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on the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fourth session

SUMMARY RECORD OF THE 1016th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 March 1994, at 10 a.m.

Chairman: Mr. GARVALOV

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Ninth, tenth, eleventh and twelfth periodic reports of Tunisia
(CERD/C/226/Add.10)

1. The CHAIRMAN said that the Committee had before it the ninth, tenth, eleventh and twelfth periodic reports of Tunisia, submitted in a single document (CERD/C/226/Add.10).
2. At the invitation of the Chairman, Mr. Ennaceur, Mr. Hatira and Mr. Ben Malek (Tunisia) took places at the Committee table.
3. Mr. ENNACEUR (Tunisia), introducing his country's report, said that Tunisia had ratified almost all of the international human rights treaties and a number of Conventions of the International Labour Organization (ILO) (para. 153 of the report). Tunisia subscribed to the values of freedom and equality and had always endeavoured to protect and ensure respect for human dignity and the elimination of all forms of racial discrimination.
4. Tunisia was a country with 8.5 million inhabitants. Its thousand-year history and its geography had encouraged the blending of cultures. Owing to the homogeneousness of the population, 99 per cent of which was composed of Sunni Muslims of Arab-Berber origin, there was no problem of racial discrimination in Tunisia.
5. The Constitution enshrined the equality of all Tunisians under the law. Its preamble proclaimed a number of general principles (para. 14 of the report) and its operative part set forth the individual rights and civil liberties and freedoms guaranteed therein (para. 16). Article 32 of the Constitution stated that duly ratified treaties had an authority superior to that of national laws (para. 20).
6. Tunisian law had strengthened protection against all forms of discrimination. For example, the Tunisian Nationality Code proscribed any definition of nationality based on race or religion (para. 31 of the report). Similarly, the Military Service Act established the obligation of national service without any reference to race or ethnic origin (para. 37). Incitement to racial hatred and defamation on the basis of race or religion were prohibited (art. 161 of the Penal Code, art. 44 of the Press Code). The Political Parties Organization Act required political parties to proscribe violence and fanaticism (para. 41 of the report). The recently promulgated Act No. 93-112 of 22 November 1993, which was not mentioned in the report, added to the Tunisian Penal Code an article 52 bis, which prohibited terrorist acts and stipulated that "incitement to racial or religious hatred or fanaticism shall be dealt with on the same basis, whatever the methods employed".
7. In practice, all Tunisians had an equal right to health, social protection, work, housing and justice (which was free of charge). Education should prepare young people for a life which had no room for any

discrimination, including that based on race or religion. Human rights education began in the third year of primary school and continued throughout secondary education.

8. Mr. DIACONU (Rapporteur for Tunisia) thanked the Tunisian delegation for its report and oral presentation. The report contained in document CERD/C/226/Add.10 began by setting forth the new political philosophy which had been followed since the changes that had taken place in November 1987; it then described the measures adopted in order to implement that new political philosophy in law and practice and informed the Committee of the existence of a National Covenant, which had been adopted by consensus and reflected the values and rules accepted by the great majority of the Tunisian people (paras. 8-10). He wondered whether, seven years after the adoption of that Covenant, it had been accepted by all the political parties and was still respected by them. In particular, he asked whether it had been signed by the so-called Al-Nahdah party and the leftist parties.

9. The report mentioned the creation of a number of consultative bodies: the Higher Committee of Human Rights and Fundamental Freedoms, a principal human rights adviser to the President of the Republic responsible for human rights questions, the administrative mediator or ombudsman and the establishment of human rights offices in the Ministries of the Interior, Justice and Foreign Affairs (para. 11 of the report). Since Tunisia was a presidential republic, all of the above were responsible for advising the President of the Republic. It would be useful for them also to advise the Parliament, which had an important role to play in the field of human rights; it was also to be hoped that they would be sufficiently independent to carry out that task. He noted with great interest and satisfaction the list of human rights set forth in the first few chapters of the Constitution and noted that, under the Constitution, duly ratified treaties had an authority superior to that of national laws.

10. The report mentioned the ethnic homogeneousness of the country, where the great majority of the population was of Arab-Berber origin. The Committee made a practice of not accepting statements to the effect that the problem of racial discrimination did not exist in a given country. He therefore asked the Tunisian delegation a question which the Committee asked all the countries of the region: were there still nomadic groups in Tunisia? Did they consider themselves Berber or Arab-Berber? Did they have a separate culture? To what extent did they participate in public life?

11. It was interesting that the 1988 Political Parties Organization Act required parties to proscribe violence and fanaticism. However, he noted that another condition for their legality was that they should not be based "on religious, racial, regional or linguistic considerations" (para. 41). He asked whether prohibiting parties on the basis of linguistic considerations was not tantamount to limiting freedom of association as guaranteed under article 22 of the International Covenant on Civil and Political Rights. The fact that the Act mentioned "racial (and) linguistic considerations" made it of interest to the Committee.

12. With regard to the implementation of article 4 of the Convention (paras. 52-72), the report mentioned only offences against the legislation on

the press (arts. 44, 53 and 54 of the Press Code). It said nothing about other offences which should also be prohibited - acts of violence of a racial nature, incitement to or participation in such acts, etc. Furthermore, organizations and activities devoted to organized propaganda inciting to racial discrimination were not forbidden directly and specifically, but only to the extent that they gave rise to public disturbances, in which case the Ministry of the Interior had a right to close the premises and suspend the activities of the associations in question. Perhaps the problem had not arisen in Tunisia, but States Parties were nevertheless required under the Convention to declare illegal and prohibit organizations and propaganda activities which incited racial discrimination (art. 4 (b)).

13. With regard to article 5 of the Convention (paras. 73-217), the report contained a great deal of information on the prevailing human rights law and practice in Tunisia in a number of areas. That information bore witness to a sustained effort to ensure the enjoyment of all human rights to everyone. He had nevertheless been struck by the statement in paragraph 147 of the report that associations of a general nature could not refuse membership to any persons who promised to respect their principles and decisions. Was that provision not contrary to the principle of freedom of association? Similarly, was the prohibition of the "holding of responsibilities within organizations of a general nature in conjunction with responsibilities in the central management of any political party" (para. 149) not contrary to the right to freedom of association? That prohibition had already been applied to the Tunisian League for Human Rights. It was doubtless the case that such associations of a general nature should be independent from political parties, but prohibiting them might not be the best way to ensure that independence.

14. Also with regard to the implementation of article 5 of the Convention, he noted that the report made no mention of the events of Bouboucha and Bab-Saadoun, which had led to trials in 1991 and 1992 in which the accused were primarily members of the Islamist Al-Nahdah party. The records of the arrests, prior to the trials, showed human rights violations, including torture and deaths in custody under suspicious circumstances. Such acts, of course, were not within the competence of the Committee unless they constituted discrimination, as covered by article 5 (b) of the Convention. He therefore requested the Tunisian delegation to provide a few details on the matter.

15. Tunisian society was taking its first steps towards the establishment of a State subject to the rule of law. It found itself in special circumstances owing to the confrontations and conflicts, characterized by violence and fanaticism, which were disrupting daily life in neighbouring countries.

16. The report mentioned the number of Tunisian nationals (350,000) who had emigrated abroad, where they sometimes found themselves in a difficult situation and were subjected to discrimination, xenophobia and racism (paras. 174 to 178). He also noted that Tunisia had made enormous progress in the education and protection of women. The Committee was within its rights to ask Tunisia, like all States parties to the Convention, to respect all of its provisions.

17. A final remark concerned the nature of the report itself: it included a number of elements which belonged in the reports on the implementation of other international instruments. It would, therefore, be a good idea for Tunisia to prepare a core document containing the basic information, which it would then be unnecessary to repeat in the various reports on the implementation of each international instrument.

18. Mr. WOLFRUM thanked the Tunisian delegation for its periodic report and oral presentation. The report resembled the blueprint for a large house which had not been built. It often happened that the house itself did not match the blueprint, the architects or the house's own inhabitants being responsible for that fact. Under article 9 of the Convention, States parties were obliged to submit a report describing not only the legislative measures which they had adopted to give effect to the Convention, but also the existing situation or, to return to his earlier metaphor, to describe everyday life in the house. The report was incomplete in that it gave very little information on that matter.

19. Paragraph 8 of the report mentioned a National Covenant, the purpose of which was "to formulate common values accepted by the great majority of the Tunisian people". What was the relationship between that National Covenant and the Constitution? Was that Covenant intended to complement the Constitution or to provide an interpretation of the latter? Were Government offices and judges required to observe it and were they, in fact, doing so? Did that Covenant have an influence on human rights and freedom of expression or association? He noted that Tunisia had recently (in 1991 and 1992) created a number of human rights bodies, although the representative of Tunisia had stated that violations of human rights were not a problem in his country. Had those bodies been created as a precautionary measure? They had now been functioning for several years: had they produced any written reports? If so, those reports should have been brought to the Committee's attention. If not, what was the function of those bodies? What had the administrative mediator accomplished to date? Had anyone had recourse to his services? Had he taken any action? The same question could be asked with regard to the human rights offices in the Ministries of the Interior, Justice and Foreign Affairs, whose mandates certainly included the making of recommendations.

20. Article 4 of the Convention was generally considered one of its cornerstones. Information on the implementation of that article was found in paragraphs 52-72 of the report. Reference was made to five important codes or laws: the Penal Code (para. 53 of the report), the Press Code (para. 57), the Code of Obligations and Contracts (para. 63), the Associations Act (para. 64) and the Political Parties Organization Act (para. 67). However, those articles and provisions had little or nothing to do with the subject of the Convention, which was the fight against racial discrimination. He asked the Tunisian delegation for more information on that matter.

21. Both the written report and the oral presentation had emphasized the homogeneousness of the Tunisian population. Paragraph 94 of the report stated that "Jews are no longer represented in the Government ... because their proportion in relation to the population as a whole has decreased considerably". It was stated that the fact that the Jews had left to take up

residence elsewhere, especially in France, was partly due to the fact that a large number of them had French nationality. He asked for more information on that question: was there no other reason for the Jews having left Tunisia?

22. In the section of the report devoted to culture (paras. 260-263), there was no mention of the Berbers. What was the situation with regard to their culture? Were efforts being made to preserve it?

23. Mr. LECHUGA HEVIA noted that, according to paragraph 27 of the report of Tunisia, more than 99 per cent of the Tunisian population was of Arab-Berber ethnic origin and practised the Sunni Muslim religion. He wondered what other ethnic groups lived in Tunisia and how they were treated in comparison to the majority population. Did non-Sunni inhabitants have the same rights as others and did they face any particular problems? He also asked how immigrants were treated in Tunisia and what their rights were. Were any problems associated with them? Information on that matter would make it easier to determine whether the Convention was being properly implemented on behalf of immigrants.

24. Mr. VALENCIA RODRIGUEZ noted that, according to paragraph 13 of the report, one of the effects of the constitutional revision of July 1988 had been "to abolish ... the Office of the Procurator-General of the Republic ... which enabled the judiciary to become much more independent". He found it difficult to understand that statement since the Procurator-General was normally responsible for ensuring the proper functioning of the judiciary.

25. Paragraph 16 of the report listed the rights and freedoms guaranteed by the Constitution. Were specific laws required for those rights to be guaranteed in practice, or could the courts implement directly the norms set forth in the Constitution? It was clear from paragraphs 20-22 that it was not necessary to adopt special laws in order for a treaty, once ratified, to enter into force. He asked the Tunisian delegation to confirm that the courts could invoke, and implement directly, the provisions of treaties.

26. The Committee had always greeted with scepticism statements that there was no racial discrimination in a country because of its high degree of ethnic, social and cultural homogeneousness. The reality was often different.

27. According to paragraph 109 of the report, a person who voluntarily acquired a foreign nationality no longer automatically forfeited Tunisian nationality. What had been the results of that change in the law, for example, with regard to double taxation or diplomatic immunity?

28. He was pleased that Amnesty International had been authorized to open an office in Tunisia and that Tunisia had become "an important centre for several NGOs" (para. 44 of the report). What had been the results of that policy with regard to the enshrinement and protection of human rights?

29. Paragraphs 52-62 of the report referred to provisions of the Penal Code and the Press Code. The provisions of the Penal Code concerning the destruction or defilement of religious buildings, monuments, emblems or objects had no direct relationship to racial discrimination, but rather to the right to freedom of religion and the right to practise one's religion.

Furthermore, the provisions of the Press Code on incitement to hatred, defamation and insult had only an indirect relationship to article 4, paragraph 1, of the Convention. He asked for more information on those points.

30. The Code of Obligations and Contracts, Act No. 154-59 of 7 November 1959 and Organization Act No. 88-32 of 3 May 1988, together with the Penal Code and the Press Code, formed a collection of provisions which were not entirely satisfactory in view of article 4 (2) of the Convention. Tunisia should consider ways of discharging its obligations more accurately.

31. The part of the report that dealt with the implementation of article 5 of the Convention was very detailed. It was clear that the rights defined in that article were the subject of many domestic legal provisions in Tunisia.

32. As Mr. Wolfrum had already noted, paragraph 94 of the report stated that Jews were no longer represented in the Government because many of them had left to take up residence elsewhere and that, as a result, they represented a smaller percentage of the Tunisian population as a whole. Was their wish to seek better living conditions the only reason for that exodus, or had it been directed and encouraged by the Government?

33. Under Act No. 75-79 of 14 November 1975, persons who voluntarily acquired a foreign nationality no longer automatically forfeited their Tunisian nationality. However, according to article 13 of the Tunisian Nationality Code, a foreign woman who married a Tunisian man acquired Tunisian nationality at the time of the marriage if, by virtue of her national law, she lost her original nationality by marrying a foreigner (para. 107 of the report). Was there not a contradiction between those two provisions? Further information was needed.

34. Paragraph 117 of the report mentioned two fundamental changes: the abolition of polygamy and the fact that marriages could no longer be dissolved except by divorce. What had been the social and economic repercussions of those measures?

35. It was very encouraging that the procedures for setting up and joining associations were extremely simple and rapid. Had there been any violations of the relevant provisions (associations formed for illicit purposes or membership of individuals pursuing illicit activities)? What measures did the authorities take in such cases?

36. According to paragraph 166 of the report, foreigners who wished to work in Tunisia must be in possession of a labour contract which could not exceed two years in length. At the end of those two years, could the foreigner's contract be renewed for another two years, or could a new contract be issued?

37. Paragraphs 174-178 of the report dealt with discrimination against Tunisians abroad. For example, it was stated that Tunisian workers had been expelled from Libya in 1985. Had there been other cases of expulsion? What measures had the Tunisian Government taken to protect Tunisians in such situations?

38. Paragraphs 185-189 contained very satisfactory information on health, medical care, social security and social services. Tunisia should be congratulated for its progress in those areas. It was clear from those paragraphs that Tunisians and foreigners living in Tunisia were given equal, non-discriminatory treatment in such matters.

39. Finally, he congratulated Tunisia on all its activities in implementation of article 7 of the Convention and on the progress it had achieved.

40. Mr. de GOUTTES said that the report of Tunisia was of particular interest to the Committee because of that country's strategic and exemplary role in affirming republican values and the principles of democracy and tolerance in a region faced with a wave of fundamentalism, fanaticism and intolerance.

41. He particularly appreciated the sections of the report which set out the political principles and values of the Republic of Tunisia, those which dealt with the primacy of international treaties over domestic laws, the information on human rights education and teaching at the end of the document, and the introduction to tolerance and cultural pluralism in primary and secondary schools and at the level of higher education.

42. He also greatly appreciated the information provided on institutions and bodies responsible for the protection of human rights in Tunisia, where an international conference of national human rights institutions had recently been held. He asked the Tunisian delegation to provide information on the impact of that conference and on the follow-up by the Tunisian authorities.

43. However, in addition to its strengths and positive aspects, the report of Tunisia had certain weaknesses, perhaps for the very reason that it assumed in advance that, as a result of its great ethnic and cultural homogeneity, Tunisia had no problems of racial discrimination. On the one hand, the information given was often too general and had no direct relationship to the precise subject of the Convention. Much of that information would better have been placed in the core document, which would deal with the implementation of all human rights conventions, or in the report to be submitted to the Human Rights Committee.

44. On the other hand, the report made no mention of some matters on which the Committee would need information. Had Tunisia promulgated all the appropriate laws under article 4 of the Convention, the importance of which the Committee had often emphasized? Certainly, it was clear from paragraphs 52-72 of the report that the Press Code provided for punishment of certain racist acts, such as racist defamation and insults, and that the new article 52 bis of the Penal Code, on the fight against terrorism, covered incitement to hatred and racial or religious fanaticism, but the Penal Code did not seem to contain all the special provisions necessary to punish all the racist offences covered by the Convention, such as the dissemination of ideas based on racial superiority or hatred, acts of racist violence or incitement to commit such acts and participation in the activities of organizations which disseminated racist propaganda. Further information on that point was desirable.

45. With regard to the implementation of article 5 of the Convention, the report did not state which rights and civil liberties were enjoyed, in practice, by immigrants and foreigners, including the nationals of neighbouring countries. According to the 1993 Amnesty International report, discriminatory treatment was still practised, particularly against members of the forbidden Islamist organization, Al-Nahdah, and members of several left-wing parties, some of whom had been imprisoned and were alleged to have been mistreated. Those matters were partly dealt with by the Commission on Human Rights, but some explanation from the Tunisian delegation might be useful.

46. With regard to the implementation of article 6 of the Convention, the report gave no examples or statistics on complaints lodged, trials or convictions for offences of a racist nature. The Committee could not be satisfied with the statement that there was no racial discrimination in Tunisia. The next report must provide as many statistics and concrete examples as possible. It was on the basis of victims' complaints, and legal action taken against those responsible for racist acts, that the Committee could really evaluate the extent to which the Convention was effectively and concretely implemented.

47. Mr. SHERIFIS said he welcomed the periodic report submitted by Tunisia (CERD/C/226/Add.10), which was well written and followed the guidelines for the preparation of reports. However, the document contained the ninth, tenth, eleventh and twelfth periodic reports, which had been due, respectively, in 1986, 1988, 1990 and 1992. That situation was not unique to Tunisia, and many States had problems fulfilling their reporting obligations. It was unfortunate that the dialogue between the Committee and a State party to the Convention should be so long delayed.

48. Rather than dwelling on the points made by his colleagues, he had several other questions to ask. First, he did not see what would prevent Tunisia, a country which could rightly be proud of its human rights record, from making the declaration referred to in article 14 of the Convention. (Only 19 countries had made that declaration.) He was pleased that the right to vote was recognized to both men and women, without discrimination (para. 90 of the report), but he asked the Tunisian delegation to provide information on the approximate percentage of women in the Government, Parliament and public life in general.

49. He also noted with satisfaction that non-Muslim communities could participate in public life on the same basis as Muslims. It was true that, since over 99 per cent of the Tunisian population was of Arab-Berber ethnic origin and of the Muslim religion, only 1 per cent was composed of non-Muslims. Nevertheless, it would be interesting to have some examples of the participation of non-Muslims in public life. Similarly, he asked whether the two reasons for the exodus of Tunisian Jews given in paragraph 94 were the only ones, or whether there were others.

50. Paragraph 99 of the report stated that freedom of movement within the country was not subject to any formalities and that the only restrictions derived from penal action: detention and administrative supervision. What was meant by "administrative supervision"?

51. With regard to the employment of foreign workers, he noted with satisfaction (para. 171) that the model work contract stipulated that the salary of a foreigner "must be at least equal to that of Tunisian workers in the same category employed in Tunisia". In conclusion, he said that Tunisia had presented a good report.

52. Mr. CHIGOVERA asked whether the Tunisian Penal and Press Codes were in full compliance with article 4 of the Convention. With regard to the implementation of article 5 of the Convention, particularly paragraphs (a) and (b), he noted that the Tunisian Constitution guaranteed the fundamental human rights, in particular the equality of citizens under the law (para. 16 of the report). However, with regard to the political rights covered under article 5, paragraph (c), of the Convention, he noted that the guarantees set forth in the Constitution did not apply equally to all Tunisian citizens since the qualifications for election varied according to whether the elections were at the municipal, legislative or presidential levels (para. 93). He asked whether the Tunisian authorities felt that the legislation mentioned in paragraph 93 was compatible with the provisions of the Constitution and of article 5 of the Convention.

53. Mr. FERRERO COSTA noted with satisfaction that international treaties had been incorporated into Tunisian national law (paras. 21, 22 and 23 of the report) and that the primacy of international law was a principle recognized by Tunisia. A special procedure was provided for treaties that had been concluded with a view to uniting the Greater Maghreb and for those which might have an impact on the operation of institutions (para. 21); he wondered what treaties corresponded to the second of those definitions and whether it included international human rights instruments. It would be useful to have more information on the second sentence of paragraph 22, which stated that the courts were bound to apply international treaties when they were invoked before them, and the sentence in paragraph 23 which stated that the judges were bound to apply, as a matter of priority, the principle of the primacy of international law, regardless of whether an international treaty was invoked.

54. He asked for information on the composition of the 1 per cent of the Tunisian population which was non-Muslim and on the situation of foreigners in the country. He wondered whether there were foreign workers in Tunisia, where they came from, and how they were treated under the law with regard to housing, etc. That information could be provided either orally, by the Tunisian delegation, or in the next report of Tunisia. With regard to the State party's statement that there was no problem of racial discrimination in Tunisia (para. 30), he thought that that was in the nature of a hope on the part of the Tunisian Government and asked what practical measures were being taken to eliminate racial discrimination. Information of that kind would be welcome in the next periodic report of Tunisia.

55. Naturalization (para. 33) could be awarded to a foreigner who could prove that he had habitually resided in Tunisia for the five years prior to his application, on condition that he was "capable of integrating in Tunisian society". Paragraph 34 stated that the Ministry of Justice, to which the application was submitted, had six months to carry out an investigation before

declaring the application admissible or inadmissible. He asked what criteria the Ministry of Justice used in deciding that a person was capable of integrating in Tunisian society.

56. Tunisia should be congratulated for having established the post of administrative mediator, modelled after the Scandinavian ombudsman (para. 220). He asked for details on the exact responsibilities of the mediator and, in particular, on what was meant by "administrative affairs": was he responsible for the protection of human rights and for receiving complaints of violations of those rights? The mediator could refer a matter to the President of the Republic in the form of a report accompanied by his proposals; it would be useful to know what follow-up would be given to those proposals.

57. Mr. SHAHI said his comments on the periodic report of Tunisia were of a more philosophical nature. Paragraph 6 mentioned the declaration read by President Ben Ali at his inauguration on 7 November 1987, which "embodies the moral and political principles which ... constitute the doctrine of the Government" and foretold a political regime "based on a multiparty system and the plurality of the mass organizations"; that was an interesting step for a third world country. In paragraph 8, another "very important" text was quoted: the National Covenant, which formulated "common values accepted by the great majority of the Tunisian people and rules by which all the social and political parties are bound ... These values and rules are commonly accepted in the rich countries with a strong democratic tradition ...". He asked whether those values incorporated specifically Tunisian characteristics and whether the National Covenant included provisions or obligations other than those set forth in the Tunisian Constitution and laws.

58. Tunisia had authorized Amnesty International to open an office in the country and had welcomed other NGOs, a courageous step which demonstrated Tunisia's devotion to the cause of human rights. Since the establishment of an Amnesty International office in Tunisia, had the Government had the opportunity to read its reports, which were sometimes quite critical of certain countries, in order to keep abreast of the human rights situation?

59. Finally, like other members of the Committee, he asked for information on the demographic composition of the small percentage of the Tunisian population, about 80,000 people, which was made up of non-Muslims.

60. Mr. SONG also noted the statement in paragraph 30 of the report that the problem of racial discrimination did not exist in Tunisia. The great homogeneousness of the population, which was 99 per cent Arab-Berber, was a factor that could help to prevent racial discrimination. In the case of Asia the situation was similar, yet no such statement could be made. It was true that it would scarcely seem appropriate to speak of racial discrimination with regard to the differences in economic level between various population sub-groups within a single nationality. However, racial discrimination occurred when such problems arose between nationals and aliens. It was, therefore, important to take greater preventive measures.

61. Paragraph 94 stated that non-Muslim communities could participate in public life in the same way as Muslims. He asked whether the non-Muslim

community included people other than Jews - for example, aliens, since Jews could be naturalized - and whether there were any economic problems which affected both Muslims and non-Muslims in Tunisia.

62. Paragraph 11 of the report gave a long list of measures adopted in order to implement the new political philosophy of Tunisia. The Committee would like to know the specific provisions of the Convention to which those various measures gave effect.

63. Mr. YUTZIS began by making a general comment on the positive aspects of the report of Tunisia with regard to the implementation of article 5. The right to housing, in particular, was an important achievement, since 82 per cent of Tunisian families owned their own homes (para. 183); that was an unusual percentage for a third world country. The level of health of the population had also improved considerably (para. 189).

64. His first question concerned paragraphs 149 and 150 of the report and the law which prohibited the holding of responsibilities within organizations of a general nature in conjunction with responsibilities in the central management of any political party. That incompatibility was of a temporary nature. He wondered why, in view of the provisions of article 5 of the Convention, Tunisia had introduced such a restriction on the holding of responsibilities in organizations of that type.

65. He also had a question regarding paragraphs 174-178 of the report and, in particular, on the difficult situation of Tunisians working abroad. It was interesting that the description of the situation - which, moreover, could not hide the problems that existed in any State party which made such a declaration - referred to nationals of Maghreb countries in general. Libya was specifically stated to have expelled Tunisian workers in the past. Certain European countries could equally well have been mentioned since, although expulsion from those countries was as yet only a possibility, it was clear that there was discrimination against Tunisians there. In that regard, the report of Tunisia suggested the existence of what was, in any case, a well-known problem. That insinuation made him wonder why, since article 11 of the Convention existed, it was not being invoked. It seemed essential to invoke that article in the case in question.

66. He also objected to the wording of the last sentence of paragraph 178 of the report, which said that "there is also a democratic and tolerant movement in opposition to this hostile behaviour towards immigrants [in European countries]". It would have been better to state the reverse: while there were citizens and Governments with democratic leanings, xenophobia and racism were increasing.

67. Mr. Sherifis took the Chair.

68. Mr. BANTON associated himself with the comments of Mr. Diaconu and the other members of the Committee and emphasized that States were required by the Convention not only to mandate protection and recourse, but also to ensure their effectiveness. He did not doubt that there were enough qualified people in Tunisia to ensure the effectiveness of those protections.

69. Mr. ABOUL-NASR noted that the report of Tunisia said little about the implementation of existing laws. The information provided with regard to article 4 of the Convention was insufficient. States parties were required to meet certain obligations, for example, with regard to the fight against racist propaganda and racial hatred; it was not enough to state that they were forbidden by the Constitution.

70. It would also be useful to have more information on the responsibilities of the administrative mediator and the role that he had played thus far. Could he really be compared to a Scandinavian ombudsman, who reported to the legislative rather than to the executive branch? Nevertheless, Tunisia should be congratulated for having established such a post.

71. Unlike other members of the Committee, he did not consider that article 5 of the Convention applied to foreign nationals. That was, of course, the case of some of its provisions, but not of the entire article. Article 1 (2) was clear on that point.

72. It had been asked whether certain measures recently taken in Tunisia had been accepted by all the political parties. He did not think that any measure could reasonably be approved by the entire society of a democratic country. He was personally opposed to the idea of authorizing the establishment of political parties on the basis of religion; he cited the example of his own country, Egypt, where the formation of such parties would lead to chaos. The case of Tunisia was, no doubt, different since 99 per cent of the population was Muslim, but the idea was nevertheless a dangerous one.

73. Mr. SHERIFIS said he agreed with the previous speaker and that the use of religion for political purposes should not be encouraged.

74. Mr. WOLFRUM said that article 5 of the Convention was quite general; its purpose was to prevent discrimination with regard to a number of rights. Some of those rights were common to all, while others benefited only nationals of the State concerned. The Committee must, therefore, consider them one by one to verify whether they were universal as was certainly the case, for example, of the right mentioned in paragraph 1 (a), or specific in nature.

75. Mr. de GOUTTES said he agreed with Mr. Wolfrum. Rather than enshrining specific rights, article 5 established the principle of equal rights. Aliens were entitled to many of the rights mentioned in that article. A number of those rights were also mentioned in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Article 5 did not refer specifically to article 2 (2). The point raised by Mr. Aboul-Nasr was a very important one which the Committee should examine in greater depth at a later date.

76. Mr. YUTZIS said the points mentioned in article 5 established a general basis for non-discrimination and that the rights mentioned there were universal in nature; however, that question deserved further consideration.

77. With regard to the relationship between the fields of religion and politics, he referred to Emmanuel Kant, who had made a distinction between the "political legislator" and the "charismatic leader". The political

legislator's function was to say what citizens could or could not do. A problem arose when he began to insist on what citizens must do. In general, that was the totalitarian, dictatorial and, sometimes, very aggressive tendency of charismatic leaders, particularly when their political positions were imbued with religious connotations. He was not opposed, a priori, to the idea of political parties of a religious nature, provided those parties respected the rules of democracy. Such parties had sometimes followed a totalitarian political line, but that was also the case of anti-religious parties. What mattered was the parties' political behaviour.

The meeting rose at 1 p.m.