

TUNISIA

CRC A/51/41 (1996)

22. Concluding observations

598. The Committee considered the initial report of Tunisia (CRC/C/11/Add.2) at its 225th to 227th meetings, on 1 and 2 June 1995 (CRC/C/SR.225-227) and adopted, at its 233rd meeting, on 9 June 1995, the following concluding observations.

(a) Introduction

599. The Committee welcomes the submission of the report, which contains comprehensive information on the legal framework within which the Convention on the Rights of the Child is implemented and on other measures adopted since the ratification of the Convention by Tunisia.

600. The Committee appreciates the written information provided by the Government in reply to the questions set out in the list of issues. Furthermore, the presence of a high-level delegation enabled the Committee to engage in a constructive dialogue with those directly responsible for the implementation of the Convention.

(b) Positive factors

601. The Committee welcomes the efforts made by the Government in bringing domestic law into line with the Convention, through the enactment of the draft code for the protection of the child. Satisfaction is expressed at the fact that various national legislative provisions are more conducive to the realization of the rights of the child than those contained in the Convention. The Committee also notes with appreciation the adoption, following the World Summit for Children in 1990, of the national plan of action for the survival, protection and development of children, as well as the adoption of various programmes, specifically aimed at promoting and protecting the rights of the child, such as programmes for disabled children, and programmes aiming at sensitizing teachers to the philosophy of the Convention. The Committee notes with particular appreciation the sustained policies with a view to protecting children against the negative effects of structural adjustment.

(c) Factors and difficulties impeding the implementation of the Convention

602. The Committee notes that there are still practices which impede the full enjoyment of certain rights of the child.

(d) Principal subjects of concern

603. The Committee is concerned about the extent of the reservations and declarations made to the Convention by the State party. In particular, the reservation relating to the application of article 2 raises concern as to its compatibility with the object and purpose of the Convention.

604. The Committee notes that measures taken to ensure the implementation of the provisions of the Convention, particularly articles 2, 3, 12, 13 and 19, are still insufficient. The Committee is concerned at practices of discrimination against children born out of wedlock.

605. The Committee notes that the system of collecting data relevant for the monitoring of the implementation of the Convention needs to be improved and extended. It is concerned whether sufficient consideration has been given to the reinforcement of mechanisms, including of an independent nature, to follow up and evaluate the implementation of the Convention at the national and local levels.

606. The Committee is concerned that the legislative discrepancy between the age for completion of mandatory education and the minimum age for admission to employment may lead to encourage adolescents to drop out from the school system.

(e) Suggestions and recommendations

607. In the spirit of the final document of the World Conference on Human Rights, the Committee wishes to encourage the State party to consider reviewing its reservations and declarations to the Convention with a view to withdrawing them, including particularly the reservation relating to article 2 of the Convention.

608. The Committee encourages the Government to pursue its efforts aiming at creating awareness of the Convention and having its basic principles understood by the general public, and to continue training relevant professional groups such as teachers, judges, law enforcement officials, social workers and the personnel in care and detention institutions, as well as military personnel.

609. The data collection on matters relating to the Convention should be systematized and amplified, with a view to covering all areas addressed by the Convention.

610. The Committee would like to suggest that the State party consider reinforcing the mechanisms for monitoring and evaluating the implementation of the Convention. A more efficient coordination between the central Government and the governorates is also recommended.

611. The State party is encouraged to pursue legislative reforms and to adopt measures translating into practice the general principles of the Convention, in particular the principle of non-discrimination against children born out of wedlock, the principle of the best interests of the child and the right of the child to express his or her views freely.

612. The Committee recommends to the State party to give further thought to possible ratification of ILO Convention No. 138 on the minimum age for admission to employment. Campaigns to prevent entry of adolescents into the labour force, including in the informal sector and agriculture, should be reinforced. In this regard, the Committee would like to encourage the State party to consider seeking technical assistance from ILO.

613. Regarding the rights of the refugee and asylum-seeking child, the Committee recommends that

the State party consider as a preventive measure adopting relevant legislative provisions, in consultation with UNHCR.

614. As far as protection from ill-treatment is concerned, the Committee recommends that the social preventive approach be strengthened and that further measures be undertaken to educate parents about their responsibilities toward their children, including through the provision of family education which should emphasize the equal responsibilities of both parents and contribute to the prevention of the use of corporal punishment.

615. The Committee welcomes the invitation addressed by the delegation to the Committee to visit Tunisia. The Committee also recommends that the initial report, the summary records of the discussion between the delegation and the Committee and the present concluding observations be widely disseminated in order to deepen the debate on the rights of the child in Tunisia. The Committee would like to suggest that these documents be brought to the attention of Parliament and that the suggestions and recommendations for action contained therein be followed up.

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257. At its 788th and 789th meetings (see CRC/C/SR.788 and 789), held on 28 May 2002, the Committee on the Rights of the Child considered the second periodic report of Tunisia (CRC/C/83/Add.1) and adopted, at its 804th meeting, held on 7 June 2002, the following concluding observations.

A. Introduction

258. The Committee welcomes the submission of the State party's second periodic report, which was submitted in a timely manner and prepared in accordance with the Committee's guidelines for reporting. The Committee furthermore appreciates the detailed written response to the list of issues (CRC/C/Q/TUN/2), which was equally submitted in a timely manner. The Committee notes with appreciation that the well-informed and high-ranking delegation contributed to an informative and constructive dialogue.

B. Follow-up measures undertaken and progress achieved by the State party

259. The Committee notes the State party's commitment to the issue of child rights and particularly welcomes the adoption of the Child Protection Code on 9 November 1995, which entered into force on 11 January 1996, including the ensuing nomination of delegates for the protection of childhood by Decree No. 96-1134, the obligatory reporting of danger to children and the development of a specialized system of juvenile justice. The Committee particularly welcomes the express reference in articles 4 and 10 respectively of the Child Protection Code to the best interest of the child and to respect for the views of the child, in line with the previous recommendation of the Committee (CRC/C/15/Add.39, para. 7). The Committee further notes the establishment of a children's parliament.

260. The Committee welcomes efforts to improve data collection, in line with previous recommendations (*ibid.*, para. 12), including by enhancing the status of the National Council for Children by converting it into a Higher Council by Decree No. 2002-574 of 12 March 2002, and by drafting an annual report on the situation of the child.

261. In light of the previous recommendations (*ibid.*, para. 9) the Committee further commends the amendment to the Labour Code raising the minimum age for admission to employment to 16 years, which is the age for completion of compulsory education. The Committee notes the adoption of a series of new laws regarding children born out of wedlock and with regard to the joint responsibility of the spouses, as well as policy measures to ensure maintenance following divorce, measures for the protection of children deprived of a family environment, and various other steps taken to improve the implementation of the Convention and to follow-up on the previous dialogue with the Committee.

262. In light of the previous recommendations (*ibid.*, para. 10), the Committee notes with satisfaction the withdrawal, on 1 March 2002, of the reservation with regard to article 40, paragraph 2 (b) (v), and the declaration in which the State party declared that "its undertaking to implement the provisions

of this Convention shall be limited by the means at its disposal".

263. The Committee welcomes the ratification by the State party in 1995 of the ILO Minimum Age Convention, 1973 (No. 138) and the ratification in 2000 of the Worst Forms of Child Labour Convention, 1999 (No. 182).

C. Principal subjects of concern and Committee recommendations

1. General measures of implementation

Previous recommendations of the Committee

264. The Committee regrets that some of the concerns and recommendations (CRC/C/15/Add.39) it made upon consideration of the State party's initial report (CRC/C/11/Add.2) have been insufficiently addressed, particularly those contained in paragraphs 6, 7, 8, 10, 13, 14, 16 and 17. Those concerns and recommendations are reiterated in the present document.

265. The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to address the concerns contained in the present concluding observations on the second periodic report.

Reservations

266. While welcoming the State party's withdrawal of its reservation with regard to article 40, paragraph 2 (b) (v), and its declaration, as noted above, and noting the statement by the delegation that consideration will be given to withdrawing the remaining reservations, the Committee remains concerned about the extent of reservations and declarations made to the Convention by the State party. In particular, the Committee reiterates that the reservation relating to the application of article 2 appears to be incompatible with the object and purpose of the Convention.

267. The Committee, in line with its previous recommendation, and in light of the Vienna Declaration and Programme of Action (1993), encourages the State party to consider reviewing its reservations and declarations to the Convention with a view to withdrawing them, in particular the reservation relating to article 2.

Coordination

268. While welcoming the efforts made in the area of coordination, the Committee observes that the effectiveness in practice of the Higher Council for Children as a mechanism for coordination remains unclear.

269. The Committee recommends that the State party make every effort to ensure the effectiveness of the Higher Council for Children, the status of which was recently enhanced. It reiterates its previous recommendation to the State party to strengthen the efficiency and the effectiveness of coordination between the central Government and the governorates (*ibid.*, para. 13).

Data collection

270. While noting the significant efforts of the State party to collect reliable data on the situation of children, and particularly the preparation of an annual report on the situation of the child, the Committee regrets in particular the absence of a sectoral approach to data collection and monitoring.

271. The Committee recommends that the State party:

- (a) Conduct impact assessments regarding the annual report on the situation of the child, incorporating all areas of the Convention;
- (b) Develop an integrated approach to data collection and monitoring;
- (c) Seek technical assistance from, among others, UNICEF, UNFPA and UNDP in this regard.

Independent monitoring structures

272. The Committee welcomes the creation of the "Information, Training, Documentation and Study Observatory" in February 2002, and the appointment of delegates who play an important role in the protection of children and in receiving complaints. However, the Committee notes the need to establish a monitoring mechanism of an independent nature, in line with its previous recommendation for the State party (*ibid.*, para. 8).

273. The Committee encourages the State party:

- (a) To establish an independent national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local levels, including implementation by the private sector and NGOs as providers of services to children. This institution should be empowered to receive and investigate individual complaints of violations of child rights in a child-sensitive manner, and address them effectively; and
- (b) Seek technical assistance from, among others, OHCHR and UNICEF.

Training/dissemination of the Convention

274. While noting with appreciation the efforts undertaken by the State party to publicize widely the principles and provisions of the Convention, including the broadcasting of information through the media and the integration of parts of the Convention in school curricula, the Committee is of the opinion that the measures need to be further strengthened and implemented in an ongoing, comprehensive and systematic basis.

275. The Committee reiterates its recommendation (*ibid.*, para. 11) to pursue efforts aiming at

creating awareness of all aspects of the Convention and having its basic principles grasped by the general public, and to continue training relevant professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, social workers, religious leaders, as well as children and their parents. Technical assistance from, among others, OHCHR and UNICEF could be requested in this regard.

2. Definition of the child

276. While noting the positive measures taken to bring the different age requirements into full compliance with the Convention and measures taken to follow-up on the Committee's previous recommendation by raising the minimum age of admission to employment to 16 years so as to harmonize it with the end of compulsory education, the Committee is concerned at the disparity in the minimum age of marriage for boys and girls, particularly that the age for girls is set at 17 years, although noting with appreciation that it was raised from 15 years.

277. The Committee recommends that the State party rectify the disparity in the minimum age of marriage for boys and girls by raising the minimum age of marriage for girls.

3. General principles

Non-discrimination

278. The Committee welcomes the information on the measures taken to address discrimination against children born out of wedlock, in line with the Committee's previous recommendations, although it remains concerned at the implementation of the legislation in practice. It furthermore observes that the principle of non-discrimination (art. 2) does not figure prominently in the new Child Protection Code. The Committee is deeply concerned that the principle of non-discrimination is not fully implemented in practice with respect to certain groups.

279. In accordance with article 2 of the Convention, the Committee recommends that the State party:

(a) Make concerted efforts at all levels to address discrimination, notably discrimination based on the political and human rights activities, expressed opinions or beliefs of children or their parents, legal guardians or family members; disability; national, ethnic, or social origin, by means of a review and a reorientation of policies, including increased budgetary allocations for programmes targeting the most vulnerable groups;

(b) Enhance efforts to close gaps in the enjoyment of rights between different regions, and between urban and rural communities;

(c) Ensure effective law enforcement, undertake studies and launch comprehensive public information campaigns to prevent and combat all forms of discrimination, in line with previous recommendations (*ibid.*, para. 7).

280. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Respect for the views of the child

281. Taking note of the efforts by the State party to give effect to the principle of respect for the views of the child, in particular its inclusion in the Child Protection Code, the Committee is nevertheless concerned that respect for the views of the child remains limited owing to traditional societal attitudes towards children on the part of schools, courts, administrative bodies, and especially the family. The Committee also has concerns regarding the implementation of articles 13 and 15 (freedom of expression, and of association and peaceful assembly).

282. The Committee recommends that the State party:

(a) Promote and facilitate, within the family, the schools, the courts and administrative bodies, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Develop skills-training programmes in community settings for teachers, social workers, local officials and religious leaders to enable them to assist children to express their informed views and opinions and to have them taken into consideration; and

(c) Seek assistance from UNICEF, among others.

4. Civil rights and freedoms

Right to freedom of expression and peaceful assembly

283. The Committee is concerned that the right of the child to freedom of expression, including to receive information, and to freedom of association and peaceful assembly are not fully guaranteed in practice.

284. The Committee recommends that the State party take all necessary measures to ensure the full practical implementation of the rights to freedom of expression and freedom of association and peaceful assembly, in accordance with articles 13 and 15 of the Convention.

Right to freedom of thought, conscience and religion

285. The Committee is concerned about information brought to its attention which indicates that the exercise of the right to freedom of religion may not always be fully guaranteed, particularly with regard to regulations prohibiting the wearing of a headscarf by girls in schools.

286. The Committee recommends that the State party take all necessary measures to ensure the full implementation of the right to freedom of thought, conscience and religion.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

287. While noting the delegation's statement as to the complete absence of torture or other cruel, inhuman or degrading treatment or punishment in the State party, the Committee remains extremely concerned at allegations of violations of the right of the child not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment appearing in a number of reports brought to the attention of the Committee, particularly in relation to children of human rights defenders and political opponents.

288. In light of article 37 (a) of the Convention, the Committee strongly recommends that the State party:

- (a) Enforce, or, when appropriate, review existing legislation and investigate in an effective way reported cases of torture and ill-treatment of children;
- (b) Ensure that alleged perpetrators are transferred from active duty or suspended while they are under investigation, dismissed and punished if convicted, and that court proceedings and sentences are publicized;
- (c) Train law enforcement personnel on child rights issues;
- (d) In the light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.

5. Family environment and alternative care

Violence/abuse/neglect/maltreatment

289. While noting the provision in the Code of Child Protection regarding ill-treatment (art. 24) and the relevant provision in the Penal Code (art. 224), as well as the Ministerial Circular of December 1997 banning all forms of corporal punishment and practices injuring the dignity of children, the Committee is concerned that, as noted by the delegation, corporal punishment is only a crime if it is prejudicial to the health of the child. It notes with concern that violence as a means of discipline in the home and at school continues to be acceptable in the State party. The Committee regrets that no follow-up to the Committee's previous recommendation has been initiated to protect children from ill-treatment (ibid., para. 17). The Committee is furthermore concerned that there is insufficient information about and awareness of domestic violence and its harmful impact on children.

290. The Committee urges the State party to:

- (a) Take all legislative measures to prohibit in the most effective way possible all forms of physical

and mental violence, including corporal punishment and sexual abuse, against children in the family, in the schools and in institutions;

and furthermore recommends that the State party:

(b) Conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address it;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;

(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(f) Provide care, recovery and reintegration for victims;

(g) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases;

(h) Take into consideration the recommendations of the Committee adopted at its days of general discussion on children and violence (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);

(i) Seek assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Children with disabilities

291. While welcoming the extensive legislation regarding children with disabilities and their rights to appropriate education, rehabilitation and training, the Committee regrets that only a small number of children with minor disabilities attend regular schools. The Committee notes the statement by the delegation that a strategy for integration and vocational training for children with disabilities, as well as a study on causes of disabilities are in the process of being completed.

292. The Committee urges the State party to:

(a) Review existing policies and practices in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its day of general discussion (see CRC/C/69);

- (b) Undertake greater efforts to promote community-based rehabilitation programmes and inclusive education;
- (c) Undertake greater efforts in the area of prevention by reviewing, *inter alia*, health programmes and policies relating to pregnancy, birth and child health; and
- (d) Seek assistance from, among others, UNICEF, WHO, and relevant NGOs.

Right to health and health care

293. The Committee notes the sustained commitment by the State party to implement its primary health policies and the ensuing achievements in the area of health care, notably the decrease by 40 per cent of infant and under-5 mortality rates over the past decade, and achievements in the area of vaccinations, among others. While noting the delegation's statement that a plan has been formulated to address the issue of persisting regional and urban/rural disparities in the availability and quality of maternal and child health-care services, the Committee nevertheless remains concerned at the persistence of this problem as well as challenges regarding the provision of health services dealing with the specific needs of adolescents.

294. The Committee urges the State party:

- (a) To reinforce its efforts to allocate appropriate resources, and develop and adopt policies and programmes to improve and protect the health situation of children, particularly in the rural regions showing the highest mortality indicators;
- (b) Ensure equal access to and the quality of health care for all children, independent of socio-economic factors;
- (c) Reinforce the capacity of the health services to address adolescent-specific needs;
- (d) Seek technical assistance from, among others, WHO and UNICEF.

7. Education, leisure and cultural activities

Education

295. While welcoming the State party's commitment to making basic education a priority and achieving virtually universal access to education, the Committee remains concerned at the repetition and dropout rates, which, while decreasing, continue to pose a significant challenge to the educational system. The Committee is furthermore concerned at regional disparities in education as well as at the disparity in the illiteracy rate between urban and rural areas as well as gender disparities. The Committee is furthermore concerned at the low enrolment in early childhood education and the decrease of public early childhood education centres which may result in discrimination on the basis of income level.

296. The Committee recommends that the State party:

- (a) Take all appropriate measures, including the allocation of adequate financial, human and technical resources, to further improve education, as stipulated in articles 28 and 29 of the Convention, both with regard to quality as well as relevance, taking into account general comment No. 1 on article 29, paragraph 1 (aims of education), and to ensure that all children enjoy the right to education;
- (b) Seek to implement additional measures to promote early childhood education and to encourage children to stay in school, and adopt effective measures to reduce illiteracy rates;
- (c) Continue cooperation with UNESCO and UNICEF in improving the education sector.

8. Special measures of protection

Economic exploitation

297. While welcoming the various measures taken to address child labour, the Committee is concerned about the lack of specific data and activities concerning child labour in the State party.

298. The Committee recommends that the State party:

- (a) Take all necessary measures to effectively prevent and combat child labour; and
- (b) Report in the next periodic report on the nature and magnitude of child labour as well as the measures taken for the implementation of ILO Conventions Nos. 138 and 182.

Sexual exploitation

299. While welcoming the State party's strict criminal legislation regarding sexual abuse and exploitation of children, the Committee is concerned at reports indicating its existence in the State party, both in the home and on the street. The Committee is further concerned at the insufficient data on and awareness of the extent of sexual abuse and exploitation of children in Tunisia.

300. In light of article 34 and other related articles of the Convention, the Committee recommends that the State party undertake studies with a view to determining the extent of sexual exploitation of children, including prostitution and pornography, and implement appropriate policies and programmes for its prevention and for the rehabilitation, recovery and reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.

Administration of justice

301. The Committee welcomes the adoption of the Child Protection Code as well as other legal provisions in the area of juvenile justice. However, the Committee is concerned at the failure of the

State party to guarantee full implementation of all provisions (e.g. the fact that juvenile courts have not yet been established), in light of reports of detention and ill-treatment of children, as well as detention of juveniles with adults which has allegedly resulted in sexual abuse or other ill-treatment.

302. The Committee recommends that the State party:

(a) Ensure the full implementation of the legislation governing the juvenile justice system, in accordance with articles 37, 40 and 39 and all other relevant provisions of the Convention, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(b) Ensure that deprivation of liberty is used only as a measure of last resort; that children have access to legal aid and independent and effective complaints mechanisms; and that persons under 18 are not detained with adults;

(c) Treat children or juveniles in conflict with the law and children or juveniles at risk in a different and distinct manner so that they are not placed in the same institutions with the same regime or restrictions; and

(d) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Juvenile Justice.

9. Optional Protocols to the Convention

303. The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

10. Dissemination of documentation

304. Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the second periodic report of the State party be made widely available to the public at large and that consideration be given to its publication along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion and the concluding observations adopted by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.