

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 30th Session

DJIBOUTI

I. BACKGROUND INFORMATION

Djibouti succeeded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* in 1977. Djibouti has also signed the *1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa* (hereafter the *OAU Convention*) in 2005. However, Djibouti is not a State party to the *1954 Convention relating to the Status of Stateless Persons* nor the *1961 Convention on the reduction of Statelessness*.

Until the end of 2016, refugee matters have been regulated by means of administrative decrees passed by the Government. However, on 05 January 2017, the Djibouti Head of State, President Ismail Omar Guelleh, promulgated the *National Refugee Law*, which had been adopted by the Djibouti Parliament in December 2016. The law ensures a favourable protection environment for refugees and enables them to enjoy fundamental rights, including access to services and to education, employment and naturalisation among the others.

Regarding RSD procedures, the National Eligibility Committee (NEC) was established in 1977 for this purpose. While the NEC did not hold any sessions from 2005-2012, it was reactivated in 2013. Two sessions were convened in 2016 and a total of 110 Eritrean asylum claims were decided upon positively. In 2016, a total of 220 individuals (38 cases) departed for resettlement to the United States of America, out of which 32 individuals (7 cases) were Ethiopian and 188 individuals (31 cases) were Somali nationals.

Djibouti maintains an open door policy and continues to offer protection and asylum space to refugees and asylum-seekers. In particular, Djibouti grants *prima facie* refugee status to Yemeni and Somali asylum-seekers originating from South and Central Somalia. Newly arrived asylum-seekers from Ethiopia and Eritrea follow individual refugee status determination (RSD) procedures. Furthermore, at the UN Summit for Refugees and Migrants in 2016, the Government of Djibouti committed to the importance of education for refugees and the inclusion of refugees into the national health care and insurance system in Djibouti.

As of 31 August 2017, the total population falling under UNHCR's mandate in Djibouti stands at 27,618 persons (18,685 refugees and 8,933 asylum seekers): 48 per cent are Somalis, 31 per cent are Ethiopians, 16 per cent are Yemenis, 4 per cent are Eritreans and 1 per cent other nationalities. Women and children account for 73 per cent. The majority (80 per cent) of the population of concern lives in three camps whereas 20 per cent is in urban areas.

II. KEY PROTECTION ISSUES AND CHALLENGES

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Access to birth registration and birth certificates

Linked to 2nd cycle UPR recommendation no. 143.108: “Take the necessary measures to ensure easy and effective access to the free birth register, especially for those births outside hospitals (Mexico)”

As of 2013, the Government of Djibouti started issuing birth certificates to all children born to refugees and asylum-seekers residing in the three refugee camps. Civil birth registration takes place outside of the camps in government structures (“Prefecture”) where refugees and nationals obtain birth certificates.

Refugees residing in urban areas have to initiate the birth registration process and cover the costs themselves. Many refugees in Djibouti city are not aware of this and not able to cover the expenses. Therefore not all refugee children born in Djibouti city have a birth certificate. The majority of urban refugees are, consequentially, unable to attend school due to lack of a birth certificate. Many asylum-seekers continue giving birth at home and not in one of the hospitals, hence they are left without a birth notification, which is required to obtain a birth certificate. Another impediment is the fact that refugees need to pay \$6 USD to obtain a birth certificate, which many cannot afford.

Recommendations:

UNHCR recommends that the Government of Djibouti:

- (a) Establish a mechanism for the issuance of late birth certificates (*jugements supplétifs*) for refugees and asylum-seekers;
- (b) Increase awareness amongst the urban refugees communities on the importance to register their new born within the two-days period required by law; and,
- (c) Reduce or eliminate the cost of obtaining a birth certificate, so as to facilitate the access of refugees and asylum-seekers to birth certificates.

Other protection challenges

Issue 2: Refugee status determination (RSD) procedures

While the number of cases decided by the NEC has risen from 32 in 2013 to 83 in 2015 and 79 in 2016, there remains a backlog of 8,578 asylum claims, mostly from Ethiopians, whose cases are pending RSD procedures. The NEC is comprised of seven (7) members who are top government officials. Many of them have either been promoted to other functions or retired and thus no longer available. Due to unavailability of its members, the NEC was not able to meet in 2017. Furthermore, there is no appeal procedure in place for asylum-seekers whose claims have been rejected at the first instance. The *National Refugee Law* foresees an appeal mechanism, which will be detailed in a Decree that is currently under preparation. UNHCR however continues to advocate for a fully functional NEC.

Recommendations:

UNHCR recommends that the Government of Djibouti:

- (a) Increase the number of hearings carried out by the NEC in order to speed up the RSD process and clear the backlog of pending asylum claims; and,
- (b) Develop and implement an appeal procedure that is in line with international standards and made available to asylum-seekers whose RSD claims are rejected in the first instance.

Issue 3: Access to the territory

Djibouti has maintained an open door policy and continues to offer protection and asylum space to refugees and asylum-seekers. However, following a terrorist attack in May 2014 by Al-Shabaab, the Somali-Djiboutian border has been officially closed, hence asylum-seekers are obliged to enter the country through unofficial border points, putting their lives at risk. In addition, the Eritrean-Djiboutian border is also officially closed and Eritrean asylum-seekers are obliged to enter the country via military checkpoints.

Recommendations:

UNHCR recommends that the Government of Djibouti:

- (a) Reopen the Loyada border so as to allow asylum-seekers to enter into Djibouti territory without harassment, and in full respect of the principle of *non-refoulement*.

Issue 4: Access to education

During the New York Summit in September 2016, the Government of Djibouti pledged to include refugees into the national educational system. As a result, the Ministry of Education and UNHCR signed a Memorandum of Understanding on 28 August 2017, which will be followed by a partnership agreement. The Ministry took over the responsibility for education in the refugee camps from the implementing partner, Lutheran World Federation (LWF). The refugees will follow the national curriculum, translated into English. At the moment this only applies to the First Grade students, but will gradually be implemented for all grades. With the Ministry taking over this responsibility, the refugees will obtain recognized certificates. The Ministry has started translating the textbooks and other teaching materials into English.

As noted above, an additional challenge is that a majority of urban refugees are unable to attend school due to lack of birth certificates. Efforts should be taken to facilitate access to school for refugees and asylum-seekers who are unable to access or afford birth certificates.

Recommendations:

UNHCR recommends that the Government of Djibouti:

- (a) Continue integrating refugees and asylum-seeking children into the national curricula at all levels, regardless of their ability to afford or access official birth registration documents.

Issue 5: Access to health

UNHCR is discussing with the Ministry of Health to include refugees into the national health system and the national health insurance plan.

Supplementary funding is needed in order to provide quality care for refugees and asylum-seekers and to cover the high costs resulting from numerous referral cases to the hospitals in Djibouti-city, for chronic diseases or surgery. There is also a need to renew medical equipment such as beds and laboratory equipment in the camp-based health centers.

Recommendations:

UNHCR recommends that the Government of Djibouti:

- (a) Fully integrate refugees and asylum-seekers into the national health system, and improve the quality of health services they can access; and,
- (b) Improve the quality of medical equipment and facilities for refugees and asylum-seekers in the camp-based health centres.

Issue 6: Durable solutions

Given the socio-economic context, with unemployment reaching 40 per cent in Djibouti, local integration is not an option for many of the refugees in Djibouti. Most of the refugees originate from countries where insecurity persists, however, the office assisted 528 Somali refugees to voluntary return to Somalia this year (2017). Resettlement and voluntary repatriation thus remain the only viable options at the moment. Efforts should thus be taken to improve prospects for local integration, including by enhancing livelihoods and means of self-sufficiency for refugees and asylum-seekers who are unable to benefit from resettlement or voluntary repatriation.

Recommendations:

UNHCR recommends that the Government of Djibouti:

- (a) Develop and promote the development of livelihoods and activities aimed at fostering self-sufficiency among refugees and asylum-seekers and facilitating socio-economic integration.

UNHCR
October 2017

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

DJIBOUTI

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Djibouti.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ¹	Recommending State/s	Position
Refugees and asylum-seekers		
143.138 Take steps to increase the protection afforded to women and girl refugees against violence, including by increasing the number of law enforcement officials in refugee camps, and providing effective care for women and girls who are victims of violence	Canada	Supported
Trafficking in persons		
143.42 Elaborate a comprehensive strategy to address trafficking, particularly of women and children	Sierra Leone	Supported
143.43 Consider formulating a national strategy to combat trafficking in persons, including women and children	Indonesia	Supported
143.76 Eliminate all forms of sexual exploitation and violence, including domestic violence, with a view to avoid trafficking of persons, and implement legal measures to investigate complaints, bring perpetrators of sexual crimes and violence to justice and punish them	Ecuador	Supported
143.94 Enhance its efforts to fight against trafficking in persons and fully protect the human rights of victims, especially women, children and migrants in transit	Italy	Supported
143.95 Act to combat the trafficking in persons, especially women and children	Romania	Supported
143.96 Further strengthen measures to combat human trafficking, including by adopting a comprehensive strategy to combat trafficking, especially of women and children	Sri Lanka	Supported
143.137 Develop ways to reduce smuggling of migrants and human trafficking across maritime borders	Yemen	Supported
Groups with specific needs		
143.72 Continue to make efforts to promote the rights of children so as to improve their situation, particularly in the areas of education and health care	Qatar	Supported
143.97 Ensure the effectiveness of labour law and of the prohibition of child labour, especially child prostitution	Spain	Supported
143.135 Continue to address barriers to education of girls, with a view of increasing school enrolment at the primary and secondary levels, especially in rural areas	Sri Lanka	Supported
143.136 Continue to take further measures for the education of persons	Egypt	Supported

¹ All recommendations made to Djibouti during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Djibouti" (8 July 2013), A/HRC/24/10, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/DJIndex.aspx>.

with disabilities		
143.139 Continue to consolidate its social policies to improve the living conditions of its people, in particular for those most in need, with the support of the cooperation and solidarity of the international community	Venezuela (Bolivarian Republic of)	Supported
Sexual and gender-based violence		
143.76 Eliminate all forms of sexual exploitation and violence, including domestic violence, with a view to avoid trafficking of persons, and implement legal measures to investigate complaints, bring perpetrators of sexual crimes and violence to justice and punish them	Ecuador	Supported
143.79 Continue on its efforts in combating harmful traditional practices	Ethiopia	Supported
143.89 Enforce Djibouti's existing laws to prosecute perpetrators of FGM	United States of America	Supported
143.91 Step up efforts aimed at combating FGM, inter alia by improving the monitoring mechanism, and fighting against the stereotypes and the culture of no-reporting, also through awareness-raising campaigns targeted to communities as well as individuals	Italy	Supported
143.93 Take efficient, comprehensive measures to combat female genital mutilation, including through appropriate public oriented awareness-raising campaigns	Slovakia	Supported
143.138 Take steps to increase the protection afforded to women and girl refugees against violence, including by increasing the number of law enforcement officials in refugee camps, and providing effective care for women and girls who are victims of violence	Canada	Supported
Racism, discrimination and xenophobia		
144.2 Review relevant legislation, such as the Family Code, with a view to prevent discrimination of women, including with regards to marriage, inheritance or the freedom of movement	Slovakia	Noted
144.3 In favour of women, harmonize the provisions of the Family Code, with the CEDAW provisions, and increase efficiency of awareness raising campaigns and training to eliminate FGM and early marriage	Cape Verde	Noted
144.6 Take steps to eliminate all forms of discrimination against women and girls in relation to marriage, family relations and succession	Sierra Leone	Noted
Birth Registration		
143.108 Take the necessary measures to ensure easy and effective access to the free birth register, especially for those births outside hospitals	Mexico	Supported
Stateless persons		
144.1 Ratify conventions on stateless persons	Slovenia	Noted

II. Treaty Bodies

Human Rights Committee

Concluding Observations, (19 November 2013), [CCPR/C/DJI/CO/1](#)

Refugees

20. The Committee, while welcoming the State party's generous admission of refugees and conscious of the enormous challenges the State party has been facing in terms of mixed migration flows, is concerned that the existing legislative framework insufficiently addresses the rights of refugees and that the excessive length of asylum procedures may put asylum seekers at risk of *refoulement*. While noting efforts undertaken by the State party, such as issuing birth certificates for children of refugees, the Committee is concerned about reported cases of sexual violence in refugee camps (arts. 2, 7, 24 and 26).

The State party should increase its ongoing efforts and:

- (a) **Enact comprehensive legislation guaranteeing efficient protection of refugees and asylum seekers;**
- (b) **Strengthen the National Asylum Eligibility Commission and establish a fair and efficient refugee status determination process, including at the appeal level, to ensure that the principle of *non-refoulement* is strictly respected;**
- (c) **Continue to issue a birth certificate to every newborn refugee child to protect refugee children and prevent statelessness; and**
- (d) **Continue to strengthen mechanisms to prevent and prosecute sexual and gender-based violence, including by ensuring access to a confidential reporting mechanism and mobile courts.**

Trafficking

22. While appreciating the State party's efforts to enforce the Human Trafficking Act, the Committee is concerned that human trafficking is still being practised and regrets the lack of specific information on prosecutions and convictions of traffickers (art. 8).

The State party should continue its ongoing efforts to provide training to law enforcement officials and border and other relevant personnel to apply the Human Trafficking Act. It should increase efforts aimed at ensuring that all perpetrators of human trafficking are brought to justice and the victims adequately compensated.

23. The State party should widely disseminate the Covenant, the two Optional Protocols thereto, the text of the initial report, the written replies to the list of issues drawn up by the Committee, and the present concluding observations with a view to increasing awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee suggests that the report and the concluding observations be translated into the other official language of the State party. The Committee also requests that the State party, when preparing its second periodic report, broadly consult with civil society and non-governmental organizations.

24. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 10, 11 and 12 above.

25. The Committee requests the State party, in its next periodic report, due by 1 November 2017, to provide specific, up-to-date information on all its recommendations and on the Covenant as a whole.

Committee on Economic, Social and Cultural Rights

Concluding Observations, (30 December 2013), [E/C.12/DJI/CO/1-2](#)

C. Principal subjects of concern and recommendations

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.

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.