



International Covenant on Civil and Political Rights

Distr.: General
10 March 2020

Original: English

Human Rights Committee 128th session

Summary record of the 3693rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 March 2020, at 10 a.m.

Chair: Mr. Fathalla

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Sixth periodic report of Tunisia (continued)

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.20-03440 (E) 100320 100320



* 2 0 0 3 4 4 0 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Sixth periodic report of Tunisia (continued) (CCPR/C/TUN/6 and CCPR/C/TUN/QPR/6)

1. *At the invitation of the Chair, the delegation of Tunisia took places at the Committee table.*
2. **The Chair** invited the delegation to continue replying to the questions raised by Committee members at the previous meeting.
3. **Mr. Ghazala** (Tunisia) said that, pursuant to Organic Act No. 50 of 2015 on the Constitutional Court, a number of safeguards were in place to ensure the independence, neutrality and personal integrity of Constitutional Court judges. For example, they were required to take an oath of office and were barred from holding any other roles or functions, they could not be members of political parties or have stood as political candidates in the 10 years preceding their appointment, and the president of the Court was elected by the other members, not by the executive branch. Judges that were deemed no longer to meet the criteria of independence would be relieved of their duties. Positions on the Constitutional Court were open to experienced judges who met the eligibility criteria, including judges of the courts of first instance and the courts of appeal.
4. Whereas citizens of Tunisia had the right to challenge the constitutionality of enacted legislation, which would be reviewed by the Constitutional Court, the right to challenge the constitutionality of bills was reserved for the President of the Republic, the head of the Government and members of the Assembly of People's Representatives. The constitutionality of decrees could be examined by the Administrative Tribunal.
5. **Ms. Sabai** (Tunisia) said that the mandates of the Human Rights Commission and the Administrative Mediator were quite separate. The former was an independent constitutional body set up in compliance with the Paris Principles to deal with any matter relating to human rights, whereas the latter was an administrative mechanism responsible for resolving conflicts between citizens and the public administration, which could include human-rights-related issues. The Act of 2018 on the Human Rights Commission, which had been drafted on the basis of recommendations made by United Nations treaty bodies and in line with the Paris Principles, established the Commission's financial and administrative independence; the neutrality, integrity and independence of the Commission's members; and the eligibility criteria for their election. Article 128 of the Constitution also laid down the requirement for the Commission to be composed of independent and impartial members of ability and integrity. Members were elected by the Assembly of People's Representatives, in full compliance with the Paris Principles, and could be removed from office if they failed to comply with the required standards of independence and impartiality.
6. **Mr. El Khaldi** (Tunisia), responding to questions about the use of firearms by the law enforcement agencies, said that a committee under the Ministry of the Interior was reviewing the law regulating the activities of those agencies and the law governing public rallies and demonstrations, in order to ensure compliance with human rights standards. The Ministry of the Interior had also drafted bills on peaceful assemblies and on the use of force, with the aim of safeguarding fundamental rights and freedoms.
7. As part of efforts to combat impunity and achieve national reconciliation in the context of transitional justice, the judicial police had been ordered to issue arrest warrants against all those suspected of committing offences. It was important to point out that the rules governing arrests and pretrial detention were applicable at all times, irrespective of whether or not a state of emergency was in force. For example, the 48-hour limit on police custody continued to be applied during states of emergencies and suspects could not be held in detention for more than five days, although that period of detention could be extended in cases of suspected acts of terrorism. While certain exceptional decisions could be made during a state of emergency, they were subject to judicial oversight and the applicable safeguards were always taken into account. The state of emergency was regularly reviewed and the draft Organic Act regulating the state of emergency, which aimed to strike a

balance between protecting individual liberties and freedoms and upholding public security, had been submitted to a parliamentary committee for review.

8. **Mr. Boudabouss** (Tunisia) said that, pursuant to the counter-terrorism law, investigations into suspected acts of terrorism were carried out by an investigating judge, who ensured that the rights and freedoms enshrined in the Constitution were respected at all times. All persons detained on suspicion of terrorist offences had the right to see a lawyer and a doctor, contact members of their family and lodge complaints in the event of harm to their dignity or physical integrity. The limit for police custody or pretrial detention of detainees suspected of acts of terrorism was five days, which could be extended twice with a duly substantiated court order. With the agreement of the investigating judge, and taking into account judicial safeguards, lawyers were permitted access to detainees and to the relevant case files once the first 48 hours of detention had passed.

9. The Organic Act No. 59 of 2017 provided for the legal, administrative and financial independence of the National Anti-Corruption Authority, in accordance with the relevant international standards, and guaranteed the independence of its members, who were elected by the Assembly of People's Representatives on the basis of strict eligibility criteria. A number of anti-corruption-related laws and implementing regulations had been enacted, including a law to protect whistle-blowers.

10. With regard to the question on whether racial motivation would be considered an aggravating circumstance, it should be clarified that racial discrimination was recognized as a separate offence in Tunisian law. In the event that a perpetrator was convicted of multiple offences, judges handed down the maximum sentence available for the most serious offence, as provided for in the Code of Criminal Procedure. Lastly, government economic programmes targeting vulnerable and marginalized areas were implemented in all areas of the country, including in southern Tunisia, without discrimination.

11. **Mr. Tazarki** (Tunisia) said that, on a number of occasions, the Tunisian courts had ruled in favour of persons wishing to register a change in their gender identity. It was therefore possible for transgender persons to file a request to have their change of gender recognized on their birth certificate; however, the legislation needed to be amended to reflect that development. In a similar vein, the law governing the prison system was being revised with a view to bringing it into line with international standards, including with regard to conditions of detention for transgender persons. Regarding article 230 of the Criminal Code, concerning offences relating to same-sex relations, it should be pointed out that anal examinations could be requested by a judge but could only be performed with the consent of the person concerned. A refusal to undergo such an examination was no longer considered to be an admission of guilt. Lastly, on the right to form associations, it should be pointed out that, in the vast majority of cases, applications by the lesbian, gay, bisexual and transgender community to establish such associations had been refused owing to a lack of the requisite documentation or failure to comply with the necessary procedures. In order to address the problem, training was being provided to associations wishing to have a better understanding of the procedures to be followed. The Court of Cassation had ruled that the association Shams could continue its activities in Tunisia.

12. **Ms. Sabai** (Tunisia) said that a key government priority was to complete the transitional justice process. The report of the Truth and Dignity Commission was shortly to be published and, in accordance with Organic Act No. 53 of 2013 on the Establishment and Regulation of Transitional Justice, a follow-up commission would be established to monitor the implementation of the Commission's recommendations. Under the Act, the Commission had a four-year mandate with the possibility of a one-year extension, which had been granted. Specialized criminal chambers had been set up and judges had been appointed. In conjunction with the Office of the United Nations High Commissioner for Human Rights country office in Tunisia, the Ministry of Justice had held training workshops for the judiciary, thus ensuring that a pool of specialized judges was available for appointment to those chambers as and when needed. Lastly, reports that the chambers were sometimes slow to rule on cases could be attributable to the fact that some judges did not work full-time and some of the criminal investigations carried out by the Commission had not been completed and had thus had to be reopened.

13. **Mr. Hammami** (Tunisia) said that the Government was taking steps to develop a system to collect comprehensive data on human rights. He reaffirmed his Government's commitment to the moratorium on the use of the death penalty.

14. **Mr. Zyberi** said that the Committee was pleased to learn of the legislative measures taken to prevent and combat trafficking and promote the rights of children in the State party. Still, additional information on the concrete efforts made to implement Organic Act No. 2016-61 of 3 August 2016 on Preventing and Combating Trafficking in Persons would be appreciated. It would also be helpful to find out whether the training of judges, prosecutors, police officers and other State officials had continued beyond 2018 and whether such training was held regularly. The Committee would further be grateful to learn about the outcome of the 58 cases of trafficking referred to the judiciary. Given that civil society organizations played an important role in reporting trafficking, the delegation might wish to indicate whether they received support from State bodies and, if so, what was its nature. It would also be useful to know what type of support the State party authorities afforded to foreign victims of trafficking and why only approximately 10 per cent of trafficking victims received assistance from social welfare centres. The Committee would welcome statistical data for the past five years, disaggregated by sex, age group and the victims' country of origin, on slavery, trafficking and servitude, in particular with regard to the issues referred to in paragraphs 18 (a) to (e) of the list of issues. It would also like to learn more about the responsibilities of and actions taken by the 24 labour inspectors and 24 child protection officers that had been appointed as focal points to address the situation of economically exploited children.

15. **Mr. Zimmermann**, noting that information before the Committee suggested that the legal duration of police custody and provisions granting detainees immediate access to a lawyer were not always heeded in practice; that police officers did not always abide by the legal obligation to inform detainees and their families of the right to contact a lawyer; and that, on some occasions, detainees had even been compelled to sign a waiver of their legal right to counsel, said that the delegation might wish to explain how the State party intended to ensure implementation of the right to timely access to a lawyer and indicate what had been done to raise police officers' awareness of their obligations.

16. It would be useful to know what progress had been made in regard to the establishment of enforced disappearance as a separate offence in domestic law. If the draft law proposed in that regard was not yet in force, he would appreciate information on the main obstacles to its adoption.

17. The Committee would welcome statistics on deaths in custody, relevant investigations, prosecutions, convictions and penalties, and the measures taken to reduce such incidents.

18. Recalling that the Committee, in its general comment No. 32, had found that the trial of civilians in military courts should be exceptional and limited to cases where the State party could show that resorting to them was necessary and justified by objective and serious reasons, he would like to hear about measures taken to reduce the number of offences tried by military courts. The delegation might also wish to brief the Committee on the progress made in the review of military court jurisdiction aimed at ensuring compliance with international standards. It had, for example, been alleged that the Code of Military Procedure and Penalties had been invoked repeatedly to prosecute journalists for criticizing the military.

19. **Mr. Koita** asked whether the recommendations of the visits committee established by the National Authority for the Prevention of Torture had resulted in any tangible measures to improve prison conditions and reduce overcrowding. Did the State party, for example, intend to increase budget allocations to improve prison conditions and provide training to prison staff? It would be useful to learn about any progress made in the review of Act No. 2001-52 on the Organization of Prisons. It was encouraging to note that the 22 deaths due to illness in custody in 2018 were being investigated and it would be useful to know whether the families of the deceased were entitled to bring criminal indemnification proceedings. The Committee would be interested to find out about any plans to enhance prison monitoring by the National Authority for the Prevention of Torture and civil society organizations and to establish an effective complaints mechanism for ill-treatment in custody.

20. Although State party legislation guaranteed the right to legal aid, it appeared that, in practice, people often encountered barriers to accessing such aid. Moreover, litigants seemed to be largely unaware of the possibility to apply for legal aid. It would be useful to know whether the State party intended to merge the different legal aid provisions into a single document; what steps had been taken to ensure that legal aid was adequately funded; and whether anything had been done to create public awareness of legal aid provisions. It would also be helpful to learn more about the State party's efforts to strengthen its judicial infrastructure and bring justice closer to the people, especially in remote and underserved areas. Had there been any evaluation of the work of the committee established at the Centre for Legal and Judicial Studies to review Act No. 52 of 2002 on Legal Assistance and to draft relevant legislation in consultation with relevant stakeholders?

21. Although the right to asylum was enshrined in the State party's Constitution, there was currently no relevant legal framework. The delegation might wish to elaborate on the reasons for the delay in the adoption of the draft asylum act and the establishment of a national committee to consider asylum applications. It would also be useful to know whether the State party intended to incorporate the principle of non-refoulement into domestic legislation. Had any measures been taken to ensure equitable, effective access to asylum, decriminalize irregular entry and provide effective access to justice for asylum seekers?

22. **Mr. Santos Pais** said that the public scepticism about the independence of most constitutional bodies in Tunisia arose from the fact that their members were elected by the Assembly of People's Representatives and were thus potentially affiliated with political parties. With regard to the question of judicial oversight by the investigating judge, the Committee had been informed that, on some occasions, when law enforcement officers were under investigation, their colleagues did not bring them before the investigating judge who, as a result, did not have access to the defendant despite being officially in charge of the investigation. It also appeared that on several occasions confessions had been obtained through coercion during the 48-hour period during which terrorism suspects were held without judicial oversight.

23. Based on the information provided in the State party report, the organization of the judiciary and the judicial reform process were largely in line with the provisions of the Covenant. Still, given that the State party had recently established a Supreme Judicial Council, it was surprising that judges continued to be appointed by presidential decree. Were there any plans to transfer that responsibility to the Supreme Judicial Council? It would also be useful to find out whether work on the draft Act on the status of judges and the draft code of ethics for judges had been concluded. He would be interested to know how many women currently held posts as judges or prosecutors, and what percentage of judges and prosecutors were women.

24. The Committee would be grateful to hear the delegation's views on two incidents brought to the Committee's attention that called into question the full independence of the judiciary. Firstly, presidential candidate Nabil Karoui had reportedly been detained on charges of fraud and money laundering before the first round of the election and kept in detention throughout the campaign period. Secondly, the detention of Mr. Sami Fehri in November 2019 on charges of money laundering and abuse of power had been found illegal by the Court of Cassation, but the public prosecutor had reportedly refused to carry out the Court's order for Mr. Fehri's release. The Committee would be interested to learn more about the way in which the State party ensured that the judiciary was fully independent from the executive.

25. It would be helpful to know whether references to the term "*magistrats*" in the Organic Act on the Supreme Judicial Council referred to "*magistrats du siège*" (judges) only or also included "*magistrats du parquet*" (prosecutors), bearing in mind that, according to article 115 of the Constitution, the Office of the Public Prosecutor was part of the judicial system and should enjoy the same safeguards and independence from the executive as judges. Such independence was crucial to ensure public confidence, especially when it came to the prosecution of terrorism offences or offences committed by law enforcement officers, among others. It would be useful to know which body was responsible for the appointment of public prosecutors and for matters relating to their career, whether any decisions in that regard could be appealed, and whether judicial police officers conducting criminal investigations were placed under the oversight of the Office of

the Public Prosecutor. The opinions issued by the Consultative Council of European Judges and the Consultative Council of European Prosecutors provided useful insights in matters pertaining to the judiciary.

26. Turning to the right to privacy, he enquired about the status of the review of Organic Act No. 63 of 2004 on the Protection of Personal Data, which was aimed at bringing it into line with the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data. The Committee would be interested to hear the delegation's response to allegations that the interception of communications or audiovisual surveillance by the judicial police was widespread and often performed without judicial authorization, in disregard of the principle of proportionality. The delegation might also wish to comment on reports of arbitrary identity checks and monitoring of mobile phones, computers and social media accounts by the judicial police, and to provide information on measures taken to ensure judicial oversight of such activities.

27. The Committee would appreciate updated information on the progress made in regard to the draft digital code and the draft Act on national identity cards, and on the fate of the draft code of individual freedoms prepared by a group of parliamentarians. It would also like to know whether the State party planned to place the activities of the Technical Telecommunications Agency under judicial oversight.

28. **Ms. Tigroudja** said that the Committee would appreciate information on measures taken to remove from the existing legal framework unnecessary or disproportionate restrictions on the right to freedom of expression. It would also like to obtain statistics on legal proceedings conducted under Decree-Law No. 2011-115 of 2 November 2011 on Freedom of the Press, Printing and Publishing. It would welcome information on the functioning of the Independent High Authority for Audiovisual Communication and the safeguards in place to ensure media pluralism and independence, bearing in mind that the Authority, which was responsible for promoting a pluralistic and balanced media, did not entirely live up to expectations and, as a result, media ownership was largely concentrated in the hands of a few. It would also appreciate information on the current status of the draft digital code, which had been criticized by civil society organizations as having a potentially negative impact on freedom of expression.

29. She wished to know whether it was true that more than 300 attacks had been launched against some 400 journalists between 2017 and 2019. The Committee would appreciate statistics concerning criminal charges against journalists and sentences involving deprivation of liberty or fines. It had been informed, for instance, that the journalist Mr. Ben Hamida had been arrested and interrogated about his work by an investigating judge in January 2019, and that the Director of Radio Oxygène, Mr. Ben Fakhel, had been charged with insulting an official in February 2019. She would also appreciate information concerning the prosecution of persons who had attacked or harassed journalists, whistle-blowers or human rights defenders.

30. The Committee would appreciate the delegation's comments on reports that journalists investigating matters of public interest were frequently denied access to administrative data and statistics. It would also be helpful if the delegation could comment on information received by the Committee suggesting that the registration of associations was being impeded by high costs and intrusive investigations, which allegedly rendered it increasingly difficult to establish an association, resulting in a decline in the number of registrations. A further complication reportedly involved the inclusion of associations in the business registry since 2018.

31. According to the State party's report, additional penalties under the Criminal Code included deprivation of the right to vote. She wished to know whether such penalties were automatic in the case of certain offences and, if so, which ones. She would also welcome additional information concerning the functioning of the Independent High Electoral Commission. She would like to hear about awareness-raising measures to promote balance and equality in public life, bearing in mind that women had allegedly been discouraged from participating in the media campaign for the 2019 parliamentary and presidential elections, and from running for election. The Committee had been informed that women accounted for only 25 per cent of parliamentarians and that very few women served in the Government.

32. **Mr. Muhumuza** noted that although 15 per cent of the State party's population were black, they held no important positions in the country. The derogatory terms *kahlouch* and *woussif* were commonly used to designate members of the black community. He wished to know what steps the State party would take to remedy the situation.

The meeting was suspended at 11.35 a.m. and resumed at 11.55 a.m.

33. **Ms. Ayari** (Tunisia) said that her country had ratified the Convention on the Rights of the Child, the two Optional Protocols thereto and the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse. It had adopted the Child Protection Code in 1995 and there were family judges in all courts of first instance.

34. The child protection officers mentioned in the report were experts in education, psychology and sociology and had attended in-service training courses supported by the United Nations Children's Fund (UNICEF). There were now 80 such officers, who operated in all governorates and cooperated with family judges. The State had established institutions to protect children who were economically exploited, born out of wedlock or subjected to sexual abuse. In 2017, the Ministry for Women, Family, Children and the Elderly had established a hotline for the submission of complaints, which currently operated 24 hours a day, 7 days a week, and offered advice to vulnerable children, women and older persons. Article 1 of Organic Act No. 61 of 2016 on Preventing and Combating Human Trafficking prohibited all forms of exploitation or abuse of women and children in order to prevent trafficking in persons and forced labour. The employment of young girls as domestic workers was also prohibited.

35. The Ministry of Social Affairs, with the support of the International Labour Organization (ILO), other ministries and civil society organizations, was responsible for implementing the national plan on combating child labour for the period 2015–2020. The aim of the plan was to align Tunisian legislation with relevant international treaties. It also provided for programmes to support families and thereby combat school dropout. Research in several regions of Tunisia had revealed a significant increase in child domestic labour since 2014. The National Institute of Statistics had established focal points tasked with ensuring that cases of child labour were monitored by child protection officers, family judges and other experts. Guidelines had been issued concerning the legal provisions governing child labour, in particular the minimum working age and the need to combat the worst forms of child labour. Fifty-eight awareness-raising workshops on child labour had been organized, in cooperation with ILO, throughout the country. The workshops had also addressed other topics, such as the economic empowerment of families and vocational training for girls, and had benefited a total of 1,025 children. Notwithstanding the precarious economic and financial situation, the authorities had developed partnerships with civil society aimed at providing support for diverse projects.

36. With regard to the stigmatization of unmarried mothers, who were particularly vulnerable, the Constitution required public officials to respect human dignity and prevent discrimination on grounds of race, gender, nationality, religion, political views or other grounds. A number of laws, programmes and projects to support unmarried mothers had been developed in coordination with UNICEF and Santé Sud. If an unmarried mother was insulted by a public authority she could file a complaint with the judiciary; such behaviour was considered to be an offence under the code of conduct of public officials.

37. **Mr. Hammami** (Tunisia) said that the issue of racial discrimination was currently being addressed in Tunisia. The Assembly of People's Representatives had adopted a law that criminalized discrimination on the grounds of skin colour and provided for monitoring procedures. The issue was regularly discussed in the mass media and social media, and a new subject in the school curriculum was aimed at raising awareness of the need to live together without discrimination. Terms such as *kahlouch* and *woussif* were deemed to be unacceptable and victims of prejudice could seek judicial remedies. There were currently black parliamentarians, diplomats and ambassadors, members of the judiciary and security forces, as well as artists and celebrities.

38. **Mr. Boudabouss** (Tunisia) said that civilians were tried in military courts for a limited number of offences, such as military offences defined in the Code of Military Procedure and Penalties, offences committed in military institutions and offences against the interests of the military. The Code had been heavily amended during the democratic transition. Decrees Nos. 69 and 70 of 2011 regulated military courts and the performance of

military judges in order to enhance their independence and guarantee due process in line with international standards, in particular the 20 draft principles governing the administration of justice through military tribunals elaborated by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2006/58). The key amendments to the Code had been listed in paragraph 255 of the report. The enforcement of judgments handed down by the military courts was monitored by civil courts. Article 110 of the Constitution promulgated in 2014 confined the jurisdiction of military courts to military offences. A technical commission had been established to ensure that the Code of Military Procedure and Penalties was in line with the Constitution and international law. To that end, it had cooperated with the committees established by the Ministry of Justice to review the Criminal Code and the Code of Criminal Procedure.

39. **Mr. El Khaldi** (Tunisia) said that a committee of the Assembly of People's Representatives had proposed amendments to the 2018 bill concerning biometric identity cards, which would have required the Ministry of the Interior to destroy the database. The bill had been withdrawn because the Ministry considered that the database must be maintained.

40. Tunisia was committed to protecting the rights of migrants and asylum seekers, in accordance with international instruments. No domestic legislation had been enacted to date but more than a million Libyans had been admitted at the country's southern borders. Steps had been taken in recent years, in coordination with the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Human Rights (UNHCR), to establish an emergency plan for the reception of displaced persons and migrants. However, as terrorist groups also sought to cross the southern borders, there was a need for effective security measures. Although most migrants were heading for Europe and were unwilling to register with the authorities, they were nonetheless provided with basic services on account of their vulnerability. Regular migrants had access to education and health-care services without discrimination.

41. The Ministry of the Interior was committed to guaranteeing freedom of expression for journalists, including by protecting them from acts of terrorism and facilitating communication between journalists' associations and international agencies in the framework of the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity. Since 2018, journalists and security officials had participated in training workshops aimed at better defining the relationship between those two groups. The Government also invited journalists to submit complaints related to the violation of their rights and offered them access to relevant administrative procedures and information. In that regard, journalists produced a monthly publication detailing any abuses to which they had been subjected while undertaking their work, a copy of which was sent to the Ministry of the Interior to help it to develop relevant indicators and to take measures in response to specific incidents.

42. As far as conditions of detention were concerned, terrorist suspects were entitled to the same guarantees as other detainees with regard to access to lawyers and health care, contact with family members and appeals against human rights violations. Moreover, the Government was working to eliminate all acts of torture and ill-treatment at places of deprivation of liberty by allowing greater access to those facilities by independent entities such as the International Committee of the Red Cross, Dignity – Danish Institute against Torture and the Human Rights Commission. At a general level, the Ministry of the Interior was also working alongside the International Committee of the Red Cross to develop and implement a human rights-based approach to the treatment of detainees by identifying improvements to detention infrastructure and interrogation methods and encouraging stakeholders to publish good practices.

43. **Ms. Sabai** (Tunisia) said that one of the main outcomes of the adoption of Organic Act No. 61 of 2016 had been the creation of the National Authority for the Prevention of Trafficking in Persons. That body, which was mandated to identify and protect victims and to coordinate the actions of relevant stakeholders, had formulated the National Strategy to Combat Trafficking in Persons for the years 2018 to 2023. In keeping with the aims of the Strategy, Tunisia had also joined the Blue Heart Campaign against Human Trafficking of the United Nations Office on Drugs and Crime (UNODC) in 2018. The National Authority had organized a series of training and awareness-raising activities aimed at preventing child abuse and child labour, including dedicated workshops for legal personnel and customs

officers, developed in collaboration with UNODC and the Council of Europe. Judges at first instance courts had also been given training, so that they could become reference points for other members of the judiciary on cases involving trafficking of children, child abuse and child labour. During those training sessions, mock cases had been used to teach participants how to identify victims, provide support and deter potential perpetrators. The 2019 report of the National Authority for the Prevention of Trafficking in Persons, which contained statistical data disaggregated by the type of crime and the sex of the victims, was scheduled for publication and would be forwarded to the Committee in due course.

44. With reference to the amendment of the Child Protection Code, a multidisciplinary committee had been formed to examine the shortcomings of the existing legislation and to compare it with the provisions of international instruments on the rights of the child. That committee had already produced a first draft, which included an entire section on the right of the child to appear as a witness and to be heard in court. The draft had been sent to the Government and other stakeholders, such as family courts, for further consideration.

45. With regard to the judiciary, the President of the Republic had no say in the appointment or promotion of judges. Nominations for those positions were made by the Supreme Judicial Council, on the basis of clear and objective criteria. Although the President, acting in accordance with the Constitution, published the list of nominations in the Official Gazette, he or she could not influence the final decision on appointments or promotions. Moreover, a committee had been established under the Ministry of Justice to prepare a draft Act on the status of judges. Consultations and workshops had been held with lawyers, judges, relevant civil society organizations, trade unions and bar associations with a view to formulating proposals for the draft Act, and those proposals were currently being considered by the committee, which would submit the draft to the Assembly of People's Representatives. A separate committee had also been created to prepare a draft code of ethics for judges.

46. Under the Constitution, public prosecutors enjoyed the same guarantees and freedoms as other members of the judiciary, including full independence in the performance of their mandated duties. An ad hoc committee had been established under the Supreme Judicial Council to draft a new legal framework to bring the provisions regulating the work of public prosecutors into line with international standards. That committee's proposals would be debated by stakeholders at a meeting to be held in April 2020. Under the existing Code of Criminal Procedure, the Ministry of Justice was mandated to supervise the work of public prosecutors; however, that provision might be amended following the forthcoming review of the Code. Individuals were entitled to appeal the decisions made by public prosecutors before the Supreme Judicial Council. Although women accounted for approximately 45 per cent of all judges in Tunisia, there were relatively few women public prosecutors. Some non-governmental organizations were therefore campaigning to increase female representation in the Office of the Public Prosecutor.

47. Since specific provisions on legal aid had been included in a number of recent legislative amendments, the Ministry of Justice had set up a committee at the Centre for Legal and Judicial Studies to re-examine Act No. 52 of 2002 on legal assistance in the light of current international standards. A small technical team had also been established to study the concluding observations issued to Tunisia concerning its implementation of the International Convention for the Protection of All Persons from Enforced Disappearance, in order to ensure that those recommendations were taken into consideration in the context of the ongoing review of the Code of Criminal Procedure.

48. **Mr. Ghazala** (Tunisia) said that a new bill had been submitted to the Assembly of People's Representatives in 2019 to bring existing legislation on the protection of personal data into line with international standards, including the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data. Under the proposed amendment, all entities – including public administrations – would be obliged to obtain authorization before accessing personal data. Regardless of authorization, and in accordance with the Council of Europe Convention, personal data revealing racial origin, political opinions or religious or other beliefs could not be automatically processed by public authorities. The National Authority for the Protection of Personal Data had been made responsible for monitoring the protection of personal data and had been granted discretionary powers to fulfil that mandate, including the power to issue judicial and administrative decisions.

49. A bill had been drafted that would allow new non-governmental organizations and associations to register on an electronic platform and thereby avoid having to pay a fee to have their status formally declared in the Official Gazette. Under Act No. 22 of 2016 on the right of access to information, all citizens – including journalists – were entitled to access the information held by the State. That legislation had also provided for the establishment of the Commission on Access to Information, which had the power to issue legally binding decisions against the administration if such access was denied. However, the process of implementing the Commission’s decisions was proving lengthy in practice since the public administration in Tunisia had traditionally been characterized by a culture of secrecy and confidentiality.

50. **The Chair** invited Committee members to put further follow-up questions and suggested that, given the time constraints, the delegation could submit its replies in writing within 48 hours.

51. **Ms. Tigroudja** said that she would welcome the delegation’s comments on reports that, with regard to the right to demonstrate, the State party was moving away from a notification system and towards a regime under which organizers would be obliged to obtain prior authorization for their protests.

52. She would also appreciate further information regarding the concerns that she had raised about the draft digital code and on the specific offence of incitement to racial hatred that had been included in the Organic Act on Combating Terrorism.

53. **Mr. Zimmermann** said that it was his understanding that the statute of limitations did not apply to cases that had been referred by the Truth and Dignity Commission to the specialized chambers. However, it would be useful to know whether any statute of limitations applied to cases that ended up being brought before regular courts, since it appeared that many cases had not been transferred from the Commission to the specialized chambers. He was also interested in cases that were currently pending before the specialized chambers but that had been the subject of an unfinished investigation by the Truth and Dignity Commission. Clarification as to how the Office of the Public Prosecutor and the specialized chambers would be able to proceed with those cases, and how the cooperation of the police and the Ministry of the Interior could be guaranteed, would be of particular interest.

54. **Mr. Zyberi** asked the delegation to provide a time frame for the Government’s planned amendment of the definition of torture currently set out in the Code of Criminal Procedure.

55. **Mr. Santos Pais** said that it was his understanding that the Office of the Public Prosecutor was not represented in the Higher Institute of the Judiciary. He would therefore appreciate clarification as to whether public prosecutors were able to contest decisions concerning them.

56. **Mr. Koita** said that he would like to know whether the debate on the abolition of the death penalty had been revived following the amnesty granted in 2012 to a number of prisoners who had been sentenced to death. He would also appreciate further information regarding the need for proof under articles 15 and 27 of the Organic Act on Combating Terrorism.

57. **Mr. Hammami** (Tunisia) said that he thanked the members of the Committee for their questions and the attention that they had given to his country’s report. His delegation would be happy to provide the information requested in writing and looked forward to receiving the Committee’s concluding observations in due course. He had observed that most of the Committee’s questions concerned the exercise of rights and freedoms in Tunisia. Since significant measures had already been taken to bring national legislation into line with the provisions of the Covenant, he concluded that the Government should now focus its efforts on training senior public officials and raising public awareness about that legal framework. Effecting changes in attitudes and bringing behaviours into line with the principles set out in the Covenant would require time and resources. However, by the end of the following reporting period, he hoped that the Government would be able to provide evidence of further progress in the practical implementation of the Covenant in Tunisia.

The meeting rose at 1 p.m.