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Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21

Djibouti*

The present report is a summary of five stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

I. Information provided by other stakeholders

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

1. Article 19 (ARTICLE 19) recommended that Djibouti comply with its treaty obligations to report on the implementation of international human rights treaties.²

2. Cooperation with special procedures

2. ARTICLE 19 indicated that, despite mounting pressures, Djibouti has failed to issue any standing invitation to any United Nations Special Procedures mandate holder to visit the country.³ It recommended that invitations be issued to all relevant United Nations thematic Special Procedures mandate holders to visit Djibouti, in particular the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.⁴

3. The Joint Submission (JS) recommended that Djibouti should strengthen its cooperation with United Nations human rights mechanisms, including by permitting, inter alia, visits of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders.⁵

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Right to life, liberty and security of the person

4. According to JS, one of the principal features of the repressive policy pursued by the authorities in Djibouti is the systematic torture of persons who have been arrested (Afar civilians, demonstrators, political and trade union activists and human rights defenders). Security and military forces regularly engage in the cruel, inhuman and degrading treatment of persons who have been arrested and detained in military barracks and gendarmerie, police and security forces facilities.⁶

5. Civilians are tortured with impunity at military barracks in Tadjoura, in the districts of Galela, Mablas, Assageilla, Adaylou and in Tadjoura city, in Margoita and in Obock, in the districts of Waddi, Alayli Dadda, Doumeira and in Obock city, during the frequent sweeps made by the Djibouti National Army (AND). Victims are either suspected of being Front pour la restauration de l'unité et la démocratie (Front for the Restoration of Unity and Democracy) (FRUD) sympathizers, are related to members of FRUD or simply belong to the Afar community. They can be detained in custody for several months without any legal remedy.⁷

6. Since the presidential election of April 2011, some 200 persons have gone through the barracks and been tortured.⁸

7. A number of civilians arrested during the campaigns were transferred to the Section de recherche et de documentation (Investigation and Documentation Department) (SRD) of the gendarmerie, where they were subjected to further physical abuse. More than 300 persons were arrested following the mass demonstration of 18 February 2011 against the

third term of President Ismael Omar Guelleh. Several dozen persons were subjected to torture by members of the gendarmerie and security forces.⁹

8. JS recommended that Djibouti should step up its efforts to ensure that the victims of acts of torture and ill-treatment received compensation,¹⁰ that impartial and thorough investigations were made into all allegations of torture and ill-treatment put forward by non-governmental organizations and that the perpetrators of such acts were sentenced in accordance with the recommendations of the Committee against Torture.¹¹

9. The Djiboutian authorities illegally detain and confine people in military barracks, particularly in northern districts and, since 2011, in southern districts. Any person detained in a place other than a place of detention provided for by law is a victim of unlawful restraint. The majority of these persons have never been brought before a magistrate. In addition, the authorities illegally subject people to arbitrary detention at police stations.¹²

10. According to JS, the rapes of Afar women by Government troops in the northern and south-western regions that started in September 1993 are not blunders but are the result of a high-level political decision. There is evidence of serial rapes of Afar women by government troops. The objective of these systematic rapes is to destroy ethnic identity. The women are raped by a number of soldiers in order to mark them for life and to break and humiliate them. Some girls have been permanently disabled as a result of these violent incidents. They are often raped in front of their parents and husbands in order to wreck any attempt to rebuild the family.¹³

11. To date, arbitrary arrest, torture and sexual assault are the daily lot of women in the northern regions of the country, which the army considers “dangerous”. Cases of rape by soldiers in recent years have mainly been reported around the barracks in Galela and Margoïta (Tadjourah district) in recent years.¹⁴

12. JS recommended that Djibouti should step up its efforts to prevent, combat and punish violence against women and children and harmful traditional practices, particularly in rural areas.¹⁵ JS further recommended that Djibouti should investigate human rights violations in the northern and south-western regions.¹⁶

13. Global Initiative to End All Corporal Punishment of Children (GIEACPC) stated that corporal punishment of children is lawful in Djibouti, despite the recommendations to prohibit it made during the UPR in 2009 and by the Committee on the Rights of the Child and the Committee against Torture.¹⁷ Djibouti did not formally accept or reject this UPR recommendation,¹⁸ and since the review in 2009, there have been no moves towards prohibiting corporal punishment of children.¹⁹

14. Corporal punishment is lawful in the home. Provisions against violence and abuse in the Criminal Code (1995), the Family Code (2002) and the Constitution (1992) are not interpreted as prohibiting corporal punishment in childrearing.²⁰

15. Corporal punishment is reportedly prohibited in schools by regulations applicable to all education institutions, but this has not been confirmed. There is no prohibition of corporal punishment in the Outline Act on the Education System (1999).²¹

16. In the penal system, corporal punishment is unlawful as a sentence for crime: there is no provision for judicial corporal punishment in criminal law. But corporal punishment is not prohibited as a disciplinary measure in penal institutions.²²

17. There is no explicit prohibition of corporal punishment in alternative care settings.²³

18. GIEACPC stated that, today, as in 2009, corporal punishment is unlawful in the penal system and possibly in schools but it is lawful in the home and in alternative care settings. It recommended that Djibouti enact legislation to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.²⁴

2. Administration of justice, including impunity, and the rule of law

19. According to JS, although two peace agreements have been signed between the Government of Djibouti and FRUD (in 1994 and 2001) genuine peace has not been established to date. When the agreements were signed, the recognition and punishment of rape as a war crime was not even discussed. Soldiers who rape always do so with impunity. They are never punished, despite the complaints. Some are even promoted to higher ranks and live alongside their victims.²⁵

3. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

20. According to ARTICLE 19, a number of laws restrict media freedom, contradicting the guarantee for freedom of opinion and expression in Article 15 of the 1992 Constitution and the regional and international instruments to which Djibouti is party.²⁶

21. According to ARTICLE 19, the prohibitions on publication of false news (Criminal Code, Article 425) and prohibitions on Criminal Defamation (Law on Communication, Article 425) may both be abused to suppress dissent and imprison those who express views contrary to those held by the government. Both provisions violate international standards on the right to freedom of expression.²⁷ It recommended that prohibitions on the publication of false news be repealed and that defamation be decriminalized.²⁸

22. Reporters without Borders (RSF) stated that the 1992 Freedom of Communication Law poses a challenge to freedom of expression, investigative journalism and media pluralism. It provides for prison sentences for media offences and imposes age and nationality limits on anyone wanting to launch a news outlet. The creation of a National Communication Commission with the power to issue radio and TV broadcasting licenses has been on hold since 1992.²⁹ RSF recommended that Djibouti ensure full compliance of the national law and practices with Article 19 of the International Covenant on Civil and Political Rights.³⁰

23. ARTICLE 19 observed that people in Djibouti are not free to establish their own media or use it freely to seek, impart or receive information. The State continues to dominate the media. Through the Radio Television of Djibouti (RTD), the Ministry of Culture and Communications runs two national FM stations and two national AM stations. It also runs the sole national TV station. The Ministry oversees media licensing, including accreditation of foreign journalists and the RTD holds near monopoly of the airwaves.³¹ All the State-owned media outlets, editors and managers enjoy little, if any, editorial independence.³²

24. RSF stated that Djibouti has increasingly cut itself off from the world and suppressed criticism. Foreign journalists are turned away and the Government maintains a monopoly on domestic news and information by means of state-owned media.³³ RSF recommended that Djibouti lift the restrictions on national and foreign media activities and allow independent and critical coverage of the government's actions.³⁴

25. ARTICLE 19 indicated that the Organization Act No. 2-AN-92 regulates the media in Djibouti. Following its last UPR, Djibouti rejected recommendations to reform this Act and repeal its Article 14, 17 and 47 in order to bring it into compliance with the protection for the right to freedom of expression under Article 19 of the ICCPR. It imposes a number of illegitimate qualifying criteria on those seeking appointment to senior positions in media organisations. These provisions give significant discretion to the government to control media ownership and management, in violation of their duty to promote an independent and pluralistic media.³⁵ Article 14 requires participants in the financial management of any press body to be citizens of Djibouti, while Article 17 requires the director and vice-director of any media outlet to be a resident of Djibouti. Furthermore, Article 47 requires any

director of an audiovisual outlet to be at least 40 years old. ARTICLE 19 recommended that these articles of the Organization Act No. 2-AN-92 should be repealed to promote media independence and plurality.³⁶

26. ARTICLE 19 highlighted that entry requirements for the journalist's profession, even for senior positions, are inconsistent with international law; they fail to recognise that the right to express oneself through the mass media belongs to everyone, not only persons who the government considers particularly qualified or suitable. They also deprive the general public of the right to receive information and ideas from diverse sources of their own choice.³⁷

27. ARTICLE 19 stated that internet penetration levels in Djibouti remain incredibly low; the telecommunications infrastructure is severely underdeveloped and access is prohibitively expensive. Djibouti is served by a single Internet Service Provider, which is overseen by the Ministry of Culture and Communications. There are concerns that this control may be exploited by the government to monitor the content of Internet communications and restrict access to content it finds unfavourable.³⁸ RSF indicated that, inside Djibouti, the access to an opposition information website is blocked. It recommended that Djibouti allow the circulation of independent and opposition media and unblock information websites.³⁹

28. ARTICLE 19 observed that Djibouti has not adopted a law to implement the right of access to information⁴⁰ and recommended that legislation be adopted to ensure that the right of access to information can be exercised.⁴¹

29. ARTICLE 19 stated that, during its last UPR, Djibouti rejected the recommendation to cease the intimidation of journalists and promote a climate of tolerance so that opinions from opposition politicians can be freely expressed. ARTICLE 19 observed that a climate of intolerance towards freedom of expression persisted and that practices of intimidation against journalists continued, which included instances of arbitrary detention and torture.⁴² It recommended that the arbitrary detention and torture of opposition activists and journalists be thoroughly investigated, perpetrators be prosecuted and victims be afforded adequate redress.⁴³

30. RSF indicated that an appeal court was due to issue a ruling on 9 September 2012 on the appeal of Houssein Ahmed Farah, correspondent of La Voix de Djibouti, former opposition radio station that used to broadcast from Europe, against a 16 August order refusing his request to be released provisionally. After he was heard for 15 minutes by the judge on 4 October 2012, his request for temporary release was again denied by the court on 7 October. Arrested on 8 August, Farah has been languishing in the capital's Gabode prison since 11 August 2012.⁴⁴

31. Farah, who is also a member of Djibouti's Human Rights League and the Movement for the Renewal of Democracy and Development (MRD), an opposition party, has been hounded by Djibouti's authorities for nearly 10 years, previously arresting him in 2003, 2007 and 2011. After being held for more than 72 hours at Djibouti's police headquarters, he was brought before the investigating judge on 11 August 2012, and was then immediately transferred to the capital's Gabode prison. Farah was not able to see a lawyer while in police custody and was not represented by one when he appeared before the judge. Nor has he been allowed any visits or medical attention although his health is poor and he needs treatment. RSF wrote on 18 September 2012 to the Chair-Rapporteur of the UN Working Group on Arbitrary Detention to draw his attention on Houssein Ahmed Farah's plight.⁴⁵

32. ARTICLE 19 also raised similar concerns and indicated that Farah was arrested and jailed for a week without being charged or given access to a lawyer or family. He was accused of selling membership cards of the MRD, which was banned by President Ismail

Omar Guelleh in 2008. The President accused the MRD of supporting a neighbouring country in a plot to invade Djibouti.⁴⁶

33. RSF called upon Djibouti to release Houssein Ahmed Farah and, in the meanwhile, provide information on his detention conditions.⁴⁷

34. According to JS, the Djiboutian authorities harass, intimidate and punish human rights activists in order to prevent any information concerning human rights violations from being divulged. Human rights defenders continue to be regularly subjected to threats and intimidation by the police and military authorities. In northern districts, any person suspected of having passed on information about military abuses is arrested and tortured.⁴⁸ JS recommended that Djibouti should comply with the provisions of the Declaration on Human Rights Defenders adopted by the General Assembly of the United Nations on 9 December 1998.⁴⁹

35. JS confirmed that peaceful demonstrations were systematically banned or repressed by law enforcement services. A number of young demonstrators, opponents, journalists, human rights defenders and trade unionists were arrested in February 2011. Some were tortured, while a number of others were thrown into Gabode central prison charged with participating in “an insurrection”; after 4 months in detention, they were released on bail under judicial supervision on 23 June 2011. According to JS, the demonstration of 18 February 2011 was repressed, resulting in dozens of injuries, five deaths and hundreds of arrests. Most of those held for questioning were tortured. The legal opposition parties were banned in practice, their premises closed down, their campaigners pursued and their leaders intimidated.⁵⁰ RSF raised similar concerns and called upon Djibouti to release all journalists and citizens currently imprisoned in connection with their professional activities and their freedom of expression.⁵¹

36. ARTICLE 19 stated that the government has continued to intimidate and harass political opponents and their supporters. The most notable examples include blanket bans on assemblies, as well as the brutal suppression of opposition rallies, both of which violate the right to freedom of expression and the right to freedom of peaceful assembly. As well as violating international human rights standards, these incidents also violate Article 15 of the Djiboutian constitution, which guarantees the right to freedom of expression.⁵² It recommended that the right to freedom of peaceful assembly be fully respected; violations of this right be investigated and victims be afforded redress; and no further blanket prohibitions on assemblies should be imposed.⁵³

4. Right to work and to just and favourable conditions of work

37. JS confirmed that in 2010, the Government refused to give effect to the recommendations of the Human Rights Council concerning guarantees of freedom of association while repressing social protests. For example, 80 trade unionists were arrested by the police on 6 March 2010 and a further 90 were arrested the following day on 7 March 2010 after a peaceful demonstration by the Union Djiboutienne du Travail (UDT) and the Union Générale des Travailleurs de Djibouti (UGTD) claiming three months’ unpaid salary arrears. They were released the same day.⁵⁴

5. Human rights and counter-terrorism

38. Reprieve (REPRIEVE) stated that, as an ally in the “war on terror” of a foreign country, Djibouti assisted the intelligence agency of this foreign country in carrying out kidnappings and incommunicado detentions as part of its extraordinary rendition programme by allowing black sites to be operated within its borders.⁵⁵

39. According to REPRIEVE, litigation before the African Commission on Human and People’s Rights alleges that the base at Camp Lemonier, which is located in Djibouti,

operated as a “black site” for the rendition programme of this foreign country. Individuals would be temporarily rendered to Camp Lemonier, where they were detained and subjected to torture and cruel, inhumane and degrading treatment, before being transferred to other “black sites” abroad.⁵⁶

40. REPRIEVE alleged that Djibouti has also become a base from which this foreign country can launch its drone strikes on suspected militants in the Arabian Peninsula. These drones have resulted in the deaths of a number of civilians in the neighbouring countries, including children. They also present a constant overhead threat that terrorises communities over which they operate.⁵⁷

41. REPRIEVE stated that Djibouti’s support for this foreign country in this operation is, at the very least, a violation of the fundamental guarantees provided for in Article 75 of the First Additional Protocol to the 1949 Geneva Conventions.⁵⁸ Moreover, by providing essential assistance that allows the foreign country to carry out drone operations, Djibouti is contributing to violations of the civil, political, economic, social and cultural rights of civilians in the neighbouring countries. Individuals living in targeted communities are being deprived of a number of rights that are recognized in the international and regional human rights instruments to which Djibouti is a party. These rights include: the fundamental right to life, the right to mental and physical health, the right to an education, the right to assemble, the right to a cultural life, the right to work, and the right to self-determination.⁵⁹ REPRIEVE called on Djibouti to end its material support for the illegal drone attacks by this foreign country in the neighbouring countries.⁶⁰

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

ARTICLE 19 Article 19, London, United Kingdom;

GIEACPC Global Initiative to End All Corporal Punishment of Children, London, United Kingdom;

RSF Reporters without Borders, Geneva, Switzerland;

REPRIEVE Reprieve, London, United Kingdom;

JS Association Femmes Solidaires, Paris, France / Observation pour le Respect des Droits Humains à Djibouti, Montreuil-sous-Bois, France (Joint Submission).

² ARTICLE 19, para. 22.

³ ARTICLE 19, para. 21.

⁴ ARTICLE 19, para. 22.

⁵ JS, recommendation V 2.

⁶ JS, para. II 1).

⁷ JS, para. II A 2).

⁸ JS, para. II A 5).

⁹ JS, para. II B 6).

¹⁰ JS, recommendation V 4.

¹¹ JS, recommendation V 6.

¹² JS, para. IV A).

¹³ JS, para. IV B 1).

¹⁴ JS, para. IV B 2).

¹⁵ JS, recommendation V 5.

¹⁶ JS, recommendation V 7.

¹⁷ GIEACPC, p. 1.

¹⁸ GIEACPC, para. 1.2.

¹⁹ GIEACPC, para. 1.3.

²⁰ GIEACPC, para. 2.1.

- 21 GIEACPC, para. 2.3.
- 22 GIEACPC, para. 2.5.
- 23 GIEACPC, para. 2.6.
- 24 GIEACPC, p. 1.
- 25 JS, para. IV B 2).
- 26 ARTICLE 19, para. 11.
- 27 ARTICLE 19, para. 12.
- 28 ARTICLE 19, para. 22.
- 29 RSF, p. 1.
- 30 RSF, p. 3.
- 31 ARTICLE 19, para. 9.
- 32 ARTICLE 19, para. 10.
- 33 RSF, p. 1.
- 34 RSF, p. 3.
- 35 ARTICLE 19, para. 13.
- 36 ARTICLE 19, para. 22.
- 37 ARTICLE 19, para. 14.
- 38 ARTICLE 19, para. 17 and 18.
- 39 RSF, p. 3.
- 40 ARTICLE 19, para. 19.
- 41 ARTICLE 19, para. 22.
- 42 ARTICLE 19, para. 2.
- 43 ARTICLE 19, para. 22.
- 44 RSF, p. 3.
- 45 RSF, p. 3.
- 46 ARTICLE 19, para. 3.
- 47 RSF, p. 3.
- 48 JS, para. III A).
- 49 JS, recommendation V 1.
- 50 JS, para. I B) 2).
- 51 RSF, p. 3.
- 52 ARTICLE 19, para. 16.
- 53 ARTICLE 19, para. 22.
- 54 JS, para. I C) 7).
- 55 REPRIEVE, p. 1.
- 56 REPRIEVE, p. 2.
- 57 REPRIEVE, pp. 1 and 3.
- 58 REPRIEVE, p. 1.
- 59 REPRIEVE, pp. 1, 4 and 5.
- 60 REPRIEVE, p. 5.