



The Global Initiative
for Economic, Social and Cultural Rights

**SHADOW REPORT TO THE UNITED NATIONS HUMAN
RIGHTS COMMITTEE**

DJIBOUTI, 109th Session (14 Oct 2013 - 01 Nov 2013)

Submitted by:

The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

About the Submitting Organization

The Global Initiative for Economic, Social and Cultural Rights seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. We believe this crisis — wherein close to 2 billion people worldwide daily lack access to adequate nutrition, health care, education, housing, water and sanitation — will only be overcome through the concerted efforts of human rights, women’s rights, environmental and development organizations and agencies. The Global Initiative seeks to play a catalyzing role in fostering these cross-sector partnerships on key issues. We can change the world as we know it into a world where all economic, social and cultural rights are respected, protected and fulfilled, so that all people everywhere are able to live in dignity.

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I. Discriminatory Family Code

1. In its 2011 Concluding Observations on Djibouti, the CEDAW Committee noted with concern the “State party’s position that discriminatory provisions of the Family Code, such as provisions concerning the husband’s role as the head of the family and women’s unequal inheritance share, cannot be changed as they are rooted in ‘higher socio-cultural and religious values.’ The Committee notes with concern that provisions of the Family Code which provide for unequal rights of women and men during marriage and its dissolution are incompatible with the Convention.”

2. It specifically noted with concern that under the 2002 Family Code the husband is the head of the family whose prerogatives the wife must respect (art. 31) and that a woman’s inheritance share is less than half that of a man and a daughter’s share is half that of a son (arts. 101 and subsequent articles).¹ Article 31 specifically provides that “The wife must respect the prerogatives of the husband, as head of the family, and owes him obedience in the interest of the family. The husband and wife must fulfil their marital duties, in conformity with practice and custom.” Article 101 and subsequent articles establish in law the unequal rights of women and girls to inherit.

3. The CEDAW Committee called upon the State party to amend these discriminatory provisions of the Family Code.² Likewise, these discriminatory provisions of the Family Code, which have not been amended or repealed, contravene the State’s obligations under Article 2 of the present Covenant. In its General Comment No. 19 on protection of the

¹ Concluding observations of the Committee on the Elimination of Discrimination against Women on Djibouti, UN Doc. CEDAW/C/DJI/CO/1-3, 28 July 2011.

² Ibid.

family, the right to marriage and equality of the spouses, the Human Rights Committee has underscored that “During marriage, the spouses should have equal rights and responsibilities in the family. This equality extends to all matters arising from their relationship, such as choice of residence, running of the household, education of the children and administration of assets.”³

4. Similarly, in its General Comment No. 28 (2000) on equality of rights between men and women, the Committee has also stated that “the capacity of women to own property [...] may not be restricted on the basis of marital status or any other discriminatory ground” and that States parties must ensure that the “matrimonial regime contains equal rights and obligations for both spouses with regard to [...] the ownership or administration of property, whether common property or property in the sole ownership of either spouse.”⁴ It also provides that “Women should also have equal inheritance rights to those of men”⁵

V. Recommendations

5. In light of the above information, the Global Initiative for Economic, Social and Cultural Rights and respectfully suggests that the Human Rights Committee urge the State party to immediately amend or repeal discriminatory provisions of the Family Code, including articles 30 and 101 on head of the household and inheritance, respectively.

³ Human Rights Committee, General Comment No. 19 on Protection of the Family, the Right to Marriage and Equality of the Spouses (Article 23),” at para. 8.

⁴ Human Rights Committee, General Comment No. 28 (2000) on Equality of Rights between Men and Women, at paras. 19, 25.

⁵ Ibid. at para. 26.