

TUNISIA

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were satisfactory, in the sense that they furnished all or most of the required information, and which reports were unsatisfactory or incomplete and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party's report (or reports) was satisfactory or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

...

35. [At its fourth session] The Committee decided that further information was needed from the following six States Parties, whose initial reports were considered incomplete or unsatisfactory:
... Tunisia ...

CERD 28TH NO. 18 (A/9018) (1973)

128. The initial report of Tunisia, submitted on 14 July 1971, was considered by the Committee at its fourth session. It was found unsatisfactory, and additional information was requested, to be included either in a supplementary report or in the second periodic report. The second periodic report, dated 31 January 1972, together with a supplementary report, submitted on 7 August 1972, were jointly considered at the seventh session (131st meeting).

129. Some members expressed the view that the two reports under consideration contained more extensive information than had the initial report and that some account had been taken, in the preparation of these reports, of views expressed by Committee members during the discussion of the initial report of Tunisia. It was pointed out that, after receiving general recommendations I and II, the Government of Tunisia had on its own initiative submitted the supplementary report, which contained information relevant to those recommendations. The information contained in the reports appeared to satisfy the requirements of article 4, paragraph (a), and article 5 of the Convention, as well as the relevant provisions of articles 2 and 3. Members took note of the statements that the Convention, along with other related international instruments, had been unanimously adopted by the National Assembly, promulgated by the President, and published in the Official Gazette, and had thus been incorporated into domestic legislation, and that, in accordance with article 48 of the Constitution, it took precedence over domestic laws.

130. Several members observed that the two reports under consideration were neither complete nor organized in conformity with the guidelines laid down by the Committee.

131. Some members inquired whether legislation meeting the requirements of article 4, paragraph (b), and article 6 of the Convention existed in Tunisia, and whether measures such as those envisaged in article 7 had been adopted.

132. The representative of Tunisia recalled that his Government had had to review all its legislation since attaining independence and observed that the situation, and in particular the non-existence of racial discrimination, had not required the adoption of new laws. He assured the Committee that any additional relevant information that was available would be included in future reports.

133. The Committee decided to consider the reports of Tunisia satisfactory, and expressed the wish that the comments of its members would be taken into account in the third periodic report.

CERD A/31/18 + Corr.1 (1976)

90. The Committee noted that the third and fourth periodic reports of Tunisia, submitted in one document in accordance with the suggestion made by the Committee at its twelfth session, constituted substantially a repetition of the text of the second periodic report of that country.

91. Members of the Committee observed that, under the circumstances described in the foregoing paragraph, the various comments and questions to which the earlier reports had given rise remained valid. Accordingly, they repeated the requests for information on the implementation of articles 4, 6 and 7 of the Convention and for the information envisaged in general recommendations III and IV. There were also additional requests for information on the implementation of article 5 of the Convention and on the legislative and administrative measures which might have been adopted in order to give effect to the non-self-executing provisions of the convention, which, in accordance with article 48 of the Constitution, had been incorporated into Tunisia's domestic legislation.

92. The representative of the Government of Tunisia informed the Committee that his Government maintained no relations with the racist régimes in Rhodesia and South Africa and had always strongly condemned their racist policies. He assured the Committee that he would transmit to his Government the comments and inquiries made during the discussion.

CERD A/33/18 (1978)

209. The fifth periodic report of Tunisia was considered by the Committee without the participation of a representative of the reporting State.

210. The Committee noted with regret that, for the most part, the report under consideration repeated the information provided by the Government of Tunisia in its earlier reports and that many of the questions asked by members of the Committee during its consideration of previous reports had remained unanswered. In that connection, it was observed that the Committee was faced with the situation of a State party which was obviously fulfilling its responsibilities, both domestic and international, with regard to the elimination of racial discrimination but which had done less than justice to itself in fulfilling its reporting obligations under article 9 of the Convention.

211. It was noted that Act No. 57-32 of 28 April 1975, promulgating the "Press Code", provided for severe penalties for any person who incited to racial hatred. It was asked whether that act superseded the decree of 9 February 1956 on abuses of the freedom of written expression, which had been mentioned in the third and fourth periodic reports of Tunisia.

212. It was hoped that the observations made at previous sessions by Committee members, and the questions raised by them (A/9018, paras. 128-133, and A/31/18 and Corr.1, paras. 90-92), would be taken into account when the sixth periodic report of Tunisia was prepared.

CERD A/35/18 (1980)

347. The sixth periodic report of Tunisia (CERD/C/66/Add.11) was introduced by the representative of the reporting State, who pointed out that his country's tradition of tolerance was reflected clearly in Tunisia's ratification of all conventions dealing with the elimination of racial discrimination, and that international instruments ratified by Tunisia automatically took precedence over its domestic legislation. He also informed the Committee that Tunisia had instituted a full-time administrative tribunal, as the chief organ of the State Council, to deal with all disputes between individuals and the State and that a League of Human Rights had been established in 1977 which would act on behalf of anyone who applied to it for help. Furthermore, he stated that there was no consistent pattern of racial discrimination of any kind within his country and that the small number, about 2 per cent of the population, of foreigners living in the country was, perhaps, more a reflection of economic constraints than any sign of intolerance.

348. The Committee took note of the fact that international instruments took precedence in Tunisia over domestic law and that Tunisia, as an Islamic country, prohibited any kind of racial discrimination. It observed, however, that the Committee had always maintained that States parties must enact legislation, even if they had no racial problem, in order to meet the requirements of the Convention, in particular the provisions of article 4; and it regretted that the questions raised by the Committee during its consideration of previous reports, except one concerning Act No. 75-32 promulgating the Press Code, had received no answers from the Government of Tunisia.

349. The Committee took note also of the fact that the mixture of races in Tunisia may be an effective impediment to racism. One member, however, wished to receive information on the Government's policy towards the Berbers, minority Muslim sects, and the small Jewish population living in the country; another member wondered whether some small racial groups might not have escaped the mixing process of races and retained their individual identity. He also asked for details of the composition of the Tunisian League of Human Rights, the areas in which it was involved and the activities in which it engaged.

350. With reference to article 5 of the Convention, information was requested on the changing political rights of Tunisian citizens as the country evolved; it was asked whether Tunisia had received any significant number of refugees and, if so, what the Government's policy was in this regard. Furthermore, in view of the number of Tunisians who emigrated to Europe, the members wished to receive the texts of the regulations governing freedom of movement in the country. Information was also requested about the freedom enjoyed by students, such as their right, if any, to set up their own autonomous bodies.

351. Replying to comments and questions raised by members of the Committee, the representative of Tunisia stated that his Government's approach to the preparation of its periodic reports was to strive for concision; he nevertheless agreed that a concise report should be accompanied by such supporting documents as were necessary to enable the Committee to evaluate the information presented in it. He assured the Committee, in this connection, that even before the entry into force of the Convention,

Tunisian legislation had been up to date with regard to protection of rights and liberties, that there had been little reason for amending the existing laws or enacting new ones for the purpose of preventing racial discrimination, and that information on such legislation would be provided in future periodic reports.

352. The representative also stated that approximately 90 per cent of the Tunisian population were Moslems, but Christian and Jewish faiths were also represented in the country and that religious affairs were the responsibility of the Department of Worship in the Office of the Prime Minister. The Shia sect was virtually non-existent. The Jewish minority numbered fewer than 50,000 according to 1975 census figures; there was no legislation restricting the practice of the Jewish religion and Jewish places of worship were protected. As to the Catholic Church, the Government did not take part in the management of church affairs and church property was regulated by an agreement concluded between the Holy See and Tunisia.

353. The representative informed the Committee that the Tunisian League of Human Rights was an independent non-governmental organization which had opened regional offices throughout the country and was active in the field of human rights.

354. Referring to questions raised in connection with article 5 of the Convention, the representative mentioned some important innovations regarding the status of women which were introduced in Tunisia since the promulgation of the Personal Status Code in 1956, and informed the Committee that the Tunisian Electoral Code had been amended prior to the last legislative elections in November 1979. The major change introduced in electoral procedure was that organizations were required to present twice as many candidates as there were seats to be filled. As regards the problem of refugees, the representative referred to article 17 of the Tunisian Constitution which provided that political refugees could not be extradited, and stated that the Government had never compromised on that principle and that it recognized the validity of international travel documents for refugees and stateless persons. He also added that freedom of movement was guaranteed by the Constitution and that the only restriction in issuing passports was for men under the age of 30 who had to present a certificate proving that they had military deferment or had completed their compulsory military service. The representative then provided some information concerning the problem of the democratic representation of students in Tunisia and stated that the functions of the General Union of Tunisian Students, which for 20 years had represented the students of the country, had been taken over by councils elected by each faculty of the university. Furthermore, the ruling party of Tunisia had recently decided to disband its National Bureau of Students and to set up a committee to make preparation for a congress to settle the questions of student representation.

CERD A/38/18 (1983)

229. The seventh periodic report of Tunisia (CERD/C/91/Add.28) was considered by the Committee in the presence of the representative of the reporting State, who stated that his Government had endeavoured to provide in its report the most complete and precise information on measures taken in Tunisia to combat and prevent all forms of racial discrimination. Tunisia had also taken measures to implement article 7 of the Convention in all areas including education, information and culture.

230. Members of the Committee expressed their appreciation of the report, which had followed the Committee's guidelines, and noted with satisfaction the positive role of the Government of Tunisia in promoting tolerance and friendship among nations. Some members noted with satisfaction the activity of the Tunisian League of Human Rights, which acted independently of the State, and requested that the next report of Tunisia contain information on specific cases in which the League had intervened and on the outcome of that intervention as well as on the general activities of the League. It was asked whether the League published a monthly newsletter and whether during its existence it had taken up any cases having racial implications. Concerning the role of international instruments, it was pointed out that since duly ratified treaties took precedence over internal laws in Tunisia, the Convention was now part of Tunisian legislation. One member was interested in further details on the status of persons of European origin, refugees, migrant workers, particularly those from countries south of the Sahara, and Tunisian migrant workers in Europe.

231. With regard to the ethnic composition of the Tunisian population, it was observed that the questions which had been asked about the Berber population during the consideration of previous reports were fully answered in the present report and it seemed that the Berber minority was not the victim of any discrimination in Tunisia. However, one member stated that he had some difficulty with certain figures utilized with reference to the country's demographic composition, namely that the non-Muslim population did not exceed 8,000. The previous report had made reference to 50,000 Jews in Tunisia, a figure which could not be subsumed within 8,000 non-Muslims. More information was requested on the implementation of the Act of 11 July 1958 concerning the organization of the Jewish religion, as well as on the cultural and educational achievements of the Jews, in particular the establishment of Yiddish or Hebrew schools, and the use of those languages in the communication media and the position of Jews in the civil service. As regards religion, which seemed to be the only basis for classification of the population, another member wished to know whether the Tunisian Government made use of any other criteria for that purpose.

232. One member of the Committee noted the extensive information provided on the Tunisian position on apartheid, which included many details of specific activities undertaken against apartheid.

233. With regard to article 4 of the Convention, it was stated that, although the Press Code was extremely extensive and corresponded closely to article 4 of the Convention, it did not cover the whole scope of that article, since it did not speak of associations. In that connection, a question was asked about the law governing associations and the conditions on which an association could be declared illegal and be disbanded. It was also noted with satisfaction that the Administrative Tribunal, by virtue

of the checks which it imposed on officials at all levels of government, fully implemented article 4 (c) of the Convention. The provision that persons convicted for certain acts of racial discrimination lost their right to vote or to be elected constituted a new development with respect to the implementation of article 4. However, more detailed information was requested about the Criminal Code as it applied to the specific provisions of article 4 of the Convention.

234. As regards article 5 of the Convention, members thanked the Tunisian Government for the abundant information on the way in which rights set forth in this article were respected in that country. With regard to the political rights afforded to citizens, the move towards a more liberal, pluralistic election system was commended. The measures enacted to ensure equality before the law and a considerable number of civil, social and economic rights were also considered impressive.

235. With reference to article 6 of the Convention, it was observed that the report made it clear that Tunisian citizens had ample recourse to courts of law and to the Administrative Tribunal established by Act No. 72-40 of 1 June 1972. Nevertheless, a question was asked whether there was, under Tunisian law, any administrative recourse, whether administrative acts could be rescinded and whether the Administrative Tribunal ever heard cases of racial discrimination. One member stated that information had been provided about the rights of citizens to seek just compensation following instances of discrimination, but he desired a more detailed explanation of how the process worked when racial discrimination was involved, specifically which courts dealt with such violations and how the amount of compensation was determined.

236. With regard to article 7 of the Convention, it was noted that Tunisia was increasingly providing assistance to other less-developed African countries in the form of traineeships and education grants. The international festivals held in Tunisia and the encouragement of cultural events within the country were evidence of Tunisia's commitment to the concept of international brotherhood. It was stated, however, that although the report contained an impressive list of measures to implement article 7 of the Convention, it would be appropriate to provide more information on the mass media in the next report.

237. Replying to the questions raised by the members of the Committee, the representative of Tunisia said that his Government would make every effort to improve Tunisia's legal system further in accordance with the provisions of the Convention and full account would be taken of the comments made in the Committee in the drafting of the next periodic report. Concerning the ethnic composition of the population, he stated that there were approximately 5,000 Jews in Tunisia, and associations and schools had been set up to provide religious and language instruction. Furthermore, all citizens had access to public office, regardless of their religion. As to the Press Code, which applied to all mass media, it was currently being reviewed. In cases of racial discrimination which were within the purview of the administrative tribunal, the need for it to consider such cases had as yet not arisen. As far as the languages were concerned, the representative said that Berber, which was not widely spoken, was not really a single dialect or language of the expression of a separate culture, and the Berber-speaking population also spoke Arabic and French. The Berbers were entirely assimilated into Tunisian society and did not pose any cultural or other problem. Furthermore, population statistics were prepared on the basis of religious affiliation and not race. With regard to the question of refugees, there was close co-

operation between the Office of the United Nations High Commissioner for Refugees and the Government of Tunisia. There were currently approximately 200 refugees in Tunisia, many of whom were quite elderly and some of whom had actually settled in Tunisia. The representative of Tunisia assured the Committee that in the next report further information would be supplied about the Tunisian League of Human Rights and the Administrative Tribunal, and care would be taken to see that that report was drafted in accordance with the Committee's wishes.

CERD A/42/18 (1987)

135. The eighth periodic report of Tunisia (CERD/C/118/Add.27) was considered by the Committee at its 755th and 756th meetings on 6 March 1986 (CERD/C/SR.755 and SR. 756).

136. The report was introduced by the representative of Tunisia, who highlighted parts of it and emphasized that all the laws of Tunisia were consistent with article 6 of the Constitution, which provided that all citizens had the same duties and were equal before the law. The population of Tunisia was ethnically homogeneous, but the cultural or religious differences of minority groups were not ignored and did not give rise to discrimination. His country condemned apartheid and racism in southern Africa; it strongly supported the Second Decade to Combat Racism and Racial Discrimination and would continue its efforts to protect vulnerable minority groups as well as the drafting of an international convention to protect the rights of migrant workers.

137. Members of the Committee asked for clarification concerning the procedure whereby international treaties were incorporated into internal law in Tunisia. They wished to know whether the provisions of a duly ratified international treaty could be invoked in a Tunisian court of law or whether it was necessary to have a ruling from a higher judicial body as to whether the relevant internal laws were in accordance with the provisions of the treaty.

138. Information was requested on the Berber population of Tunisia and on the situation of other national groups in the country consisting of refugees or migrant workers. Members of the Committee were interested to know what steps the Tunisian Government had taken to preserve the cultural identity of the Berbers.

139. In relation to the implementation of article 3, the opposition of Tunisia to the policy of apartheid was noted with satisfaction. It was asked whether Tunisia had severed diplomatic relations with the Government of South Africa.

140. With regard to article 4 of the Convention, reference was made to the discussion of the preceding report of Tunisia and to the fact that the Press Code, though quite extensive, did not cover article 4 in its entirety. It was also asked whether the Criminal Code contained provisions relating to cases not covered by the Press Code regarding article 4 (b). Further information was requested on the new, just and equitable information order mentioned in the report. It was pointed out that there seemed to be a contradiction between two passages of the report: in one it was stated that □ Tunisian law neither encourages nor prohibits racial discrimination . . . □, whereas in the other, it was reported that □ Tunisian legislation contains a number of provisions designed to punish acts of . . . incitement to racial hatred . . . □.

141. In relation to the implementation of article 5, members of the Committee requested information on the participation of the Berber population and the Jewish community in public and cultural life; they asked whether representatives of the non-Muslim communities were members of the parliament or held government posts. They also wanted to know what limitations had been imposed on freedom of thought,

conscience and opinion as well as freedom of movement of Tunisian workers in neighbouring African countries and whether there were any bilateral agreements to protect their rights. They requested information concerning the procedure of naturalization, the laws protecting the rights of migrant workers with regard to employment, and measures being taken to promote religious tolerance and harmony between the different religious groups. They also asked whether, under Tunisian law, a person with dual nationality was liable to military service in both countries of nationality. Information was also requested on whether Tunisia had granted political asylum to other groups in addition to the Palestine Liberation Organization.

142. With reference to article 6, it was asked whether there were any practical difficulties in implementing the Tunisian laws for the protection of the rights of non-Muslim communities and whether officials violating the rights of those communities would be punished by law. Members also wished to know whether the Tunisian League of Human Rights had dealt with or intervened in any cases of racial discrimination. Further information was requested on the appeals concerning abuse of authority described in the report; it was asked whether such an appeal could lead to an immediate remedy or whether it involved a time-consuming procedure.

143. Satisfaction was expressed at the exemplary manner in which Tunisia implemented the provisions of article 7 of the Convention.

144. A member asked whether the Tunisian Government might be willing to make the optional declaration under article 14.

145. Replying to the questions asked and comments made by members of the Committee, the representative of Tunisia said that duly ratified international treaties took precedence over internal law and must be applied by the courts. The Berbers, the first inhabitants of the country, had intermingled with the many other ethnic groups and it was impossible to know how many Berbers there were in the country. No one could claim to be of pure Berber blood, and hence there was no Berber problem in Tunisia. His country had no relations with South Africa and supported the victims of apartheid. It also advocated independence for Namibia.

146. While the law provided severe penalties for manifestations of racial hatred, he knew of no case that had been brought before the courts. He agreed that the passage of the report referring to Tunisian law and racial discrimination was ambiguous. Tunisia was striving to establish a new, just and equitable information order which was essential for the third world. An example of the biased information broadcast by news media, largely controlled by Western agencies, was their reporting on the Israeli bombing of Tunis in 1985, which they had described as an act of self-defence by Israel, although that country, with its sophisticated military intelligence, had been unable to name a single Palestinian leader among the many persons killed in the raid.

147. With reference to questions raised relating to the implementation of article 5 of the Convention, the representative of Tunisia said that the Koran recognized and protected other religions. There were also specific laws protecting religious rights, including the right to own places of worship. The Criminal

Code provided appropriate penalties for interference with religious services and for religiously motivated acts of violence. Religious communities, including the Jewish one, enjoyed the political rights guaranteed to all citizens. Jews were represented in parliament and in the country's political parties. The number of Jews in Tunisia had declined from some 15,000 to about 5,000. While there was no law prohibiting Jews from remaining in Tunisia, many had left to settle elsewhere, just as some Muslims had gone to France and other countries to work. Their departure could be explained in part by the withdrawal, after Tunisia's independence in 1956, of the special privileges previously enjoyed by French nationals. Also, some Jews who had been engaged in commerce had preferred to leave independent Tunisia when the new Government had embarked on its socialist programme of nationalization and the dismantling of the capitalist system. By virtue of a recent legislative reform, Tunisians who acquired a foreign nationality no longer forfeited their Tunisian nationality, and thousands of Jews had kept their passports and returned to Tunisia on vacation. The question of the performance of military service by Tunisians with dual nationality was currently the subject of bilateral discussions between the Government of Tunisia and other Governments. Aliens enjoyed the protection of the law but also had an obligation to obey the law. They could acquire Tunisian nationality either through marriage or by applying for it. The new immigrant workers resident in Tunisia enjoyed the same constitutional guarantees as Tunisians. Many Tunisians lived and worked in foreign countries. Their right to leave and return to Tunisia was guaranteed by law. Many Tunisian students, for example, attracted by higher remuneration, remained in the countries in which they had studied to work.

148. There was freedom of movement in every part of Tunisia for everyone, including foreigners, provided that their documents were in order. Tunisians had the right to live wherever they chose. Agreements had been signed with several countries concerning Tunisians working abroad. Tunisia had always given every possible support to the African National Congress. Political refugees were admitted into Tunisia, on condition that they did not engage in politics. The extradition of Political refugees was prohibited under the Constitution.

149. Turning to questions posed in relation to the implementation of article 6, he said that there had never been a case of racial discrimination brought before the Administrative Tribunal. Any alleged victim of arbitrary detention automatically had the right to counsel and, in a procedure resembling the amparo procedure, could appeal to the examining magistrate for release, which would be granted not on payment of bail, since monetary considerations were irrelevant, but only on the basis of the relative seriousness of the charge. Officials who had made arbitrary arrests faced heavy penalties, ranging from fines to imprisonment.

150. As to his Government's position on article 14 of the Convention, he said that Tunisia was overwhelmed by its many treaty obligations; it was therefore normal that it should be circumspect about any further commitments. He would transmit the Committee's wishes on the matter to his Government.

CERD A/49/18 (1994)

160. The ninth, tenth, eleventh and twelfth periodic reports of Tunisia, submitted as a single document (CERD/C/226/Add.10), were considered by the Committee at its 1016th and 1017th meetings, on 2 March 1994 (see CERD/C/SR.1016 and SR.1017).

161. The report was introduced by the representative of the State party, who said that Tunisia had ratified most of the international human rights treaties. He reported on measures taken to strengthen protection against discrimination, such as the prohibition on defining nationality by racial or religious criteria, and the punishment under the Penal Code of incitement to racial hatred and defamation on grounds of racial or religious origin. He said that all Tunisians had an equal right to health, social protection, work, housing and justice.

162. The Committee thanked the representative for the State party's report and for the oral presentation. Members of the Committee congratulated Tunisia on the list of human rights enunciated in the Constitution and the fact that the Constitution recognized the primacy of duly ratified international treaties over internal legislation. They also expressed satisfaction at the measures taken by Tunisia to include human rights education in schools and to teach young people tolerance and cultural pluralism. However, they pointed out that no country could pride itself on being free of the problem of racial discrimination, regardless of how homogeneous the population was. Members of the Committee wanted to know whether there were still nomadic populations in Tunisia and, if so, whether their culture was being preserved and to what extent they participated in public life. They also asked whether the National Covenant, adopted seven years before, had been accepted by all political practices, including the opposition parties, and what place the Covenant held in relation to the Tunisian Constitution, as well as what its authority was in the Tunisian legal system. Members of the Committee asked for information on the follow-up by the Tunisian authorities to the World Meeting of National Institutions for the Protection of Human Rights, which had been held in Tunisia.

163. With reference to article 2 of the Convention, members of the Committee asked what mechanisms had been set up to ensure the independence of the human rights consultative bodies established to advise the President of the Republic, such as the Higher Committee of Human Rights and Fundamental Freedoms, the Administrative Mediator, and the human rights offices in the Ministries of Justice, the Interior and Foreign Affairs. Had those bodies issued reports on their activities and, if so, what was the content? Had the Administrative Mediator and the offices in the various ministries instituted judicial proceedings? They also asked whether the human rights enunciated in the Constitution were directly applicable by a court or whether that was possible only under special laws. Similarly, they wanted to know whether the provisions of the Convention could be invoked directly in court.

164. With regard to article 4 of the Convention, the members of the Committee noted that only press offences were mentioned in the report and not all the other offences that should be punishable, inasmuch as the Convention required States to declare illegal and to prohibit organizations and propaganda activities which incited racial discrimination. They wanted to know about the reasons for the departure of many Jews abroad, as well as the general living conditions of Jews in Tunisia. Which were the ethnic

groups forming the 1 per cent of the population that were not Sunni of Arab-Berber origin, and what were their rights? What were the number and the origin of aliens living in Tunisia and what were their rights compared with the rights of Tunisians? Had there been cases of breaches of the rules governing the establishment of associations or organizations, or membership in such associations or organizations? What was the situation of an immigrant worker was about to complete his labour contract for a maximum period of two years? Could the contract be renewed? Members of the Committee also wanted to know whether the Tunisian Government had taken steps to protect Tunisian nationals who were victims of discrimination abroad (including the victims of expulsion from Libya in 1985). Members of the Committee asked about the criteria used by the Ministry of Justice to decide whether or not a person applying for naturalization was likely to become integrated into Tunisian society.

165. With reference to article 5 of the Convention, members of the Committee asked for clarification about the arrests and trials (as well as torture and deaths in prison) in 1991 and 1992 of members of the Ennahdha Islamist party. They also wanted to know what the practical effects were of the prohibition of polygamy and the introduction of divorce as the only possibility of dissolving marriage. They would like the members of the delegation to inform the Committee of the public rights and freedoms enjoyed and practised by immigrants and resident aliens.

166. With regard to article 6 of the Convention, the members of the Committee deplored the absence of examples and statistical data on complaints, legal proceedings and convictions for racist offence.

167. In response to the questions and comments by the members of the Committee, the representative of the State party said that 5,000 Tunisians were not Muslim, including approximately 3,000 who were Jews, the remainder being Christians. About 25,000 foreigners were working in Tunisia. The representative went on to emphasize that there were no problems of racial discrimination in Tunisia. In connection with the questions about the 1987 National Covenant, he explained that the Covenant was a text negotiated with, and signed by, all the country's political and social forces. The text was not binding in law, but it acted as a code that was a commitment for all the country's economic and social forces.

168. In connection with the questions on the Higher Committee of Human Rights and Fundamental Freedoms, the representative said that it was an independent body, one third of the membership consisting of representatives of ministerial departments and two thirds of independent individuals. It could receive complaints from private individuals or non-governmental organizations and could conduct inquiries and make proposals for improvements in law and in practice. It published an annual report on the human rights situation and, following the World Conference on Human Rights, it had encouraged the convening of the World Meeting of National Institutions for the Protection of Human Rights. The role of the Administrative Mediator was to receive individuals or non-governmental organizations concerning administrative problems involving appeals from government agencies or public officials; it was empowered to make proposals to the President of the Republic. As to the status of international treaties in national law, in civil proceedings treaties could be invoked by the party concerned, whereas in criminal proceedings it was for the prosecutor to refer to the relevant conventions, which were binding and took precedence over Tunisian law.

169. Concerning the Berbers in Tunisia, the representative of the State party said that they were particularly well integrated into Tunisian society and had no grievances; he also said that there were no nomadic tribes in Tunisia. In connection with the questions about the Jews in Tunisia, the representative said that their departure to France (most had a French passport) could be explained partly by the collectivization and socialization policy of the 1960s, a policy that had applied to all Tunisians and was not discriminatory but had induced many Jews engaged in commerce to leave, and partly by events in the Middle East from 1967 which had created tensions in the region, causing many Jews to leave. There had been no Government aim to secure the departure of Jews from Tunisia. Most immigrants in Tunisia were Moroccans or Algerians, together with some Europeans employed by foreign companies. Tunisia had ratified the ILO conventions concerning equality of treatment of nationals and non-nationals in employment and occupations and equal remuneration and social security.

Concluding observations

170. At its 1034th meeting, on 15 March 1994, the Committee adopted the following concluding observations.

(a) Introduction

171. Appreciation is expressed to the State party for the detailed information contained in its report and the supplementary information provided by the State party representative.

(b) Positive aspects

172. The democratic changes that have taken place in the State party during the reporting period are welcomed and satisfaction is expressed concerning the various measures taken to promulgate legislation and create mechanisms for the implementation of its international human rights treaty obligations. It is also noted with appreciation that various human rights institutions and non-governmental organizations have been established in the State party.

173. It is noted with satisfaction that the Constitution recognizes the principle of the primacy of international law and that the provisions of the Convention are directly applicable. The various measures taken in order to promote through education and teaching the principles of tolerance and respect for fundamental rights in conformity with article 7 of the Convention are also welcomed.

(c) Principal subjects of concern

174. It is noted, however, that the report did not provide concrete information on the implementation of the Convention in practice and did not therefore fully comply with the State party's obligations under article 9 of the Convention. Regret is expressed over the absence of concrete information and statistical data in the report on the effective functioning of the recently established human rights bodies and mechanisms. While appreciation is expressed for the detailed information contained in the report, more focused data on the actual application of the Convention are required.

175. Concern is expressed that specific legislative and other measures to prevent and prohibit racial discrimination have not been adopted by the State party. It is noted that domestic legislation lacks provisions to implement fully article 4 of the Convention, in particular, provision declaring punishable by law all acts of racist violence, the incitement to such acts and the provision of assistance to racist activities, as well as the prohibition of organizations, activities and propaganda which promote and incite racial discrimination. It is stressed that the existing provisions of the Penal Code do not fully comply with the requirements of that article.

176. Concern is also expressed that the provisions of Organic Law No. 92-25 could be interpreted and applied in contradiction to the requirements of article (d) 5 (ix) of the Convention concerning the right to freedom of peaceful assembly and association.

(d) Suggestions and recommendations

177. The Committee recommends that specific legislation be introduced to implement the provisions of article 4 of the Convention, taking into account general recommendation XV (42) of the Committee.

178. The Committee recommends that the next report of the State party should include information and statistical data about measures taken to implement the rights enshrined in the Convention and to guarantee effective remedies to possible victims of racial discrimination.

179. The Committee suggests that the State party consider making the declaration under article 14, paragraph 1, of the Convention.

180. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

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246. The Committee considered the thirteenth to seventeenth periodic reports of Tunisia, submitted as one document (CERD/C/431/Add.4), at its 1560th and 1561st meetings (CERD/C/SR.1560 and 1561), held on 6 and 7 March 2003. At its 1575th meeting, (CERD/C/SR.1575) held on 18 March 2003, it adopted the following concluding observations.

A. Introduction

247. The Committee welcomes the thirteenth to seventeenth periodic reports, submitted in one document, as well as the additional information that the State party's delegation provided during its oral presentation, and expresses its appreciation for the opportunity to continue its dialogue with the State party.

248. The Committee notes, however, that the report, in spite of the Committee's previous observations to this effect, still contains almost exclusively information on the legislation adopted in order to give effect to the Convention and does not provide sufficient information on the extent to which individuals concretely enjoy the protection afforded by the Convention.

B. Positive aspects

249. The Committee welcomes the fact that, pursuant to article 32 of the Constitution, international instruments ratified by the State party, including the International Convention on the Elimination of All Forms of Racial Discrimination, take precedence over norms of the State party's domestic law, and may be invoked directly before the Courts.

250. The Committee commends the efforts made by the State party in the area of human rights education, including its advocacy of the principles of tolerance and respect in accordance with article 7 of the Convention, and welcomes the establishment of a national commission for human rights education.

251. The Committee welcomes the measures taken in the economic and social sphere, which have resulted in economic growth and a significant reduction of poverty. The Committee notes with interest the establishment of a National Solidarity Fund to combat poverty and marginalization, as well as the creation of a National Solidarity Bank, and appreciates the results they have achieved so far. The Committee also notes the progress already achieved towards ensuring equality between women and men in Tunisian society, as well as the observance of religious freedom, inasmuch as they impact on the promotion of non-discrimination based on ethnic origin. The Committee encourages the State party to continue along this path.

C. Concerns and recommendations

252. The Committee takes note of the view of the State party as to the homogeneity of its population. However, since the report itself refers to the liberties and rights of those who are not Arabs or Muslims, and in the light of the absence of statistical data on the ethnic composition of Tunisian society, the Committee recommends that the State party provide an estimate of the demographic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the identification of members of particular racial and ethnic groups.

253. The Committee notes that the State party did not provide information on the Berber (or Amazigh) population and on measures taken for the protection and promotion of their culture and language. In view of the absence of any reference to this group in the report, the Committee requests concrete information on their situation and recommends that increased attention be given to the situation of Berbers as a specific component of the Tunisian population.

254. The Committee does not accept any State party's assertion that there is no racial discrimination in the State party, and recommends that Tunisia avoid such generalizations in future reports. Noting that new penal laws punish racial discrimination and incitement to racial hatred as extensions of the law that penalizes terrorism, the Committee is concerned about the association of racial discrimination and terrorism. The Committee also remains concerned that the legislation of the State party does not seem to respond fully to the requirements of article 4 of the Convention. The Committee recommends that the State party review its domestic legislation in the light of general recommendation XV concerning the implementation of article 4 of the Convention, and that it adopt separate legislation on the offence of racial discrimination and the propagation of racial hatred.

255. Moreover, the Committee requests that the State party 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. 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 all legal remedies in the field of racial discrimination.

256. The Committee notes that insufficient information was provided in the report and in the oral replies on the effective functioning of the human rights bodies and mechanisms in the State party, particularly the Higher Committee of Human Rights and Fundamental Freedoms and the Administrative Mediator. While noting the information provided by the delegation that the institution of the Administrative Mediator was further strengthened by a law introduced in February 2002, the Committee requests that in its next periodic report, the State party provide additional information on the role, responsibilities, functioning and achievements of these institutions, as well as on measures taken to ensure their independence.

257. While taking note of the information about activities of non-governmental organizations in Tunisia, the Committee also notes the absence in the report of references to the contribution of civil society in the preparation of the report itself. The Committee encourages the State party to consult with organizations of civil society working to combat racial discrimination in the preparation of reports.

258. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and urges it to consider the possibility of doing so.

259. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the 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.

260. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

261. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

262. The Committee recommends that the State party submit its eighteenth periodic report jointly with its nineteenth periodic report, due on 4 January 2006, and that it address all points raised in the present concluding observations.