

Status of Human Rights in Djibouti for the 44th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in the Republic of Djibouti (Djibouti) for the 44th Session of the Universal Periodic Review (UPR).

Background

2. Djibouti is located in eastern Africa and has an estimated population of 976,000 people.¹ The country is predominately Muslim with approximately 94% of the population identifying as Sunni Muslim and the remaining 6% identifying as either Shia Muslim, Christian, Hindu, Jewish, Baha'i, or atheist.² An estimated 1.1% of the population identifies as Christians.³

3. Djibouti's previous review was held on May 10, 2018.⁴ As a result of the review, Djibouti received 203 recommendations, 177 of which Djibouti accepted.⁵ One recommendation made by Ghana, and supported by Djibouti, was that the government "[e]nsure that the right to freedom of religion or belief is guaranteed and protected within Djibouti, and that Christians and other religious minorities are treated equally as regards their human rights and fundamental freedoms by both society and the State."⁶ It was also recommended by the United States of America, and supported by Djibouti, that the government "[i]ncrease efforts to criminally prosecute traffickers and provide adequate care to trafficking victims."⁷ Moreover, it was recommended by Iceland, and supported by Djibouti, that the government "[t]ake further steps to improve implementation of its laws on female genital mutilation and ensure prosecution through the appropriate judicial channels."⁸

Legal Framework

Religious Persecution

4. Article 1 of the Constitution of Djibouti establishes Islam as the "Religion of the State."⁹ Additionally, under Article 11, "[e]very person has the right to the freedom of thought, of conscience, of religion, of worship and of opinion within respect for the order established by the law and the regulations."¹⁰

5. While Djibouti maintains civil courts for non-Muslims,¹¹ the laws and policies are influenced by Sharia law.¹² Therefore, proselytization by non-Muslim groups are illegal.¹³

6. Furthermore, Djibouti is a party to the International Covenant on Civil and Political Rights (ICCPR),¹⁴ and is required to protect the rights to freedom of thought, conscience, religion, and the manifestation of religion in public or in private for all of its citizens, not just Muslims.¹⁵

7. Moreover, under Article 27 of the ICCPR:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.¹⁶

Human Trafficking

8. Under Article 5 of Law No. 133, 2016, On The Fight Against Trafficking in Persons and Illicit Smuggling of Migrants:

The offense of trafficking in persons is: the recruitment, transfer, transportation, the accommodation or reception of persons by the use of threat or the use of force or forms of coercion, by abduction, fraud, deception, abuse of authority or a situation of vulnerability, or by offering or accepting payments or benefits to obtain the consent of a person having authority over another for the purpose of exploitation.

Exploitation includes the exploitation of the prostitution of others or other forms of exploitation sex, forced labor or services, slavery or practices similar to slavery, servitude or organ harvesting.¹⁷

9. Furthermore, under Article 8 of the ICCPR, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁸

10. Djibouti is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁹ Under Article 9, section 1 of this Protocol:

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.²⁰

Female Genital Mutilation

11. Djibouti banned the practice of Female Genital Mutilation (FGM) in 1995 under Article 333 of the Penal Code.²¹ The Penal Code punishes those found guilty of performing FGM with a prison sentence of five years and a fine of 1,000,000 Djiboutian Francs.²² Additionally, Article 1 of Law No. 55 defines FGM as “any non-therapeutic operation which involves total or partial removal and/or wounds performed on the female genital organs, for cultural or other reasons.”²³

12. Djibouti is a party to the Convention on the Rights of the Child (CRC)²⁴ and the Protocol to the African Charter of Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol).²⁵ Article 19 of the CRC requires that children be protected from all forms of physical or mental violence.²⁶ Further, Article 5 of the Maputo Protocol requires States Parties to “take all necessary legislative and other measures to eliminate such practices,

including: . . . prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them.”²⁷

Religious Persecution

13. There are only an estimated 10,800 Christians living in Djibouti.²⁸ Muslims who convert to Christianity experience heightened persecution “both from the local community and their own family members. Hiding one’s faith is one means of protection but the communal lifestyle makes this very difficult.”²⁹

14. One Christian convert explained the difficulty she experienced and the harassment she received from her family: “I didn’t tell them anything. I left home with the clothes I wore, and never returned. I knew what they would do to me if they found out about my conversion.”³⁰ She grew up in a very nice home but had parents who were strict Muslims.³¹ Her conversion story began when her friend invited her to meet a group of Christians.³² At first, she was reluctant but over time she felt something change in her and she eventually converted to Christianity.³³ Unfortunately, she knew that this meant that “she would have to leave her family immediately and permanently.”³⁴ After she left, she got married and had a child.³⁵ It was then, that her family found her.³⁶ However, instead of offering love and support, her family threatened her.³⁷ She stated that her mom threatened to kill her, shouting “[t]here has never been anything to do with Christianity in our family history. How did she become a ‘kafir’ (a person who rejects the commands of prophet Muhammad)? Killing her is Jihad (sacred).”³⁸ Thankfully, she was not killed, but she still receives threats from her family:

Sometimes my family calls me and says: ‘You live an insignificant life. You used to live in a beautiful house with us. You ordered servants around. Why do you choose this Christian life of poverty?’ But I don’t see it this way. I am happy because God tells me: ‘All these things perish and pass away. But living with the Lord is forever.’³⁹

15. We are concerned about Djibouti’s anti-proselytization laws and how they are used to restrict religious freedom. For example, even though the Catholic Church is permitted to operate in the country, it is prohibited from evangelizing and can only carry out social work.⁴⁰ A Catholic Bishop working in Djibouti stated that despite the Catholic Church being a religious organization, it is forced to operate in a secular manner.⁴¹ This sentiment was also shared by Sister Simona Brambilla, Superior General of the Consolata Missionaries (IMC). She said: “It is a small, fragile Church, but strong in the light of the Gospel. A Gospel that cannot be announced verbally, since it is an Islamic country, but our faith is lived. Certainly, the Christians and the Sisters who live there are few, but they are a significant presence.”⁴²

16. This ban on proselytization contravenes both Djibouti’s Constitution and the ICCPR. Again, Djibouti’s Constitution states that “[e]very person has the right to the freedom of thought, of conscience, of religion, of worship and of opinion,”⁴³ and Article 18 of the ICCPR states that “[e]veryone shall have the right . . . either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”⁴⁴ Under the law, those who publicly share their religion with others can be arrested. In fact, simply giving someone a Bible or even telling a Muslim about the Christian faith can be interpreted as proselytizing. Clearly, this law restricts the ability of Christians to publicly manifest their religion.

Human Trafficking

17. Djibouti's location in the Horn of Africa makes it a crucial transit country for human trafficking in the region.⁴⁵ In particular, "Djibouti is a country of origin, a waypoint and a destination market for children, men and women trafficked for sexual and labour exploitation."⁴⁶ Many of the victims come from Ethiopia and Somalia as Djibouti is used as a transit route to the Arabian Gulf.⁴⁷ Because of the high number of migrants traveling through the country, "Djibouti offers an increasingly lucrative opportunity for human smugglers and, as a result, the human smuggling industry has increased in both sophistication and capacity in recent years."⁴⁸ Furthermore,

[t]raffickers often employ migrants in forced labour and sex trafficking going to destination countries via the eastern route. Other people on the move using this very route are also at risk of being trafficked, and this happens in other transit areas like Djibouti for people arriving from Yemen. In some cases, migrants who appeal to smugglers to assist them in crossing Djibouti to reach their destination country may be subjected to human trafficking or kidnapping.⁴⁹

18. In 2022, the International Organization for Migration (IOM) in Djibouti "organized a series of initiatives bringing together staff and migrants to highlight the need to stem trafficking in persons in the country."⁵⁰ These initiatives focused "on the use and abuse of technology in hindering or facilitating human trafficking in a global context where traffickers are increasingly using technology to exploit and attract potential victims."⁵¹

19. In 2021, the labor investigators investigated a total of thirty potential cases but were unable to identify any human trafficking victims.⁵²

20. In June 2021, "[t]he Djiboutian Commission Nationale des Droits de l'Homme (CNDH) signed several Memoranda of Understanding on cooperation in the field of human rights with the national police, the coastguard and three local civil society organisations (CSOs)."⁵³ These documents recognized that migrants are particularly vulnerable to "economic exploitation, physical abuse, sexual assault, and other forms of rights violations."⁵⁴ Furthermore, these agreements directed the CNDH to work with the police and the coastguard to "monitor these violations, protect the victims and ensure a judicial follow-up of their cases."⁵⁵

21. The biggest hindrances to combating human trafficking are a lack of resources and corruption.⁵⁶ In Djibouti, "[e]vidence suggests that high-level Djiboutian government officials profit from corrupt activities and that state-embedded actors (such as the Djiboutian secret police) accept, and potentially profit from, criminal markets such as human smuggling."⁵⁷ Additionally, the fight against human trafficking is hindered by a lack of "capacity and resources to respond to and tackle the country's human trafficking and human smuggling issues."⁵⁸ All of these factors contribute to the fact that Djibouti has failed to convict a trafficker since 2017,⁵⁹ and that authorities struggle to effectively identify and assist victims.⁶⁰

Female Genital Mutilation

22. Despite being illegal, the practice of FGM remains prevalent because it is "a tradition of a majority of the ethnic groups in the country."⁶¹ In Djibouti, 71% of girls and women

between the ages of fifteen and forty-nine have undergone FGM.⁶² Furthermore, legislation is hard to enforce particularly in more rural areas as this practice is “deeply rooted in mentalities for generations.”⁶³

23. One victim of FGM, Mariam Kako, shared her tragic story of when she was subjected to this cruel practice at the age of five: “I can remember everything, every little detail about that day, those moments It’s all still in my head, where it happened, who held me down, the balcony above me. And how it was all masked by a party with gifts and music.”⁶⁴ When Mariam grew up and got married, she and her husband vowed to stop the tradition.⁶⁵ When she became pregnant with a baby girl, she told her mother that her daughter would not undergo the procedure.⁶⁶ Tragically, just a week after giving birth, Mariam left the house to receive a training graduation certificate.⁶⁷ Against her wishes, Mariam’s mother seized this opportunity to have the baby cut.⁶⁸ For the next forty days, the baby continued to bleed, dropped below her birth weight, and got an infection.⁶⁹ And finally, at the young age of six months, the baby died.⁷⁰

24. As demonstrated above, FGM is extremely dangerous and can have long-lasting health effects that can seriously impact the health of women and girls. FGM has been shown to cause the following complications:

Immediate complications include severe pain, shock, haemorrhage, tetanus or infection, urine retention, ulceration of the genital region and injury to adjacent tissue, wound infection, urinary infection, fever, and septicemia. Haemorrhage and infection can be severe enough to cause death.

Long-term consequences include complications during childbirth, anaemia, the formation of cysts and abscesses, keloid scar formation, damage to the urethra resulting in urinary incontinence, dyspareunia (painful sexual intercourse), sexual dysfunction, hypersensitivity of the genital area and increased risk of HIV transmission, as well as psychological effects.⁷¹

25. Evidence shows that, even though it is hard to implement the laws, Djibouti’s efforts to stop the practice of FGM are working. In 1994, the prevalence rate of FGM for girls between the ages of fifteen and nineteen was 94.3%.⁷² In 2019, the prevalence rate for that same age group was 21.1%.⁷³ Furthermore, since 2018, there have been nineteen arrests, thirteen cases brought to court, and thirteen convictions.⁷⁴ Additionally, because of community engagement and involvement, such as home visits and building connections with families and communities, an estimated 1,906 girls were saved from FGM between 2018 and 2021.⁷⁵ Furthermore, in 2021, “61,457 people participated in education, sensitization and social mobilization sessions promoting FGM abandonment.”⁷⁶

Recommendations

26. It is critical that Djibouti ensure that its laws are in line with its Constitution and the ICCPR. To do this, Djibouti must remove the ban on public proselytization. It is imperative that the government protect the rights of its citizens to openly and freely practice their religion according to the dictates of their faith.

27. Clearly, Djibouti is not doing enough to combat human trafficking and provide aid and resource for the victims. Djibouti must allocate resources and training so that authorities can adequately identify victims of human trafficking, provide them with aid, and prosecute the traffickers. Furthermore, because corruption also plays a role in human trafficking, the

government must be committed to aggressively prosecuting authorities who are complicit and allowing this crime to continue unabated.

28. Finally, we are encouraged by the efforts Djibouti has undertaken to put an end to FGM. Even though the rates remain high, we have begun to see a decline in these rates as the government is working within communities to educate them on the dangers of this harmful tradition. We encourage Djibouti to continue these efforts.

¹ *Djibouti*, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/djibouti/> (Feb. 27, 2023).

² *Id.*

³ OPEN DOORS, DJIBOUTI: FULL COUNTRY DOSSIER 8 (Feb. 2022), <https://www.opendoors.org/research-reports/country-dossiers/Djibouti-Full-Country-Dossier-February-2022.pdf>.

⁴ *Universal Periodic Review – Djibouti*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/dj-index> (last visited Mar. 14, 2023).

⁵ *Djibouti Infographic 30th*, OHCHR, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/DJ/DJIBOUTI_Infographic_30th.pdf (last visited Mar. 14, 2023).

⁶ OHCHR, UPR of Djibouti (3rd Cycle – 30th Session): Thematic List of Recommendations, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/DJ/UPR30_Djibouti_Thematiclists_of_Recommendations_E.docx (last visited Mar. 14, 2023).

⁷ *Id.*

⁸ *Id.*

⁹ CONSTITUTION OF THE REPUBLIC OF DJIBOUTI 1992, art. 1, https://www.constituteproject.org/constitution/Djibouti_2010.pdf?lang=en.

¹⁰ *Id.* art. 11.

¹¹ ACN INT’L, RELIGIOUS FREEDOM IN THE WORLD REPORT: DJIBOUTI 2 (2021), <https://acninternational.org/religiousfreedomreport/wp-content/uploads/2021/04/Djibouti.pdf>.

¹² OPEN DOORS, *supra* note 3, at 6.

¹³ *Id.*

¹⁴ *Ratification Status for Djibouti*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=50&Lang=EN (last visited Mar. 14, 2023).

¹⁵ International Covenant on Civil and Political Rights art. 18, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

¹⁶ *Id.* art. 27.

¹⁷ *Djibouti*, ANTISLAVERY IN DOMESTIC LEGIS., <https://antislaverylaw.ac.uk/country/djibouti/> (last visited Mar. 13, 2023).

¹⁸ ICCPR art. 8, *supra* note 15.

¹⁹ *A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18 (Mar. 14, 2023, 9:15 AM).

²⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9, § 1, *adopted* on Nov. 15, 2000, 2237 U.N.T.S. 319, https://treaties.un.org/doc/treaties/2000/11/20001115%2011-38%20am/ch_xviii_12_ap.pdf.

²¹ *Djibouti*, 28 TOO MANY, <https://www.28toomany.org/country/djibouti/> (last visited Mar. 13, 2023).

²² *Djibouti: The Law and FGM*, 28 TOO MANY 4 (July 2018), [https://www.28toomany.org/media/uploads/Law%20Reports/djibouti_law_report_v1_\(july_2018\).pdf](https://www.28toomany.org/media/uploads/Law%20Reports/djibouti_law_report_v1_(july_2018).pdf).

²³ *Id.* at 3.

²⁴ *Ratification Status for Djibouti*, *supra* note 14.

²⁵ Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, *adopted* July 11, 2003, <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/ProtocolontheRightsofWomen.pdf> [hereinafter Maputo Protocol].

²⁶ Convention on the Rights of the Child art. 19, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁷ Maputo Protocol art. 5, *supra* note 25.

²⁸ OPEN DOORS, *supra* note 3, at 5.

²⁹ *Id.* at 6.

³⁰ *Djibouti: How a Young Christian Convert Chose a Refugee Camp Over a Life of Luxury*, CHRISTIANITY TODAY (July 24, 2021, 1:43 PM), <https://www.christiantoday.com/article/djibouti.how.a.young.christian.convert.chose.a.refugee.camp.over.a.life.of.luxury/137148.htm>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *AFRICA/DJIBOUTI – The Mission of Caritas: to be Close to the Poor*, AGENZIA FIDES (Mar. 18, 2019), http://www.fides.org/en/news/65740-AFRICA_DJIBOUTI_The_mission_of_Caritas_to_be_close_to_the_poor.

⁴¹ *Id.*

⁴² *The Catholic Church’s Presence in Djibouti*, VATICAN NEWS (Dec. 15, 2021, 7:07 PM), <https://www.vaticannews.va/en/africa/news/2021-12/the-catholic-church-s-presence-in-djibouti.html>.

⁴³ CONSTITUTION OF THE REPUBLIC OF DJIBOUTI art. 11.

⁴⁴ ICCPR art. 18, *supra* note 15.

⁴⁵ GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME, ORGANISED CRIME INDEX: DJIBOUTI 2021 at 3 (2021), https://africa.ocindex.net/assets/downloads/2021/ocindex_summary_djibouti.pdf (last visited Mar. 13, 2023).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Migration Profile Djibouti*, MIGRANTS REFUGEES (Jan. 2022), <https://migrants-refugees.va/it/wp-content/uploads/sites/3/2022/03/2022-CP-Djibouti.pdf>.

⁵⁰ *IOM in Djibouti Organizes Initiatives to Shine the Spotlight on Human Trafficking*, IOM (Sep. 12, 2022), <https://eastandhornofafrica.iom.int/news/iom-djibouti-organizes-initiatives-shine-spotlight-human-trafficking>.

⁵¹ *Id.*

⁵² VERITÉ, *TRAFFICKING RISK IN SUB-SAHARAN AFRICAN SUPPLY CHAINS: DJIBOUTI 6*, <https://verite.org/wp-content/uploads/2022/08/Djibouti-2022-FINAL-.pdf> (last visited Mar. 13, 2023).

⁵³ *Djibouti: Row of Agreements Strengthens Cooperation on Protecting Human Rights in the Area of Migration*, EUR. COMM’N (Jun. 11, 2021), https://ec.europa.eu/trustfundforafrica/all-news-and-stories/djibouti-row-agreements-strengthens-cooperation-protecting-human-rights-area_en.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ GLOBAL INITIATIVE AGAINST TRANSNATIONAL ORGANIZED CRIME, *supra* note 45, at 4.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ VERITÉ, *supra* note 52, at 2.

⁶⁰ *Migration Profile Djibouti*, *supra* note 49.

⁶¹ Eva Gillam, *Ending Female Genital Mutilation in Djibouti*, UNICEF (Feb. 6, 2019), <https://www.unicef.org/stories/ending-female-genital-mutilation-djibouti>.

⁶² UNICEF, UNFPA-UNICEF JOINT PROGRAMME ON THE ELIMINATION OF FEMALE GENITAL MUTILATION ACCELERATING CHANGE 2021 ANNUAL REPORT: DJIBOUTI (2021), <https://www.unicef.org/media/128166/file/Djibouti-FGM-2021.pdf>.

⁶³ Sirad Hamoud Yacin, *Zero Tolerance to FGM – How Youth Are Making a Difference*, VOICES OF YOUTH (Dec. 3, 2019), <https://www.voicesofyouth.org/blog/zero-tolerance-fgm-how-youth-are-making-difference>.

⁶⁴ Gillam, *supra* note 61.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Female Genital Mutilation (FGM) Frequently Asked Questions*, UNFPA (Feb. 2022),

<https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>.

⁷² UNICEF, *supra* note 62.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*