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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-fourth session

SUMMARY RECORD OF THE 1904th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 16 February 2009, at 3 p.m.

Chairperson: Ms. DAH

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY
STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Eighteenth and nineteenth periodic reports of Tunisia

1. At the invitation of the Chairperson, the members of the delegation of Tunisia took places at the Committee table.
2. Mr. JEMAL (Tunisia) expressed appreciation for the Committee's work and said that his Government was committed to ongoing, constructive cooperation with United Nations mechanisms to improve human rights protection in Tunisia. The eighteenth and nineteenth periodic reports provided an overview of the work undertaken to eliminate all forms of racial discrimination in the context of the reform process, which was being expanded with the aim of bringing about a modern, egalitarian and inclusive society.
3. Tunisia's ratification of virtually all international human rights instruments, and its implementation of article 20 of the International Covenant on Civil and Political Rights, together with the wide-ranging reforms undertaken in the fields of justice and the rule of law, reflected the Government's determination to ensure the harmonious coexistence of its people. The aim of legislation to that effect was not only to prohibit discrimination, but also to bring about a change in attitudes.
4. The different waves of migration throughout Tunisia's history had contributed to the pluralist identity of its people and to the interpenetration of different languages, cultures and ways of thinking. History-teaching reflected the intercultural, evolving nature of the Tunisian identity, and pre-Islamic languages and civilizations were taught at Tunisian universities. Tunisia's mixing of cultures had led to a society in which "otherness" was accepted.
5. National identity and the sense of belonging to a Tunisian community based on secular solidarity had been consolidated by the establishment of social programmes and mechanisms to reduce poverty. In addition, the values of solidarity and tolerance were enshrined in the Constitution.
6. Taking all those considerations into account, therefore, it could be said that issues relating to indigenous peoples, ethnic minorities and religious sects hardly ever arose in Tunisia. The Berbers of Tunisia, the former indigenous people, were not a minority demanding specific recognition, but were fully integrated in Tunisian society, as were Tunisian non-Muslims, Jews and Christians. There was therefore no "ethnic group" in Tunisia whose exercise of fundamental rights and freedoms required the adoption of specific measures. Notwithstanding, the Tunisian Constitution explicitly provided that all citizens were equal before the law and that political parties must prohibit all forms of discrimination.
7. He described the legislative measures designed to protect children from fanaticism by instilling values of tolerance from an early age, as contained in the Child Protection Code and the General Principles Act (No. 2002-80) of 23 July 2002 on education and schooling. The latter

provided that all Tunisians had the basic right to education, which must contribute to a sense of belonging to a civilization made up of North African, Arab, Islamic, African and Mediterranean components, and must implant the values of solidarity, tolerance and moderation.

8. Efforts had been made to raise young people's awareness of the risks of terrorist indoctrination, including the holding of various forums in 2008, which had been proclaimed Year of Dialogue with Young People. In the resulting National Youth Covenant, young people had rejected extremism, fanaticism and terrorism and embraced the values of peace and solidarity.

9. Measures had also been taken to restructure and liberalize the economy in order to encourage economic growth, and equitable social policies had been implemented to ensure equal distribution of the resulting benefits; Tunisia was well on track to meet the Millennium Development Goals by 2015.

10. Despite Tunisia's considerable achievements, the country still faced major challenges, such as the risk of cultural isolationism, calls for confrontation between religions and cultures, and media campaigns inciting hatred and seeking to justify extremism and terrorism. Terrorism was unfortunately a reality in the region, as had been evidenced by the suicide-bombing of a synagogue in Djerba in 2002, and the terrorist attacks in the suburbs of Tunis in 2006 and 2007.

11. The help of the international community as a whole was urgently required in order to deal with those human rights challenges, and to still the voices of those who incited hatred and called for confrontation.

12. Mr. CHAGRAOUI (Tunisia), outlining the main points of the eighteenth and nineteenth periodic reports, summarized the progress made with regard to non-discrimination in the areas of: civil and political rights; economic, social and cultural rights; and the promotion of a culture of difference. In that connection, he described the measures guaranteeing the equality of all citizens before the law; the role played by the High Committee on Human Rights and Fundamental Freedoms, the Ombudsman and the Office of Human Rights Coordinator in guaranteeing all Tunisian citizens effective extrajudicial remedies in the event of human rights violations; and the provisions of the Constitution guaranteeing the right of all citizens to participate in the country's political activity and the right to freedom of thought, conscience and religion.

13. He provided information on guarantees relating to the right to education and vocational training, and to fair and satisfactory working conditions, protection from unemployment, and equal remuneration for equal work. He described the State's work to extend social coverage of the population, and ensure welfare provision for vulnerable categories, and the implementation of social programmes such as the National Solidarity Fund (26/26), which provided assistance to the most disadvantaged areas.

14. The combination of non-discrimination on racial grounds and sexual grounds was one of the highlights of Tunisia's project for society. In that regard, Tunisia was continuing its already vigorous action to promote women's rights, consolidate equality between the sexes and demarginalize women, by introducing policies aimed at enhancing women's legal and social

status and broadening their role, without distinction as to race, ethnic origin or religion. Women currently accounted for 60 per cent of doctors, 72 per cent of pharmacists and 52 per cent of teachers.

15. With regard to promotion of a culture of difference, Tunisian law prohibited all forms of incitement to acts of racial discrimination and characterized incitement to racial hatred and all acts of intolerance or racist violence as punishable offences. Pluralist political parties were required by law to respect and protect the human rights established by the Constitution and international instruments ratified by Tunisia, and to reject all forms of violence, fanaticism, racism and discrimination. Similarly, the education system aimed to prepare pupils for a life in which there was no place for any form of discrimination, equality between the sexes being a fundamental principle in the determination of the content of curricula. Accordingly, a thorough revision of all school textbooks had been undertaken in order to remove images which portrayed women as stereotypes or inferior beings.

16. Tunisia's prohibition of all racial discrimination was aimed at guaranteeing full respect for the principle of equality throughout the country, for the benefit of all residents. Tunisia had ratified virtually all the international human rights treaties, and had adopted a wide range of measures with a view to strengthening the prevention of discrimination and protection against all its manifestations, such as the ban on defining nationality in terms of racial or religious criteria, and the penalties under the Criminal Code and the Press Code for incitement to racial hatred and defamation based on racial or religious origins. The Government was committed to continuing its efforts to eradicate all forms of racial discrimination.

17. Mr. KHEMAKHEM (Tunisia), summarizing the main points of his Government's written replies to the questions of the Country Rapporteur, said that detailed statistics had been given in response to the request for information on the demographic composition of Tunisian society, including specific indicators on the different languages in use. Arabic was read and written by more than 99 per cent of the population, while French was the mother tongue of less than 1 per cent; English and other languages were spoken by a smaller number still. Just under 40,000 foreigners were resident in Tunisia, of whom more than 50 per cent were from the Maghreb and 10 per cent were from other Arab countries; about 27 per cent were Europeans, half of whom were French; and roughly 9 per cent were from sub-Saharan Africa.

18. Concerning the institutional framework, the Tunisian Parliament had passed a law, dated 16 June 2008, which harmonized the mandate of the High Committee on Human Rights and Fundamental Freedoms with the Paris Principles, substantially modifying the Committee's role and responsibilities, composition and working methods, and strengthening the independence and pluralism of its membership. The Committee had received and dealt with 4,166 complaints and grievances in the preceding five years, with between 60 and 86 per cent of cases being settled each year.

19. The High Committee had set up two commissions of inquiry. The first, in 1991, had investigated allegations of abuse in a number of prisons, and had determined that the perpetrators should be punished and that monitoring mechanisms be set up to ensure that the relevant conventions were implemented and that judicial action be taken in certain individual cases. The second commission, set up in 2002, had investigated conditions in nine prisons and

one rehabilitation centre, and its report had resulted in a number of measures being taken, including the re-evaluation of pretrial detention, which was to be used only in exceptional cases, and an improvement in hygiene and health-care provision.

20. Regarding implementation of the Convention, Tunisia had clearly reaffirmed the supremacy of international treaties which, once approved and ratified by the Government, took precedence over domestic laws. Tunisia had ratified almost all international human rights instruments and was currently studying acceptance of article 14 of the Convention.

21. With regard to article 2 of the Convention, the National Pact, adopted in 1988, had defined the Tunisian people as having an Arab and an Islamic identity. However, that definition should not be prejudicial to the non-Arab Berber identity as Tunisia recognized that, geographically, it was part of Africa and thus had ethnic and cultural links with the continent. Although Tunisia's Constitution stipulated that its language was Arabic and its religion Islam, that did not exclude its pre-Arab and pre-Islamic heritage, which dated from prehistoric times, or its links with the Christian and Jewish faiths, to which the synagogue in Djerba bore eloquent witness. Tunisia's Arab and Islamic identity was therefore inclusive of its Libyan, Berber, Punic and Roman history; it was by no means dismissive of the religions which had been practised in the country at various times and it embraced a policy of openness.

22. In response to allegations by organizations working for the rights of the Berbers, it should be noted that peoples living in Tunisia throughout history had shared a common culture, with similar, although not identical, languages. Tribes of different ethnic origins had seen themselves as branches of the same tree, subject to Punic, Roman and Arab influence. Some people had adopted the Islamic faith while retaining a separate Berber language, with a significant proportion of its vocabulary derived from Arabic and the Koran. While both Arabic and Berber were spoken in Tunisia, ethnically all Tunisians shared the same roots; therefore, although the country's linguistic diversity reflected its history and experience, it was inappropriate to speak of an Arab race and a Berber race.

23. Tunisia was committed to implementing the recommendations contained in the Durban Declaration and Plan of Action, and its Constitution emphasized the country's attachment to the human values which were the common heritage of peoples who valued human dignity, justice and freedom. As racism totally negated the principles of dignity, justice and freedom, it was condemned by the Tunisian Constitution.

24. Concerning article 4 of the Convention, and the question whether organizations that incited racial discrimination were banned in Tunisia, although the law of 7 November 1959 did not expressly prohibit associations inciting racial discrimination, article 2 of that law stated that associations should adhere to good moral standards, which included the prohibition of racism and xenophobia. Tunisia did not have a separate law prohibiting racial discrimination and the incitement of racial hatred, but they were comprehensively condemned and banned through the Criminal Code, the Code for the protection of children, and laws regulating sporting activities, data protection and the press.

25. In regard to article 5 of the Convention, it should be recalled that, according to article 8 of the Constitution, all Tunisian citizens without exception had the right to freedom of association and the right to take legal action to protect that right. Consequently, the allegation that the

Amazighs did not have the right to set up social or cultural associations was without foundation; on the contrary, the State encouraged the setting up of such associations and their number was growing. No official records were kept of the number of Berber first names registered in the country because no distinction was made between Berber and non-Berber names; indeed, it would be difficult to differentiate between names according to their precise origin and to know whether a name was Berber or not. Historically, Tunisian first names had been derived from diverse geographic and cultural sources.

26. On the question whether there were measures in place for teaching or conserving the Berber language, there was no “Berber issue” in Tunisia: the country was homogenous in linguistic, religious and cultural terms. Its population was predominantly Arabic-speaking and the different civilizations that had succeeded each other had created a rich melting pot. The country’s diversity had never given rise to difficulties. Berbers represented barely 1 per cent of the population and they did not suffer from any form of discrimination. The Berber language was purely oral and therefore it did not lend itself to systematized and structured teaching. On the question whether there were institutions or programmes to preserve the cultural heritage of Berbers, all cultural traditions were protected under Tunisia’s code on archaeological and historic heritage and traditional arts.

27. Concerning article 6 of the Convention and in response to the request for statistics on nationalities and the total number of asylum-seekers, the proportion being granted refugee status and the proportion receiving expulsion orders, it should be recalled that, since 1963, UNHCR had been responsible for determining the refugee status of asylum-seekers. UNHCR liaised with the consular services of the Ministry of Foreign Affairs on all questions relating to asylum. Asylum-seekers received a certificate showing their status. Once an asylum-seeker had been officially recognized as a refugee by UNHCR, he or she could apply for a residence permit. “Refoulement” under Tunisian law could be appealed at an administrative tribunal.

28. Tunisia was committed to building democracy and human rights, a lengthy task requiring patience; it would not retreat in the face of difficulties.

29. Mr. AVTONOMOV, Country Rapporteur, said that the detailed and careful analysis provided in the report and in the written and oral replies to questions given by the delegation augured well for future dialogue on the difficulties encountered in implementing the Convention in the State party. The regularity with which the Tunisian Government had submitted its reports was commendable. Tunisia was well known as a country that valued human rights, and it was a party to almost all existing international and regional human rights instruments. He commended Tunisia’s success in combating poverty and illiteracy and its position in the vanguard of efforts to promote human rights. Tunisia was a country which clearly practised religious tolerance.

30. He noted with satisfaction the passing of the law of 16 June 2008, which harmonized the mandate of the High Committee on Human Rights and Fundamental Freedoms with the Paris Principles. However, the State party had not ratified the amendment to article 8 of the Convention. The Committee took note of the State party’s view that it had always been a melting pot in which diverse peoples and races had successfully mixed. He thanked the State party for its response to the question on the Berber population; the Berber issue was indeed a sensitive one for all the countries of the Maghreb.

31. The delegation had explained that the Berber population was not of a different ethnic origin, yet it had acknowledged that there was an Arabic-speaking population and a Berber-speaking population. There were areas in the country where peoples defined themselves as Berber-speaking, and there was a case for providing them with opportunities for using their language and following their own customs. There was cause to query why more information on the Berber population had not been provided as it did not appear to exist in the statistics. He called on the Government to introduce programmes for people who wished to study the Berber and Tamazgha languages, as they were recognized as modern languages in neighbouring countries. He wished to know whether it would be possible for the Berber language to be used as an official language.

32. Mr. SICILIANOS said that much social and economic progress had been made in Tunisia in the preceding two decades, inter alia in the area of poverty eradication, and impressive measures had been taken to counter the effects of the global financial crisis. Tunisia's statistics were commendable and the progress it had made in gender equality was among the best in the region.

33. Noting the changes in the mandate of the High Committee for Human Rights and Fundamental Freedoms and referring to page 13 of the written replies (CERD/C/TUN/Q/19/Add.1), which indicated that just over half of the Committee's members were appointed by the President of the Republic, he asked for further comments on how the independence of the Committee was ensured. He suggested that the Committee should seek accreditation from the International Coordinating Committee of National Human Rights Institutions.

34. The delegation's explanation that Tunisia had always been a melting pot of mixed races with a history of diversity contrasted somewhat with the language in the report which defined the Tunisian identity as being Arab and Islamic. The report had stated that the Berbers were particularly well integrated into Tunisian society and that they had no grievances. Nevertheless, various NGO reports contained allegations of official and constitutional negation of Amazigh rights, Arabization, economic exclusion of the Berber-speaking regions and discrimination in the education system. Given that the customs and language of the Berber people were different, it appeared that they belonged to a different ethnic community, which would be covered by the Convention.

35. He requested additional details on domestic legislation or other administrative measures concerning refugees and asylum-seekers. It would be useful to learn whether the principle of "non-refoulement" was always respected. The delegation should indicate whether asylum-seekers were required to present a valid national passport in order to substantiate their applications. Such a requirement was not in accordance with the Convention relating to the Status of Refugees and could deter many people from claiming refugee status.

36. Further explanation of the reply to question 12 of the list of issues would be useful, particularly in the light of the provisions of article 4 of the Convention. It was difficult to understand why acts of incitement to hatred or racial or religious fanaticism, regardless of the means employed, were dealt with in the same manner as acts of terrorism.

37. Mr. de GOUTTES commended the State party for the positive developments detailed in the report, particularly the quality of State education, efforts to eliminate illiteracy, the promotion of women's rights, and the refusal to accept any form of cultural or religious extremism.

38. However, it was difficult to accept the credibility of the statement in paragraph 4 of the report that "racial discrimination is basically non-existent in Tunisia". In the Committee's experience, no country was immune to racial discrimination.

39. The Committee had received several reports of discrimination against the Berber population. It would be useful to learn what measures the Government had taken to guarantee the effective right to establish associations to promote the Berber language, culture and arts, to integrate the learning of the Berber language in education and training curricula, and to use the Berber language in dealings with public institutions.

40. He failed to understand why acts of racial discrimination, such as those encountered in the areas of employment, housing or social rights, were dealt with in the same manner as acts of terrorism. Further explanation of the details cited in paragraph 79 of the report should be provided.

41. He asked for additional details of cases and sentences that had been handed down for acts of racial discrimination. It would be useful to have further information on the nature of the cases of abuse of authority mentioned in paragraph 101 of the report. In particular, the delegation should indicate which cases had involved acts of ethnic or racial discrimination.

42. The Committee would appreciate additional information on the activities of the High Committee on Human Rights and Fundamental Freedoms and those of the Ombudsman. It would be interesting to know more about complaints concerning racial or ethnic discrimination that had been brought before those bodies. He asked whether the harmonization of the High Committee with the Paris Principles had been officially recognized.

43. The Committee wished to know whether the Convention was among the instruments cited in the State party's handbook entitled "The teaching of human rights in universities - selected texts". It would also be interesting to learn whether the study of comparative religion at the university of Ezzitouna had been extended to other universities. If not, he urged the State party to ensure that it was extended.

44. Mr. DIACONU asked whether the social and economic integration of the Berber population had resulted in cultural and linguistic assimilation. If so, the State party should take steps to rectify that situation, such as introducing bilingual primary education in the relevant areas. The delegation should explain why Tunisia was the only country in the region that had not recognized the rights of the Berber population.

45. He requested further information on the disadvantaged areas to which the delegation had made reference. In particular, he asked what measures had been taken to promote the social and economic development of those areas.

46. It would also be useful to know how migrants from sub-Saharan Africa were treated and what status they were given on arrival.

47. Mr. LINDGREN ALVES enquired whether Berber parents had the right to give their children Berber names only. He asked whether the delegation's statement that Tunisian society was both multicultural and homogenous was not somewhat contradictory. It would also be interesting to learn whether the "Age of Enlightenment" and other elements of Western thought were included in school and university curricula.

48. Mr. THORNBERRY requested further clarification of the singularity of Tunisian identity based on plural roots. He asked whether that was a reflection of social reality or the ideological position of the State. It would be interesting to learn whether the State party had reached the ideal level at which the self-identification of ethnic groups matched the State's description of society.

49. He noted that claims to a monolithic national identity or to a lack of racial discrimination were relatively unusual in contemporary circumstances. He requested the delegation to elaborate on the claim in paragraph 23 of the report that no acts of racial discrimination were perpetrated by private bodies.

50. He asked why the notion of "tribe" was no longer current in the State party. It was unclear whether the term "defamation", as used in the legislation cited in paragraph 82 of the report, was in line with the provisions of article 4 (a) of the Convention.

51. Mr. EWOMSAN welcomed the State party's adoption of its mixed heritage and cultural diversity as the foundation of a united society without racial discrimination. He cautioned, however, that rigid promotion of the concept of a single Tunisian identity could lead to denial of diversity and impede change. Such an approach could in itself be a source of conflict and serve as an excuse for legitimizing racial discrimination. He wondered how the State party could speak of openness and rich cultural diversity while at the same time promoting a common Tunisian identity.

52. Mr. KEMAL requested information on the numbers and situation of illegal immigrants in Tunisia, most of whom were no doubt transiting the country with a view to entering Europe. That group's illegal situation made them vulnerable and he wondered about the treatment they received, for example if apprehended by the authorities. He also requested more information on refugees in Tunisia. Although the State party had indicated that there were only 22 recognized refugees, he wondered whether there were more, undocumented refugees, and what their situation was.

53. He expressed surprise at the State party's statement that the Berber language was purely oral and had no written alphabet or literature, and requested clarification in that regard. The fact that Tunisia received more tourists than any other country in Africa was a good indicator of the tolerant attitude of Tunisian society; he asked for the most recent figures for foreign visitors.

54. He found it difficult to believe that no racial discrimination existed in Tunisia. In most Islamic countries, the attitude was typically that racial discrimination did not exist because it was forbidden by the Koran, and no distinction was made among the faithful, for example during prayers in the mosque. Discrimination did exist in Islamic societies, nonetheless, for reasons of

tribalism, ethnicity, language, etc. He cautioned that while being proud of one's country or Maghreb identity was in principle worthy, it should not be touted as a sign of superiority. He wondered what the delegation's views were in that regard.

55. While a falling birth rate was a positive sign in that it indicated increased development, he said too low a birth rate could pose problems in the long term. He commended the efforts to ensure equality for women. Lastly, he welcomed the fact that an individual had been prosecuted for disseminating racist ideas and distributing anti-Jewish pamphlets, and stressed that it was important to protect the rights of all persons.

56. Mr. HUANG Yong'an expressed regret that the delegation's replies to the Committee's list of issues had not been translated into English. He praised the State party's impressive efforts to promote human rights, help vulnerable groups and eliminate racial discrimination, but expressed surprise at the sweeping assertion that there was no racial discrimination in Tunisia. Racial discrimination existed in every country. Furthermore, Tunisia was still a developing country and continued to face obstacles in that regard. He would appreciate examples of how the State party promoted the integration of racial groups while maintaining cultural diversity.

57. Mr. LAHIRI said that despite the wealth of information provided by the State party about its efforts to promote equality, the homogeneity of Tunisian society and the absence of racial discrimination, he found it difficult to believe that there were no cases of different or discriminatory treatment. He requested disaggregated data relating, for example, to ethnic groups. It might be useful for the delegation to provide the Committee with a brief description of the mixing of the various ancient civilizations in Tunisia, as well as its links with the Maghreb region and the differences between Tunisia and other Maghreb countries, in order to help the Committee better understand the shaping of modern Tunisian society. Issues relating to ethnicity and difference remained, and he wondered how Tunisia could truly be a uniform society.

58. Economic indicators could be used to identify inequality between various groups and he requested economic data disaggregated according to the various groups in society. In that connection, he regretted that in certain European countries where data were not collected and identified by ethnic group it was difficult for the Committee to get an overview of the situation or identify to what extent differences between groups were the result of discrimination, whether in the past or currently.

59. He praised the impressive legal framework for the elimination of racial discrimination but said that there were nevertheless shortcomings in enforcement of the law. There were reports of torture, abuse of power and discrimination against the Berber population and, while women's educational level was generally high, they remained underrepresented in the workplace, the professions and government. He therefore requested further clarification of the State party's affirmation that to all intents and purposes the problem of racial discrimination did not arise in Tunisia.

60. Mr. AMIR said that Tunisia could be proud of its link to such civilizations as the Phoenicians, who had had a profound influence on the region. In more recent history Tunisia and its neighbours, like many other countries, had been afflicted by such phenomena as racism, colonialism and slavery. Despite having had that experience, however, it was not impossible for those same countries to practise discrimination.

61. The challenge was how to manage diversity and promote development while preventing discrimination. Algeria, for example, which was much larger than Tunisia, with ethnic groups scattered across the country, faced a different situation from that of smaller countries with relatively large populations, such as Lebanon or Tunisia. In Lebanon, ethnic strife had had grave consequences. Tunisia, however, had chosen to encourage national unity and identity based on the promotion of economic and human development for all, without discrimination, with the aim of avoiding discord. He stressed, however, that discrimination was inherent in the human character, and that the State party, having achieved the goal of shared progress and unity, should feel secure enough to address and remedy any vestiges of discrimination within Tunisian society, for example in the treatment of its minorities.

The meeting rose at 6 p.m.