



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-fourth session
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

TUNISIA

1. The Committee considered the eighteenth and nineteenth periodic reports of Tunisia, submitted in a single document (CERD/C/TUN/19), at its 1904th and 1905th meetings (CERD/C/SR.1904 and 1905), held on 16 and 17 February 2009. At its 1926th and 1927th meetings (CERD/C/SR.1926 and 1927), held on 3 and 4 March 2009, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the State party's submission of its eighteenth and nineteenth periodic reports within the required time, the openness of the dialogue with the delegation and the written replies to the list of issues (CERD/C/TUN/Q/19/Add.1). The Committee commends the regularity with which the State party reports.

3. The Committee appreciates the efforts made by the State party to comply with the reporting guidelines of the Committee, but regrets the lack of information regarding the practical implementation of the Convention and the lack of answers on issues raised in the previous concluding observations.

B. Positive aspects

4. The Committee welcomes the fact that, pursuant to article 32 of the Constitution, international instruments that have been ratified and promulgated by the State party, including the International Convention on the Elimination of All Forms of Racial Discrimination, form part of and take precedence over provisions of the State party's domestic law and can be invoked directly before the courts.

5. The Committee notes with interest that in 2008, following recommendations by the Human Rights Council (A/HRC/8/21 and Corr.1, para. 83, recommendation No. 4) and the Human Rights Committee (CCPR/C/TUN/CO/5, para. 8), the High Committee on Human Rights and Fundamental Freedoms, a national institution established in 1991, underwent a reform of its powers, its membership and its working methods with a view to enhancing its effectiveness and its independence in conformity with the Paris Principles (General Assembly resolution 48/134). The Committee welcomes the steps taken by the State party to seek accreditation of the High Committee on Human Rights and Fundamental Freedoms with the International Coordination Committee of National Human Rights Institutions and encourages it to ensure the independence of the High Committee in practice.

6. The Committee welcomes the various measures taken to promote the principle of tolerance and the culture of human rights at all levels of education. It notes with interest the introduction of human rights education in the Higher Institute of the Judiciary, the Prison Officers College and the Police College.

7. The Committee welcomes the State party's continuing efforts to promote understanding, tolerance and friendship between peoples, civilizations and religions. It is particularly interested in the academic training provided at the University of Ezzitouna, which emphasizes the history of religions, human rights in sacred writings and interreligious dialogue.

8. The Committee commends the State party's continuing efforts to reduce poverty and develop the more disadvantaged areas of Tunisia, combat illiteracy and ensure equality between men and women in Tunisian society.

9. The Committee welcomes the State party's ratification in 2008 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

C. Concerns and recommendations

10. The Committee again takes note of the discrepancy between the State party's view that Tunisian society is homogeneous, and information provided by the State party itself on various groups living in the country, such as the Berber-speaking and sub-Saharan African populations.

In light of the absence of specific statistical data on the ethnic composition of Tunisian society, the Committee recommends that the State party should provide an estimate of the ethnic composition of the population in subsequent reports, as recommended in paragraphs 10 and 12 of the guidelines for the CERD-specific document (CERD/C/2007/1), and draws the attention of the State party to its general recommendation VIII (1990) concerning the self-identification of members of racial and ethnic groups.

11. The Committee takes note of the information provided by the State party to the effect that Tunisia's Amazigh population, which reportedly makes up no more than 1 per cent of the total population, is fully integrated into the plural entity that is Tunisia and suffers no discrimination of any kind.

The Committee calls on the State party to take account of the way in which the Amazigh perceive and define themselves. It urges the State party to review the situation of the Amazigh in the light of international agreements on human rights, with a view to guaranteeing the members of that community the enjoyment of the rights they claim, notably the right to their own culture and the use of their mother tongue and the preservation and development of their identity.

12. The Committee notes that, notwithstanding the recommendations made in 2003 (CERD/C/62/CO/10, para. 9), the State party reasserts in its periodic report that racial discrimination does not exist in Tunisia. It understands that, in the view of the State party, although incidents of racial discrimination may occur, there is no systematic racial discrimination on the part of the State party.

Bearing in mind that acts of racial discrimination often occur outside the context of official Government policy, the Committee recommends that the State party should conduct studies in order to effectively assess and evaluate the occurrence of de facto racial discrimination by individuals, groups or organizations.

13. The Committee notes that the State party's Act No. 2003-75 does not fully meet the requirements relating to specificity under article 4 of the Convention.

Recalling its general recommendations VII (1985) and XV (1993), the Committee recommends that the State party should adopt separate legislation on the offence of racial discrimination and the propagation of racial hatred meeting all the requirements of article 4 of the Convention and providing for penalties that are proportionate with the seriousness of the offences.

14. The Committee regrets that information provided on the implementation of article 5 of the Convention, relating to the obligation of States parties to guarantee the enjoyment of civil, political, economic, social and cultural rights and fundamental freedoms without racial distinction, is incomplete.

The Committee recommends that the State party should focus more precisely on the issue of non-discrimination when reporting on the enjoyment of the rights under article 5 of the Convention, and provide practical information on the enjoyment of these rights by migrants from sub-Saharan Africa and by Amazigh within the jurisdiction of the State party.

15. The Committee is concerned about the absence of specific legislation on refugees and at the steps reportedly taken to remove refugees. It also notes the information concerning delays in the issuance and renewal of refugees' residence permits.

The Committee invites the State party to elaborate a legislative framework for the protection of refugees in accordance with international standards, to pursue its cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and to protect persons who have sought refuge in Tunisia. The Committee also recommends, in accordance with article 5 (b) of the Convention, that the State party should ensure that no person will be forcibly returned to a country where there are substantial grounds for believing that their life or physical integrity may be put at risk. The Committee invites the State party to ensure that, for all refugees, whatever their nationality, residence permits are issued and renewed with no delays and with no requirement to present a valid passport.

16. While taking note of the information provided by the State party, the Committee remains concerned at reports of administrative practices whereby Amazigh given names may not be entered in the civil register.

The Committee recommends that the State party should take all appropriate measures to do away with this practice throughout its territory.

17. The Committee takes note of the State party's position but is concerned at information to the effect that the Amazigh do not have the right to form social or cultural associations.

The Committee urges the State party to take account of the recommendations made by the Human Rights Committee in its concluding observations on Tunisia (CCPR/C/TUN/CO/5, para. 21), to the effect that it should ensure that organizations are registered, and that they should be provided with effective and prompt recourse against any rejection of their applications.

18. The Committee notes that, according to some reports, the Amazigh are prevented from preserving and expressing their cultural and linguistic identity in Tunisia.

The Committee stresses the State party's obligation under article 5 of the Convention to respect the right of the Amazigh to enjoy their own culture and to use their own language, in private and in public, freely and without discrimination. The Committee recommends that Tunisia should consider the possibility of allowing Tamazight, the Amazigh language, to be used by Berber speakers in their dealings with the various administrative and judicial authorities. It invites the State party to enhance its protection and promotion of Amazigh culture as a living culture and to take measures, especially in the field of education, in order to promote knowledge of the history, language and culture of the Amazigh. It recommends that Tunisia should consider the possibility of broadcasting programmes in Tamazight in the State media.

19. While noting that the High Committee on Human Rights and Fundamental Freedoms has received over 4,100 complaints of violations of rights since the last concluding observations, the Committee notes the information provided by the delegation on the absence of complaints of racial discrimination.

The Committee requests that the State party should include in its next periodic report statistical information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination, and where the relevant provisions of the existing domestic legislation have been applied. Recalling its general recommendation XXXI (2005), the Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in national legislation, and to inform the public about the availability of legal remedies in the field of racial discrimination.

20. While bearing in mind that, under the Constitution of the State party, the Convention prevails over the provisions of domestic law, the Committee notes that the Convention has never been directly invoked in the national courts.

The Committee recommends that the State party should do more to provide judges and lawyers with adequate training in international human rights law in order to make them aware of the content and direct application of the Convention in domestic law.

21. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

22. The Committee recommends that the State party should take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I), when it incorporates the Convention into its domestic legal order, particularly with regard to articles 2 to 7. The Committee also urges the State party to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee likewise encourages the State party to participate actively in the Preparatory Committee for the 2009 Durban Review Conference.

23. The Committee takes note of the State party's consideration of the optional declaration under article 14 of the Convention and encourages it to complete its consideration without delay.

24. The Committee recommends that the State party should ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee cites General Assembly resolution 63/243 of 24 December 2008, in which the General Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

25. The Committee recommends that the State party's reports should be made readily available to the public at the time of their submission, and that the Committee's concluding observations should be similarly publicized in the official language and the other languages used in the State party.

26. The Committee recommends that the State party should consult widely with civil society organizations when it drafts its next periodic report.

27. The Committee invites the State party to update its core document in accordance with the requirements of the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.4).

28. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 13, 16 and 17 above.

29. The Committee recommends that the State party should submit its twentieth, twenty-first and twenty-second periodic reports in a single document by 4 January 2012, taking into account the guidelines for the CERD-specific document, as adopted at its seventy-first session (CERD/C/2007/1), and addressing all points raised in the present concluding observations.
