



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fiftieth session

### Summary record of the 1392nd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 27 January 2009, at 10 a.m.

*Chairperson:* Ms. Lee

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports of States Parties** *(continued)*

*Initial report of Tunisia under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/TUN/1; HRI/CORE/1/Add.46; CRC/C/OPAC/TUN/Q/1; and CRC/C/OPAC/TUN/Q/1/Add.1)*

1. *At the invitation of the Chairperson, the members of the delegation of Tunisia took places at the Committee table.*
2. **Mr. Khemakhem** (Tunisia) said that the report of Tunisia had been drawn up with the participation of the various ministries concerned by the issue, institutions and governmental and non-governmental organizations, coordinated by the Ministry of Women's Affairs, Family, Children and the Elderly.
3. Tunisia had adopted many legal texts in order to give effect to its commitments arising from ratification of international treaties, an example of which was the Child Protection Code, which expressly prohibited the recruitment of children in armed conflicts and the exploitation of children in different forms of organized crime, including inculcating fanaticism or hatred in children and inciting them to commit acts of violence or terrorism.
4. Tunisia's withdrawal of the reservations it had made at the time it had ratified the Convention on the Rights of the Child and its promulgation of new laws to strengthen the rights of the child were evidence of its resolve in that domain. Similarly, in May 2007, the Government had passed Act No. 2007-32 amending certain provisions of the Personal Status Code, which had established the minimum age of marriage at 18 for both girls and boys.
5. Children were neither recruited nor used in armed conflicts in Tunisia. The minimum age for recruitment in the armed forces was 20 for compulsory military service and 18 for voluntary recruitment, which was subject to three conditions: application by the recruit in person, consent of the applicant's guardian, and the approval of the Minister of National Defence.
6. Since 1956, the national army was the only armed force operating in Tunisia. Thus no militia was authorized to form or to bear arms.
7. The Government of Tunisia was aware of the danger to young people posed by the ideological recruitment rhetoric transmitted by some satellite channels and other media. It was convinced that combating that type of rhetoric was not solely a security matter, but one that required tackling political, cultural and social aspects, starting with the fight against poverty, vulnerability and social exclusion. It intended to protect children from the threats of extremism and terrorism by those means.
8. Lastly, the Government was also combating the harmful effects of economic globalization, which could reverse the gains achieved in terms of economic and social rights and compromise the fight against poverty.
9. **Mr. Zermatten** (Country Rapporteur) expressed satisfaction that Tunisia had ratified the Optional Protocol on the involvement of children in armed conflict, the Optional Protocol on the sale of children, child prostitution and child pornography and ILO Convention 182 concerning the elimination of the worst forms of child labour.
10. He welcomed the provisions of article 18 of the Child Protection Code, which banned military service for children and their involvement in armed conflict, and the National Service Act, which strictly prohibited young persons under the age of 18 from serving in the armed forces or becoming involved in any form of armed conflict. He also welcomed the fact that Tunisia did not intend to make any exception to that principle, even

in times of serious conflict, and that the National Service Act prevented children from attending military schools. He noted, in addition, that the Optional Protocol was legally binding and that Tunisia acknowledged that international treaties could be applied directly in domestic law.

11. He asked what the involvement of civil society, and in particular non-governmental organizations, had been in drafting the report. He wished to know whether Tunisia had taken steps to disseminate the Optional Protocol and the report submitted to the Committee and to make the public, and particularly children, aware of their contents.

12. Noting that, upon enrolment in the national armed forces, it was compulsory for conscripts and voluntary recruits to present their identity cards, he asked how the authorities checked the ages of recruits if they could not produce that document.

13. Noting that the recruitment of children and their use in armed conflicts were banned but that they were not classified as criminal offences, he asked whether the Government intended to criminalize any violations of the ban. He also wanted to know whether Tunisian nationals or Tunisian residents who recruited Tunisian children to participate in military activities abroad were subject to prosecution. Noting that Tunisia had not ratified the Rome Statute of the International Criminal Court, he asked whether it intended to do so.

14. Noting that a number of young migrants, particularly from sub-Saharan Africa, transited through Tunisia or settled there, he was surprised by the Tunisian Government's statement that it had not received any applications for asylum from minors who had been used as child soldiers in their own countries and he asked for further details on the subject.

15. **Mr. Parfitt**, noting with satisfaction that Tunisia fully adhered to the provisions of the Optional Protocol in many areas, asked whether the Tunisian Government intended to set up a truly independent body to monitor implementation of the Optional Protocol and of the Convention on the Rights of the Child.

16. Tunisia had indicated in its written replies to the list of issues that it neither manufactured nor exported weapons. It would nevertheless be interesting to learn whether the country had any domestic legislation that enabled it to prevent the transit of small arms and light weapons across its territory to countries in which the Optional Protocol was not enforced.

17. **Mr. Puras** asked whether the State party had taken steps to make the population aware of the provisions of the Optional Protocol and whether non-governmental organizations working to protect the rights of the child were truly independent. Noting that the State party had been vague regarding the steps it had taken to implement the strategies to combat violence in schools, mentioned in paragraphs 13 and 19 of the State party's report, he asked whether parents and civil society were involved in those strategies and requested the delegation to specify exactly what the "harmful effects of educational wastage" referred to in paragraph 20 were.

18. **Mr. Filali** asked whether the State party planned to introduce the notion of direct participation in hostilities in its legislation and whether soldiers sent abroad on peacekeeping missions were trained in the provisions of the Optional Protocol and in humanitarian law.

19. Further, he asked whether the State party had adopted any measures with regard to the reception of minors who might have been child soldiers in their country of origin and who might appear at Tunisia's borders, and what obstacles the State party might encounter in implementing the Optional Protocol. Finally, he wished to receive information on the practice of the State party in relation to extradition and asked what the attitude of the Tunisian authorities would be if faced with a request for extradition concerning a Tunisian national who had returned to Tunisia after participating while abroad in the recruitment of

minors to be used in hostilities: would the person concerned be handed over to the requesting State or would he be prosecuted in the Tunisian courts?

20. **The Chairperson** asked how the State party could exercise its universal jurisdiction if Tunisian nationals went abroad in order to recruit children under 18 years of age into armed groups, considering that Tunisian legislation did not contain any provisions making such acts a criminal offence.

21. **Mr. Citarella** asked whether members of the armed forces were trained in the provisions of the Optional Protocol. He noted with surprise that parental authorization was required to recruit a young person who had reached the age of 18 into the armed forces and requested further information on that rather unusual provision.

*The meeting was suspended at 10.50 a.m. and resumed at 11.30 a.m.*

22. **Mr. Khemakhem** (Tunisia) said that the report submitted under the Optional Protocol had been delivered with some delay, partly because the authorities had wanted to include the largest possible number of stakeholders in drafting the report and partly because Tunisia had been obliged simultaneously to draw up reports for the Human Rights Council and the Human Rights Committee in 2008. He pointed out that the inter-ministerial committee established for the purpose of drafting the report included representatives from the Ministry of National Defence, the Ministry of Justice and Human Rights, the Ministry of the Interior and Local Development, the Ministry of Public Health, the Ministry of Education and Vocational Training and the Ministry of Foreign Affairs. Several organizations and associations had also participated in the work of the inter-ministerial committee, including the children's rights monitor "l'Observatoire des droits de l'enfant", the Tunisian Organization for Education and the Family, the Tunisian Association for Children's Rights, the Tunisian Scouts Association, and the Higher Committee on Human Rights and Fundamental Freedoms, in addition to sociologists, psychologists, educators and university teachers.

23. After its publication in the Official Journal, the Optional Protocol had been published at least three times by the Ministry of Justice and Human Rights, firstly in Arabic in 2004 (with the assistance of the United Nations Development Programme (UNDP)), in 2005 for the use of judiciary, and then in 2008 on the occasion of the celebration of the sixtieth anniversary of the Universal Declaration of Human Rights. On that occasion the services of the Coordinator-General for Human Rights and the Centre for legal and judicial studies of the Ministry of Justice had published a collection of most of the domestic and international laws on human rights; the collection had been widely disseminated to judges, junior magistrates, lawyers, university teachers, researchers and all persons responsible for implementing human rights legislation. The text of the Optional Protocol had also been displayed on the website of the national documentation centre.

24. Several training sessions on the provisions of the Optional Protocol had been organized for the Children's Parliament and for the Tunisian Magistrates Association and the Tunisian Bar Association. The report on the implementation of the Optional Protocol would be published in the near future.

25. **The Chairperson** asked whether non-governmental organizations had been involved in the dissemination of the provisions of the Optional Protocol.

26. **Mr. Khemakhem** (Tunisia) said that non-governmental organizations would be involved in the publication of the report and the Committee's concluding observations.

27. **Mr. Bouguerra** (Tunisia) said that the armed forces were evolving in tandem with Tunisian society. Like the country's other institutions, they were influenced by modern and progressive trends and they participated in efforts to protect and to promote the rights of the child.

28. It was technically impossible to recruit a person under 18 years into the army. Each year, young people on reaching the age of 18 were registered by municipal registry offices. Census commissions, composed of representatives from the town hall and the Ministry of National Defence, drew up census tables. Recruits were called up for national service four times a year, in March, June, September and December, and the required age was very precisely taken into account. Once registered, young people had to pass a medical examination to check that they were fit for national service.

29. Mobilization centres verified the identity, age and civil status of all persons who wished to enrol in the army or who were enrolled in it, by checking their army record and birth certificate. No person whose age or civil status had not been ascertained beyond doubt could be enrolled. The Government had conducted wide-ranging information campaigns to publicize all the conditions necessary for enrolment in the armed forces, especially the minimum age requirement.

30. There were no armed groups in Tunisia other than the national armed forces and it was therefore not possible for a minor to be enrolled in such a group. According to the law, any such group would be deemed an illegal armed band and would fall under the applicable provisions of the Criminal Code. The act of recruiting a minor into such a group was punishable by up to 12 years' imprisonment. The enrolment of children in a terrorist group also constituted an offence and was punishable by up to 10 years' imprisonment.

31. **Mr. Khemakhem** (Tunisia) said that any minor who had been involved in military or terrorist acts abroad was subject to criminal prosecution and risked a sentence in accordance with the applicable provisions. The Tunisian authorities were aware of the gaps in current legislation in respect of extraterritorial jurisdiction concerning the involvement of children in armed conflict outside Tunisia and of making such acts illegal, and they were in the process of drawing up legislation in order to fill those gaps.

32. Tunisia had been hit three times by serious terrorist attacks. In response, it had attempted initially to encourage a change in mindsets and to promote the principles of peace. If those steps proved insufficient, the authorities, while respecting international norms, would resort to repressive measures. Terrorism was a serious global problem, to which Tunisia was attempting to respond by adapting its legislation, in particular by making recruitment of minors outside Tunisia illegal. It was nevertheless worth noting that to date no minors appeared to be involved in terrorist activities in Tunisia.

33. The Tunisian authorities were currently studying the possibility of ratifying the Rome Statute of the International Criminal Court.

34. Concerning applications for asylum, it should be pointed out that people who came to Tunisia and who wished to claim asylum applied not to the Tunisian authorities, but to the representative of the United Nations High Commissioner for Refugees (HCR) in Tunisia. Refugees were cared for at the El Ouardia centre, in the suburbs of Tunis, and the authorities dealt with them in cooperation with the HCR.

35. **Mr. Zermatten** (Country Rapporteur) said that he would like to know whether specific rehabilitation, reintegration and psychological support measures had been taken in the centre to help refugees and migrants who might have been child soldiers.

36. **Mr. Khemakhem** (Tunisia) said that, to his knowledge, no young migrants in the centre had been involved in armed conflict. Furthermore, the centre was monitored not only by the Ministry of the Interior, but also by the International Committee of the Red Cross (ICRC), which had visiting rights there.

37. In addition to the High Council for Children and the monitoring centre ("Observatoire") for information, training, documentation and studies relating to the protection of the rights of the child, independent monitoring of implementation of the

Convention was carried out by the High Committee for Human Rights and Fundamental Freedoms. That institution, which the Human Rights Council and the Human Rights Committee had reproached for not being sufficiently independent, had been reorganized in order to ensure that it complied with the Paris Principles. Its jurisdiction, composition and operating methods had been distinctly modified, and its independence and pluralism had been strengthened.

38. **Mr. Zermatten** (Country Rapporteur) wished to know whether that Committee had a service responsible for investigating complaints concerning violations of children's rights.

39. **Mr. Parfitt** wondered whether that Committee would be submitting a request for accreditation to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and whether it was accessible, at both national and local levels, to children who wanted to file a complaint for violation of their rights.

40. **Mr. Khemakhem** (Tunisia) said that the High Committee for Human Rights and Fundamental Freedoms was specifically authorized to receive and examine complaints, to transmit them to the competent authorities and to explain to those lodging complaints how to assert their rights; it could also take action *ex officio*. Any person, whether child or adult, could submit a complaint to the High Committee.

41. Since it currently conformed to the Paris Principles, the High Committee would submit a new request for accreditation to the ICC.

42. Another institution – the Child Protection Delegate based in the Ministry for Women's Affairs, Family, Children and the Elderly – was also tasked with receiving complaints and information concerning children in difficulty or victims of violations. That institution, created in 1995 with the adoption of the Child Protection Code, had considerably improved the assistance provided to children. It collaborated closely with the judicial authorities and the police as well as with various national independent and governmental institutions.

43. In respect of the sale of small arms and light weapons, the applicable legislation was the 1969 Act on bearing, keeping, trafficking and selling arms.

44. **The Chairperson** asked whether Tunisian schools offered peace education.

45. **Mr. Khemakhem** (Tunisia) said that children were made aware throughout their school life of the values of peace, which were included in the curriculum and also in legislation. Conferences and classes were organized at national level to promote a culture of peace and to combat extremism and terrorism.

46. Extradition was governed by articles 308 to 335 of the Code of Criminal Procedure. In accordance with those provisions, one of the conditions for extradition was that the offence giving rise to the request should be punishable under Tunisian law as a minor or major criminal offence. Consequently, if a child enrolled in an armed conflict abroad had committed a crime outside the national territory, he could be tried in a Tunisian court and extradited if the acts committed were crimes under domestic law.

47. **Mr. Bouguerra** (Tunisia) said that the Tunisian National army had made an exceptional contribution to the efforts of the United Nations to establish peace and stability in the world and to assist victims of natural disasters and hostilities. It had also contributed to peacekeeping operations within the operations of the African Union. One of the aims of its mission in Somalia, which had lasted from January 1993 to April 1994, had been to provide medical care and advice on health matters to Somali mothers and children. All missions were preceded by a preparation phase during which soldiers received awareness training, in particular in respect of the norms and principles of international humanitarian

law. The provisions of the Optional Protocol would soon be added to the training programmes for members of the armed forces.

48. **Mr. Chagraoui** (Tunisia) emphasized that the challenge in terms of promoting peace was in large part a question of culture. In that regard, he underlined the importance of the school as a space in which to foster values of openness and tolerance. It was at school that children learned to recognize and accept the needs and values of others and where they were made aware of the dangers of absolute identity. Subjects such as civic instruction, philosophy, French, Arabic and Islamic thought all helped to build the foundations of a culture of difference. Specificity was therefore transcended and integrated into an ideal of solidarity. The dissemination of a culture of difference was necessary to combat the ideological recruitment of young people and to prevent their involvement in armed conflict.

49. **Mr. Zermatten** (Country Rapporteur) asked for specific details on the participation of Tunisia in multilateral or bilateral cooperation activities, whether for preventive or humanitarian purposes in countries threatened or affected by armed conflicts.

50. **Mr. Khemakhem** (Tunisia) said that an instructor training programme in children's rights had been set up in cooperation with the French community in Belgium and that a national strategy to disseminate children's rights had been drawn up with the assistance of UNICEF. In addition, the Tunisian Government had engaged in preliminary discussions with the International Organization of La Francophonie with a view to launching cooperation programmes with certain African countries, notably in respect of extradition.

51. **Mr. Zermatten** (Country Rapporteur) asked whether the 1969 Arms Act banned the transit or sale of arms in countries in conflict in which children could be involved in hostilities.

52. **Mr. Khemakhem** (Tunisia) said that he did not have all the information at his disposal and he would therefore provide a written reply to that question.

53. **Mr. Zermatten** (Country Rapporteur) said that the Committee had every reason to be reassured by the legislative provisions banning the recruitment of persons under 18 years. It welcomed the changes made to the status of the Higher Committee on Human Rights and Fundamental Freedoms and encouraged the latter to present a new request for accreditation to the ICC.

54. Measures likely to be recommended could include criminalizing the recruitment of children both inside and outside the country and ratifying the Rome Statute of the International Criminal Court. In addition, the Government should promote the widest possible participation by civil society in drafting the reports submitted to the Committee on the Rights of the Child, as well as the dissemination of the latter's recommendations, not only in official circles but at all levels of society.

55. **Mr. Khemakhem** (Tunisia) thanked the members of the Committee for their positive attitude and welcomed the constructive exchange of views prompted by consideration of the report of Tunisia. The Tunisian Government would take the necessary steps to disseminate and to apply the recommendations made by the Committee and to fulfil the obligations incumbent upon it under the Optional Protocol.

56. **The Chairperson** invited Tunisia to submit its report under the Optional Protocol on the sale of children, child prostitution and child pornography on time so that it could be considered at the same time as the third periodic report under the Convention.

*The meeting rose at 12.50 p.m.*