



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

Distr.: General
14 April 2010
English
Original: French

Committee on the Elimination of Racial Discrimination
Seventy-fourth session

Summary record of the first part (public)* of the 1905th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 17 February 2009, at 10 a.m.

Chairperson: Ms. Dah

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Eighteenth and nineteenth periodic reports of Tunisia (continued)

* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1905/Add.1.

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The meeting was called to order at 10.20 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Eighteenth and nineteenth periodic reports of Tunisia (continued) (CERD/C/TUN/19; HRI/CORE/1/Add.46; CERD/C/TUN/Q/19 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Tunisia took places at the Committee table.*
2. **Mr. Jemal** (Tunisia), responding to questions raised in the previous meeting, said that the substantial drop in the birth rate was indicative of sound demographic policies and would have positive effects on the socio-economic development of the country since fewer young people would be entering the labour market. According to the available estimates, by 2024 the fertility rate would be 1.75 children per woman and the Tunisian population would be 12,740,000 inhabitants, 18 per cent of whom would be over the age of 60. There were no more than 2,000 non-Tunisian residents originally from sub-Saharan Africa, and 600 of them were from Côte d'Ivoire.
3. On the subject of tourism, he said that over 4 million European tourists and 2.8 million persons from North African countries visited Tunisia every year. The high level of tourist loyalty reflected Tunisia's appeal as a tourist destination.
4. Regarding the Government's policy on the development of disadvantaged areas, he indicated that the main goals of the National Solidarity Fund, founded in 1992, were to provide disadvantaged areas with basic infrastructure and communal facilities, and to enhance the residents' income through subsidies and job creation. In 2008, 1,829 disadvantaged areas with a total of 267,000 families had benefited from the National Solidarity Fund throughout the country. The Fund was financed in particular by voluntary contributions paid by enterprises and individuals on National Solidarity Day, which fell on 8 December every year.
5. **Mr. Ayed** (Tunisia) sought to dispel the concerns expressed at the previous meeting on the concept of a Tunisian identity (*tunisianité*), which should not be construed as an assimilationist practice that denied the diverse nature of Tunisian society. On the contrary, he said that the concept was intended to be the expression of the rich diversity of a people drawn from many different origins, since Tunisians were Berber, Roman, Jewish, Arab, Byzantine and even Phoenician. The Tunisian identity reflected miscegenation and ethnic intermingling. It was an inclusive concept that revealed how Tunisia drew strength from the diversity of its component parts. When Tunisia referred to homogeneity of the population, that was in no way an attempt to deny the specificities of the various national and ethnic groups. It was merely a reminder that the people had much in common and were bound by a single social contract. Tunisia was unquestionably open to all influences and strongly committed to dialogue between cultures and between civilizations. The Tunisian Berber community in particular had an estimated 60,000 to 90,000 members living mainly around the Gulf of Gabès and on Djerba island. The Berber language was a spoken language with its own alphabet and 3,000 to 4,000 local dialects. The Berbers were indeed an ethnic minority but nothing inhibited their cultural and artistic expression. The story went that President Bourguiba, the founding father of Tunisia, was fond of saying that he was a Berber who had been successful.
6. **Mr. Khemakhem** (Tunisia) said that his country was examining the possibility of ratifying the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties and adopted by the General Assembly in resolution 47/111 of 16 December 1992.

7. The Higher Committee on Human Rights and Fundamental Freedoms was made up of 15 national figures directly selected by the President, 2 representatives of each of the two chambers of parliament, 10 representatives of organizations active in the area of human rights and fundamental freedoms, and representatives of the 11 relevant ministries. The Committee was planning to apply for accreditation before the International Coordinating Committee of National Human Rights Institutions in the near future.

8. Tunisia had not adopted a specific law on refugees but did have a legal framework, particularly because it had ratified the 1951 Convention relating to the Status of Refugees and the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. In 2007, there had been 94 refugees in Tunisia. Shortly after gaining independence in 1956, Tunisia had been the destination for many refugees from Algeria, a French colony at that time. Tunisia had requested the support of the Office of the United Nations High Commissioner for Refugees with a view to establishing a voluntary repatriation programme for Algerian refugees. Cooperation was ongoing with that Office, which decided on refugee status and sought lasting solutions to the refugees' problems.

9. Responding to the question of whether incitement to racial hatred and incitement to religious hatred were treated equally under the law and were punishable by life imprisonment, he explained that, under article 53 of the Press Code, defamation of individuals was punishable by 16 days' to 6 months' imprisonment and/or a fine. The same article added that defamation of a group of persons who belonged by origin to a particular race or religion was punishable by one month's to one year's imprisonment and a fine, if its object was to stir up hatred among citizens or inhabitants. Furthermore, article 54, paragraph 4, of the Press Code provided for a maximum prison sentence of one year and a fine if the insult had been made against a group of persons belonging by origin to a particular race or religion with the object of stirring up hatred among citizens or inhabitants. Article 44 of the Press Code stipulated that anyone who directly incited hatred among races, religions or populations or urged the propagation of opinions based on racial segregation or on religious extremism was liable to two months' to three years' imprisonment and a fine of 1,000 to 2,000 dinars. Neither of those offences was therefore punishable by life imprisonment.

10. On the subject of the questions on paragraph 30 of the periodic report under consideration (CERD/C/TUN/19), in which it was indicated that, pursuant to the Act of 22 November 1993, "acts of incitement to hatred or to racial or religious fanaticism, regardless of the means employed, would be dealt with in the same manner as terrorist acts", he pointed out that that in fact meant that terrorist acts and incitement to hatred or to racial or religious fanaticism fell under the same regime in the sense that they were subject to prosecution, investigation and trial by the Tunis district court. Therefore, there was no blurring of the distinction between terrorist offences and offences involving acts of incitement to racial hatred.

11. Regarding the measures adopted to guarantee the promotion of Berber cultural associations, the Tunisian authorities had striven to simplify the procedures for founding associations in order to encourage the establishment of non-governmental organizations (NGOs) that promoted culture and the arts. The 1988 Act had amended the 1959 Act by abolishing the rule requiring a government certificate and replacing it with a simpler system involving a declaration of association. Another act promulgated in 1992 also created a new categorization system for associations. Tunisia now had not only national associations and foreign associations but also women's and sports associations, development associations, and others. The 1992 Act had also strengthened the principle of non-discrimination by recognizing the right to take legal action of those persons who met the requirements for forming public associations but were denied their right to do so.

12. Concerning precedent-setting rulings handed down in discrimination cases, the manner in which the statistics produced by the Ministry of Justice were processed did not allow information to be generated on the protection of human rights by category. However, the Ministry of Justice had recently issued a circular to raise awareness of that issue among judges and to encourage them to take decisions that were consistent with the international conventions ratified by Tunisia.

13. No legal proceedings against law enforcement officials had been the result of complaints relating to ethnically or racially motivated offences. Likewise, no such complaints or grievances had been received by the office of the Higher Committee on Human Rights and Fundamental Freedoms or the ombudsman.

14. The manual published by the Ministry of Higher Education did not explicitly cite the text of the International Convention on the Elimination of All Forms of Racial Discrimination. However, it did contain a table listing all the international instruments ratified by Tunisia.

15. Organization Act No. 88-32 of 3 May 1988 required political parties to commit themselves to banning all forms of violence, fanaticism, racism and any form of discrimination, and stipulated that a political party's principles, objectives, activities or programmes could not be based essentially on a single religion, language, race, sex or region. Article 17 of the Act prohibited political parties from issuing recommendations that instigated or encouraged violence with a view to promoting hatred among citizens. Under article 26 of the Act, a prison sentence of one to five years and/or a fine of 5,000 to 25,000 dinars could be imposed on anyone who took part in founding, or participated in the activities of, an unauthorized or disbanded political party.

16. Regarding the protection extended to illegal immigrants, he pointed out that, first of all, illegal immigration was a criminal offence, notably under Act No. 75-40 of 14 May 1975 on passports and travel documents. That Act had been amended by Organization Act No. 2004-6 of 3 February 2004, which prescribed harsh penalties for anyone who provided information for, planned, facilitated, assisted in, acted as intermediary for, or in any way organized the smuggling of a person into or out of Tunisian territory by land, sea or air, even free of charge. The penalties ranged from a 3-year prison sentence and a fine of 8,000 dinars to a 20-year prison sentence and a fine of 100,000 dinars if the act resulted in death.

17. The criminal aspect did not absolve the authorities of their duty to protect illegal immigrants. An assistance and guidance centre set up in southern Tunis housed illegal immigrants and provided them with all the health care and services they required until such time as they were granted residency or deported.

18. **Mr. Chagraoui** (Tunisia) explained that the concept of "pluralist unity" referred to miscegenation, social diversity, solidarity and citizenship of Tunisia. Pluralist unity meant ensuring that national culture was an expression of the national identity and specificities in positive interaction with all contemporary innovation in the context of a positive relationship based on the preservation of national constants and a dialogue with foreign cultures. That approach had led to the development of numerous cultural programmes such as cultural festivals, a growing number of cultural centres, a cultural radio station, an international book fair and foreign-language teaching. That concept also reflected the development of a strong political consciousness that encouraged cultural diversity at all levels.

19. In practice, the pluralist cultural unity sought by Tunisia involved a culture of equality in access to culture. That concept also encompassed the right to a deep-rooted identity open to intercultural dialogue and interregional exchanges, and a rejection of xenophobia and isolationism. It also involved the right to historical recognition and an enhanced respect for cultural heritage.

20. He felt that the claim that discrimination did not exist in Tunisia needed to be qualified somewhat, and explained that racism in that country was not institutional but could occur in the behaviour of isolated individuals. No member of parliament had ever made racist statements before parliament. Quoting Jean-Paul Sartre, who had said that the problem of the blacks was the problem of the whites, he stated that blacks were not a problem in Tunisia and that they were not the victims of any form of discrimination in the area of access to employment and education. The many African students in Tunisia enjoyed the same rights in the areas of higher education and public health as Tunisian students, and some had even been granted scholarships by the Tunisian Government.

21. His delegation shared the Committee's view that the Alliance of Civilizations was the best way forward. On the occasion of a symposium entitled "From Dialogue to Alliance", the Tunisian Head of State had appealed for a positive and creative alliance of civilizations. For Tunisia, the alliance of cultures and civilizations was the founding act that laid the groundwork for a new history of civilizations, languages, cultures and peoples where no one language or culture would dominate. The formation of such an alliance was the prerequisite for the elimination of prejudice and the establishment of dialogue between cultures, religions and peoples. Nothing justified isolationism and no culture could cut itself off from the rest of the world. At a time of worrying developments and rising extremism in certain regions, Tunisia tirelessly reiterated its message of peace, cultural reconciliation and solidarity among peoples, and intended to continue supporting the international community's efforts to combat movements that promoted a retreat into identity politics.

22. **Mr. Lindgren Alves** thanked the delegation of Tunisia for its explanation of the apparent contradiction between the concept of homogeneity and that of multiculturalism and pointed out that he did not always agree with the view of most members of the Committee that the best way to guarantee the rights of persons belonging to minorities was to help them to highlight their differences. That vision was justified in some cases but not in the case of Tunisian society, which was a great cultural and ethnic melting pot. He nevertheless suggested that, to dispel any ambiguity, the delegation should henceforth avoid using the term "homogeneity", which could be misinterpreted in the context of racial discrimination.

23. He noted with satisfaction that Tunisia was a fine example of a viable compromise between Enlightenment philosophy and Islam, but expressed concern that some States misunderstood the Western concept of freedom of expression and interpreted it merely as the right to criticize Islam. In fact, freedom of expression involved the right to express an opinion on any religion whatsoever. That issue was a hot topic at present because, in the context of the Durban Review Conference to be held shortly in Geneva, some States would be certain to raise the matter of a possible convention on banning defamation, particularly of religions. He felt that such an instrument would represent a major backward step in human history.

24. **Mr. de Gouttes** noted with interest the important replies given by the delegation of Tunisia concerning the alliance of civilizations and cultures and the rejection of political and religious extremism, intolerance and xenophobia, which were of particular value to the Committee in the light of the forthcoming Durban Review Conference. He thanked the delegation of Tunisia for supplying Committee members with a comprehensive compilation of documents and national legislation in the area of human rights. He did, however, suggest that the Committee's general recommendation No. 31 on racial discrimination in the administration and functioning of the criminal justice system should be included in that compilation.

25. Finally, he expressed the hope that, in its twentieth periodic report, the State party would deal thoroughly with a number of points raised in the course of the dialogue with the delegation, particularly the issue of full respect for Berber culture, the problem of abuse of

power by the police, the underlying racism in Tunisian society, and the lack of statistics on the ethnic make-up of the population.

26. **Mr. Thornberry** said that he had carefully noted the delegation's explanations of the concept of a Tunisian identity (*tunisianité*), and how that in no way implied an assimilation of cultures and peoples. He did, however, wonder how flexible the concept of a Tunisian identity was and whether minorities who wished to affirm cultural or other specificities in the State party could request that certain measures be taken to protect those specificities, for example by setting up schools that provided teaching in their language, and whether any such request would meet with a favourable response from the public authorities.

27. **Mr. Jemal** (Tunisia) said that his delegation had carefully noted the observations made by Committee members in the second part of their deliberations on the report and that in general it had very much appreciated the constructive manner in which Committee members had raised issues and made comments.

28. **Mr. Avtonomov** (Country Rapporteur) welcomed the candid and open nature of the dialogue with the delegation of Tunisia and said that the Committee would include in its concluding observations a recommendation encouraging the State party to ratify the amendment to article 8, paragraph 6, of the Convention.

29. **The Chairperson** expressed satisfaction with the dialogue with the delegation of Tunisia and the specific and exhaustive answers it had given to Committee members' questions. She nevertheless regretted that, even though the State party set a good example in Africa in the area of women's rights, the delegation was entirely male. She expressed the hope that when the Committee came to consider the twentieth periodic report of the State party, the Government of Tunisia would be represented by a mixed delegation and the national Human Rights Commission would be present. Finally, she hoped that the State party would continue to submit regular reports to the Committee.

30. *The delegation of Tunisia withdrew.*

The first part (public) of the meeting rose at 12.20 p.m.