely by civil society organizations, whose capacity is limited (art. 10).

**The Committee calls on the State party to take care of children living or working on the street, to provide them with access to shelter, education and health care and to reintegrate them into society and the school system.**

23. The Committee is concerned about the fact that approximately one quarter of births in the State party are not registered, including the birth of refugee children born outside refugee camps (art. 10).

**The Committee calls on the State party to ensure that all children born in its territory are registered systematically and are issued birth certificates, including refugee children born outside refugee camps.**

24. The Committee is concerned about the fact that, under the State party's Nationality Code, children born to foreign parents may end up stateless (art. 10).

**The Committee calls on the State party to revise the Djiboutian Nationality Code so that all children born in its territory who would otherwise be stateless can obtain Djiboutian nationality at birth.**

25. The Committee regrets that poverty reduction strategies have not lowered the incidence of poverty and extreme poverty in the State party (art. 11).

**Noting that the Social Development Initiative and the sectoral projects to establish social safety nets target the most disadvantaged and vulnerable groups, the Committee calls on the State party to ensure that the safety nets and the procedures for determining indigent status and the associated benefits are accessible to all, including to households in rural and remote areas or households in which the adults are illiterate. The Committee also calls on the State party to incorporate economic, social and cultural rights into the structural reforms and projects implemented with international financial institutions, and to develop clear regulations and guidelines to assess the social and environmental impact of infrastructure development projects.**

26. While commending the State party's programme to eliminate slums, the Committee notes with concern that the majority of the population, particularly in rural areas, does not have adequate shelter (art. 11).

**The Committee encourages the State party to continue its efforts to improve living conditions in slums and shanty towns and to ensure that any relocation is carried out**

in compliance with international law. In this regard, the Committee refers the State party to its general comment No. 7 (1997) on forced evictions.

The Committee recommends that the State party build more public housing and facilitate access to adequate housing in rural areas, including by promoting the use of safe and durable construction materials. In addition, the Committee urges the State party to assess the impact of the use of environmentally friendly materials on indoor air pollution in homes. The Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing.

27. The Committee is concerned by the fact that, due to price increases, a growing number of households in the State party are unable to afford the foodstuffs needed for an adequate diet. The Committee also notes with concern that, despite the progress achieved by the State party, food insecurity and malnutrition still affect the majority of the population (art. 11).

**The Committee recommends that the State party:**

(a) Invest in a system to monitor and evaluate the enjoyment of the right to adequate food;

(b) Take the structural and regulatory measures needed for the effective implementation of Act No. 28/AN/08/6 L on protection, the suppression of fraud and consumer protection in order to ensure the right of all persons to accessible food;

(c) Adopt a multisectoral approach in the effort to combat food insecurity and malnutrition, based on strengthening household resilience and coping mechanisms and taking into account geographical, socioeconomic and cultural contexts;

(d) Ensure that the initiatives planned by the State party to reduce food insecurity, such as leasing farmland in neighbouring countries, do not impede the enjoyment of economic, social and cultural rights by local communities in those areas; and

(e) Encourage the development of local solution, such as agriculture and livestock farming in rural areas.

28. The Committee notes with concern the lack of adequate drinking water in the State party, which affects certain communities more acutely, despite water supply efforts (arts. 11 and 12).

The Committee recommends that the State party recognize the right to water in its legislation, adopt a general water plan based on this right and regularly follow up its implementation to ensure that the right is exercised without discrimination and to ensure that water is available, accessible and of acceptable quality. The Committee also calls on the State party to speed up the implementation of projects to develop infrastructure for the collection of surface water and rainwater and the desalination of sea water. In addition, the Committee recommends that the State party involve the population groups and communities concerned in the process of identifying their water needs and solutions to those needs, such as drilling new boreholes and restoring public supply points, so as to ensure that these solutions are acceptable and long-lasting. The Committee draws the State party's attention to its general comment No. 15 (2002) on the right to water.

29. The Committee is concerned about reports of intensive fishing in the State party's territorial waters (art. 11).

**The Committee urges the State party to protect the fish stocks in its territorial waters, which are a source of livelihood for small-scale fishing communities. The Committee also requests the State party to ensure that all fishing agreements provide tangible benefits for the population.**

30. The Committee is concerned about inequality in the enjoyment of the right to health in the State party, despite progress such as improved vaccination coverage. The Committee is also concerned about fluctuations in the State budget allocations for the health-care sector (art. 12).

**The Committee urges the State party to ensure that the enjoyment of the right to good quality and affordable health care is the main focus of its efforts to implement its national health policy. In order to accomplish this, the Committee urges the State party to: (a) ensure long-term stable funding for the health-care sector and allocate sufficient resources to regional authorities as part of its decentralization strategy; (b) streamline the development of the hospital sector and adopt an approach to primary health care so as to improve the coverage of health-care services, especially at the district level; (c) guarantee basic health-care services for disadvantaged and marginalized groups; and (d) strengthen training for health-care professionals by implementing a national plan to develop human resources in the health-care sector.**

31. The Committee notes with concern the shortage of medicines in the country's districts and the high price of some essential medicines that are not available in generic form and are not sold by community pharmacies (art. 12).

**The Committee recommends that the State party ensure that medicines are affordable, in particular by: (a) regulating the medicine distribution system; (b) ensuring a regular supply of medicines and transparency in the management of health-care centres; (c) promoting access to good quality generic medicines; and (d) opening community pharmacies where currently there are none.**

32. The Committee notes with concern the high maternal mortality rate in the State party, which inter alia is a result of limited access to health-care services, a lack of trained health-care personnel, a lack of prenatal care, complications related to pregnancy and childbirth, unsafe abortions and poor knowledge about maternal health (art. 12).

**The Committee urges the State party to support implementation of the National Health Plan for Mothers, Newborns and Children and to promote greater access to maternal and reproductive health-care services, including for young people and for disadvantaged and marginalized groups, through community action, particularly in rural areas.**

33. The Committee is concerned about the inadequate level of coverage of mental health problems in the State party resulting from the absence of any regulation and the lack of infrastructure and trained personnel (art. 12).

**The Committee calls on the State party to adopt a national mental health policy aimed at making mental health services available and accessible, in particular by adopting legislation that is in line with international standards and by training skilled personnel in this area. The Committee also recommends that the State party develop community mental health-care services.**

34. The Committee notes with concern that, despite the progress made by the State party, the right to basic education is not guaranteed for all, particularly for children in nomadic communities and rural, isolated or remote areas (arts. 13 and 14).

**The Committee encourages the State party to further raise awareness among parents about the importance of education, to continue to develop the education system,**

especially in nomadic communities and isolated or remote rural areas, and to improve the working conditions of teachers assigned to these areas. The Committee calls on the State party to provide information in its next periodic report on the implementation of the mobile schools pilot programme.

35. The Committee is concerned both by school dropouts and by the high academic failure rate in the State party resulting from the poor quality of public education (art. 13).

**The Committee encourages the State party to address the problems of poor quality public education, school dropouts and academic failure, particularly by: (a) developing an educational programme and system that is tailored to the specific situation in the country; (b) promoting inclusive education, including by providing school supplies for children from the most disadvantaged and marginalized groups; (c) investing in teacher training and enhancing the status of the teaching profession; (d) providing training at the local level for children who have dropped out of school; and (e) ensuring that school canteens and water and sanitation facilities are in good working order in all public schools.**

36. The Committee is concerned about the fact that drought has driven some nomadic communities to abandon their way of life based on seasonal migration and the fact that the State party is implementing a policy of settling nomadic populations in order to prevent a rural exodus. The Committee also regrets that the State party does not specifically recognize the rights of tribal peoples as such, despite the coexistence of several tribes in its territory (arts. 15 and 11).

**While aware of the climatic conditions and other difficulties facing the State party, the Committee encourages the State party to take the necessary measures to enable nomadic populations to preserve their traditional way of life. The Committee also recommends that the State party study the issue of self-identification of tribal populations and the recognition of their rights, and that it ratify the ILO Indigenous and Tribal Populations Convention, 1989 (No. 169). The Committee refers the State party to its general comment No. 21 (2009) on the right of everyone to take part in cultural life.**

37. The Committee regrets that the Somali and Afar languages have no legal status in the State party and that they have still not been incorporated in school curricula (art. 15, para. 1).

**The Committee recommends that the State party grant legal status to the two most widely spoken languages in its territory, Somali and Afar. The Committee encourages the State party to include teaching of those languages in its school curriculum.**

38. While commending the State party's efforts to promote solar energy, the Committee regrets that the majority of the population has yet to benefit from some of the scientific and technical advances that are required to ensure equal enjoyment of the rights provided for in the Covenant (art. 15).

**The Committee urges the State party to facilitate access for disadvantaged and marginalized groups to electricity, including solar energy, and to the Internet and other scientific and technological advances conducive to enhancing their enjoyment of economic, social and cultural rights (art. 15, para. 1).**

39. **The Committee requests the State party to ensure that human rights education, including on economic, social and cultural rights, is provided at all levels, as appropriate, in public and private schools (art. 13).**

40. **The Committee encourages the State party to sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

41. The Committee encourages the State party to consider inviting the special rapporteurs whose mandates cover economic, social and cultural rights to visit the country, so that it may benefit from their expertise.
  42. The Committee invites the State party to continue its collaboration on issues relating to economic, social and cultural rights with the Office of the United Nations High Commissioner for Human Rights, the specialized agencies and the relevant United Nations programmes in Djibouti.
  43. The Committee notes that a workshop to present its concluding observations and recommendations will be held to raise awareness among the various stakeholders about the need to incorporate them into their respective planning and implementation of policies, and that the observations and recommendations will be widely disseminated through the mass media, including in the national languages, so that the entire population is made aware of them.
  44. The Committee calls on the State party to disseminate these concluding observations and recommendations among government offices at all levels, the judiciary and civil society organizations and to inform the Committee in its next periodic report about the steps it has taken to implement them. It encourages the State party to involve civil society organizations in the discussion process at the national level prior to the submission of its next periodic report.
  46. The Committee requests that the State party submit its third periodic report, in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2018.
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