

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States Parties due in 1977

Addendum

TUNISIA

[30 March 1977]

The Permanent Mission of Tunisia has the honour to submit herewith a provisional report, pending communication as soon as possible of the detailed report by the Tunisian Government and any comments or reservations it may have to make in respect of the International Covenant on Civil and Political Rights.

Several months after acceding to independence Tunisia promulgated a body of texts known as the Code of Personal Status (Decree of 13 August 1956) and then, on 1 June 1959, the Constitution of the Republic of Tunisia which guarantee the basic rights of citizens.

Tunisian legislation thus includes a body of legal texts guaranteeing the civil and political rights of citizens and imposing penalties for failure to respect them (Constitution - codes - laws - decrees, etc.).

The law courts and an administrative court ensure respect for the rights set forth in the Constitution and in the laws and regulations of the Republic. These guaranteed rights fall into several categories:

I - Fundamental rights and freedoms

These are clearly set forth in the following articles of the Constitution; failure to respect them is punishable by law:

Article 5: The Republic of Tunisia guarantees the dignity of the individual, freedom of conscience and the freedom of worship, provided it does not disturb law and order.

Article 6: All citizens are equal with respect to their rights and duties and are equal before the law.

- Article 7: Citizens shall exercise all their rights in the manner and under the conditions stipulated by the law. Exercise of these rights may be limited only by legislation enacted for the protection of the rights of others, for ensuring law and order, for national defence, for the development of the economy and for social betterment.
- Article 8: Freedom of opinion, expression, the press, publication, assembly and association are guaranteed and enjoyed under the conditions determined by law. The right to form trade unions is guaranteed.
- Article 9: Inviolability of the home and secrecy of correspondence are guaranteed, save in the exceptional cases provided by law.
- Article 10: Every citizen has the right to move freely within the country, to leave the country, and to choose his domicile within the limits provided by law.
- Article 11: No citizen may be expelled from or prevented from returning to his homeland.
- Article 12: Anyone charged with an offence shall be presumed innocent until proven guilty at a trial at which he has had all the guarantees necessary for his defence.
- Article 13: Penalties are personal and cannot be imposed retroactively.
- Article 14: The right to own property is guaranteed. It shall be enjoyed within the limits provided by law.
- Article 15: Defence of the nation and its territorial integrity is a sacred duty for every citizen.
- Article 16: Payment of taxes and contributions to public expenses, on an equitable basis, are a duty for each individual.
- Article 17: Political refugees may not be extradited.
- Article 18: The people shall exercise legislative power through the representative body known as the National Assembly.
- Article 19: The National Assembly shall be elected by universal, free, direct suffrage using the secret ballot, in the manner provided by law.
- Article 20: Every citizen who has been a Tunisian national for at least five years and has attained the age of twenty years shall be entitled to vote.
- Article 21: Any voter born of a Tunisian father and having attained the age of thirty years may stand for election to the National Assembly.

II - Rights guaranteed under the Code of Personal Status

The Decree of 13 August 1956 promulgated a Code of Personal Status consolidating on an egalitarian basis for men and women the body of laws concerning marriage, divorce, filiation, inheritance and adoption.

Polygamy is prohibited. The marriage age has been raised (17 years for women and 18 years for men, article 5 of the Code of Personal Status); marriages must be performed before an official registrar. Specific provisions govern filiation, inheritance and adoption.

Equality between men and women is guaranteed with regard to divorce, as a woman may take the initiative in divorce proceedings. Article 31, paragraph 3, of the Code of Personal Status provides that divorce may be ordered "on the petition of either the husband or the wife; in such a case, the court shall determine the indemnity payable to the wife for the injury done to her or payable by the wife to the husband."

It should also be pointed out that in addition to the main provisions of the 1948 Universal Declaration of Human Rights, Tunisia has also implemented in its legislation the New York Convention of 1963. This Convention was ratified by Tunisia and has become an integral part of its internal law. It prohibits discrimination based on race, religion, nationality or colour in connexion with marriage.

The same applies to the "International Covenant on Civil and Political Rights", whose various provisions have already been incorporated in the legislation of the Republic of Tunisia.

III - Economic and social rights guaranteed by the Constitution, the Labour Code, laws and regulations:

At the present time, political rights are far from guaranteeing the citizen a dignified existence, protected from need, sickness, accidents and ignorance. Consequently independent Tunisia has adopted for the benefit of its citizens constitutional, legislative and administrative provisions guaranteeing him education, work, the enjoyment of the fruits of his labour, security against sickness, accidents, old age, etc.

Article 14 of the Constitution guarantees to citizens the enjoyment of the fruits of their labour in that it affirms: "The right to own property is guaranteed. It shall be enjoyed within the limits provided by law".

Article 8 of the Constitution guarantees him freedom of association in order to defend his political or occupational interests by joining the trade union of his choice and availing himself of the right to strike if need be: "Freedom of assembly and association are guaranteed and shall be exercised in the manner defined by law. The right to form trade unions is guaranteed."

The Labour Code, promulgated in 1964, supplements and guarantees the other economic and social rights. All citizens enjoy the right to work under the rules in force. The State determines the number of working hours (eight hours per day), guarantees one day of rest per week, a paid vacation, a minimum wage, social security, retirement and other pensions, allowances and bonuses.

Complete occupational equality between the sexes is guaranteed by equal pay for equal work, the same advancement and the same advantages, with, in addition, certain concessions for women dictated by their nature: paid maternity leave and authorized absences during working hours for nursing purposes.

Following its accession to independence in 1956, Tunisia drew up its Constitution, which was enacted on 1 June 1959 and embodies all of the principles recognized in the Universal Declaration of Human Rights.

Tunisian legislation thus includes a body of legal texts guaranteeing the civil and political rights of citizens and imposing penalties for failure to respect them (Constitution, codes, laws, **decrees**, etc.).

Tunisia, which became a Member of the United Nations in 1957, has viewed the Charter as a basic instrument for peace and co-operation. In addition, its membership in such specialized agencies as WHO, the ILO and UNESCO imposes an imperative duty to observe their statutes, which are based essentially on the safeguarding of human rights.

Article 32 of the Constitution specifies that "treaties duly ratified shall be more authoritative than laws".

The principles enunciated in the international covenants on civil, political, economic, social and cultural Rights, ratified by Tunisia on 18 March 1969, thus form an integral part of the domestic law of the country, in which the law courts and an administrative court ensure observance of those rights. These guaranteed rights fall into several categories:

I. Rights of the individual

Internal law incorporated various provisions of the Covenant relating to human rights, more particularly:

(a) Recognition of individuals as persons before the law prescribed in article 5 of the Tunisian Constitution, which specifies that "The Republic of Tunisia guarantees inviolability of the individual, freedom of conscience and freedom of worship, provided it does not disturb law and order";

(b) A number of provisions to ensure respect for security of person, for example:

- the right to a defence and to be judged by a competent court, guaranteed in article 12 of the Constitution, which prescribes that "Anyone charged with an offence shall be presumed innocent until proven guilty at a trial at which he has had all the guarantees necessary for his defence", which article 13 specifies that "Penalties are personal and may not be imposed retroactively";

- respect for human dignity, the inviolability of the home and the secrecy of correspondence are ensured under articles 5 and 9 of the Constitution and a number of provisions of the Penal Code.

A Code of Personal Status was promulgated on 13 August 1956. It is founded on the equality of the sexes - except perhaps in matters of inheritance, which are governed by Koranic law because of our adherence to the Muslim religion - and the protection of minors. For example, polygamy was prohibited, the marriage age was raised to 17 for women and 18 for men and marriages must be performed before an official registrar. The consent of the woman to contract marriage has become obligatory.

As to divorce, the Code of Personal Status further strengthens this principle of equality, for it specifies in article 31 that either spouse may take the initiative in divorce, which is now pronounced by the court, thus putting an end to unilateral repudiation of the wife by the husband. The court determines the indemnity payable by either the wife or the husband.

With regard to filiation, Tunisian legislation primarily takes into account the interests of the child, even if the child is born out of wedlock. Court interpretations of article 68 of the Code of Personal Status, concerning the establishment of filiation, have favoured the interests of the child by granting a recognized illegitimate child the same rights as a legitimate child.

II. Political rights

Tunisia chose a democratic system of liberty from the moment that the Republic was established and the rights provided for in the Covenant are embodied in its internal law. Thus:

1. All forms of discrimination are prohibited and everyone is equal before the law. Article 6 of the Constitution, reflecting the Universal Declaration of Human Rights (article 1), proclaims that "All citizens are equal with respect to their rights and duties and are equal before the law".
2. The inviolability of the individual, freedom of conscience and freedom of worship are expressly mentioned in article 5 of the Constitution and guaranteed in practice by a number of regulations.
3. Freedom of expression and opinion, assembly and association, referred to in article 19 of the Covenant, are guaranteed by article 8 of the Constitution and by the various provisions of the Press Code.

Failure to observe these rights is penalized by the law courts or by an administrative court to which recourse is straightforward, free and guaranteed.

In this respect, the Tunisian judiciary enjoys a high degree of independence vis-à-vis the public authorities, in accordance with the terms of article 53 of the Constitution, which states that "Magistrates are independent and, in the exercise of their duties, subject solely to the authority of the law".

Moreover, the Penal Code provides free legal aid for persons unable to secure the services of a lawyer.

In an effort to promote the process of social rehabilitation of detainees, the organization and functioning of the prison system has been radically altered.

In this context, Decree 75-345, dated 30 May 1975, concerning the administrative organization of the Ministry of the Interior, established a Directorate comprising, inter alia, the following departments:

- a social studies department
- a department for social rehabilitation
- a department for supervised education.

Prisons have thus become centres of re-education in which the training that is provided allies civic re-education with occupational specialization and results in the social and economic rehabilitation of the offender.

The Tunisian League for Human Rights, established recently, is one of the first associations of this type in the third world. Its purpose is to protect basic individual or collective freedoms as enunciated in the Constitution and in the Universal Declaration of Human Rights.

III. Economic and social rights

With political rights guaranteed by law, the concern of the Tunisian legislator has been to ensure for Tunisian citizens a dignified existence, protected from illiteracy, industrial accidents, sickness and need. Consequently, independent Tunisia has adopted for the benefit of its citizens constitutional, legislative and administrative provisions guaranteeing him education, work, the enjoyment of the fruits of his labour, security against sickness, accidents, old age, etc.

Following its attainment of independence, Tunisia opted for a generalized and democratic system of education. In our country the allocation for education accounts for one-third of the total budget; there is 76 per cent school attendance and the rate of illiteracy is steadily falling as a result of major adult literacy programmes initiated in recent years by our Government.

As regards trade union rights, article 8 of the Constitution guarantees the citizen freedom of association in order to defend his political or occupational interests by joining the trade union of his choice and availing himself of the right to strike if need be: "Freedom of ... assembly and association are guaranteed and enjoyed under the conditions determined by law. The right to form trade unions is guaranteed".

The Labour Code promulgated in 1964 supplements and guarantees the other economic and social rights. All citizens enjoy the right to work under the rules in force. The State determines the number of working hours and guarantees a weekly day of rest, a paid vacation, a minimum wage, social security, retirement and other pensions, allowances and bonuses.

Complete occupational equality between the sexes is guaranteed by equal pay for equal work, the same advancement and the same advantages, with, in addition, certain concessions for women dictated by their nature: paid maternity leave and authorized absences during working hours for nursing purposes.

Recently, in order to facilitate the integration of our workers in certain foreign countries, Tunisian legislation has made it possible for our citizens to enjoy dual nationality.