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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21**

**Tunisia\***

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## Introduction

1. This report is part of the universal periodic review process of the United Nations Human Rights Council. It has been prepared in the light of the radical changes witnessed by the Tunisian State following the revolution of the Tunisian people against repression, dictatorship and marginalisation to enshrine the values of freedom and decency.

2. Following the flight of the President on 14 January 2011 in the wake of the tumultuous popular revolution in the country, Tunisia has gone through a transitional period. The Constitutional Council intervened to affirm the vacancy of the position of President of the Republic and declare the Speaker of the Chamber of Deputies as Head of State on a temporary basis on 15 January 2011. The interim President resolved to appoint an interim Government to run the country. He further determined to suspend the constitution and dissolve the basic constitutional institutions, particularly the Chamber of Deputies and Chamber of Advisors, which constitute the bicameral parliament, pursuant to statute no. 14/2011 (23 March 2011), on the provisional organization of public authorities.

3. Effective political participation was one of the main demands of the Tunisian revolution. In this regard, it was resolved to establish a body representative of the currents in Tunisian society, pursuant to statute no. 6/2011 (18 February 2011), on the organization of the High Commission for the Realization of Revolutionary Goals, Political Reforms and Democratic Transition, while waiting for elections to be organized to give concrete form to popular representation.

4. This commission was tasked with studying legislative texts relating to political organization, proposing reforms to give concrete form to the goals of the revolution and expressing a view on government activity.

5. A National Constituent Assembly (NCA) was elected on 23 October 2011, following democratic, free and transparent elections witnessed by international observers. The elections were supervised by the High Independent Authority for the Elections, created under statute no. 27/2011 (15 April 2011).

6. The members of the NCA promulgated a law on the provisional organization of public authorities, pursuant to constituent law no. 6/2011 (16 December 2011), in anticipation of their formulation of the new constitution of the Tunisian State and the organization of elections designed to lead to the formation of the legislative and executive authorities.

7. The members of the NCA elected the President of the Republic, who appointed a prime minister charged with forming a Government made up of persons belonging to parties obtaining a majority in the elections for the NCA, in addition to a number of independents.

### A. Methodology for preparing the report

8. This report falls within the framework of the requirements of paragraph 5 (h) of resolution 60/251 (15 March 2006) of the General Assembly of the United Nations, creating the Human Rights Council, and the general directives of resolution 5/1 (18 June 2007) and resolution 16/21 (25 March 2011) of the Human Rights Council, which adopt a comprehensive approach to human rights, affirming them to be “universal, indivisible, interrelated [and] interdependent”.

9. The report focuses on steps taken to promote and protect human rights by implementing the conclusions and recommendations of the Universal Periodic Review Working Group. The report further deals with measures taken within the framework of the recommendations made by a number of contracting bodies set up pursuant to international conventions and treaties, as well as those resulting from the visit to Tunisia of the assessment mission of the Office of the High Commissioner for Human Rights (OHCHR) from 26 January to 2 February 2011.

10. The report was drawn up following consultation with the relevant actors and several meetings held with ministries responsible for human rights issues and the Higher Committee for Human Rights and Basic Freedoms (CSDHLF). Furthermore, a number of civil society elements were partners in the consultation process, a process crowned with a forum organized by the Ministry of Human Rights and Transitional Justice on 22 March 2012, in which a significant number of associations active in the field of human rights took part. Tunisian non-governmental organizations agreed to charge the Tunisian branch of Amnesty International with collecting the contributions of the said organizations.

11. The Tunisian Government sought the assistance of several parties, including the visual, audio and print media in an effort to sensitize the various actors, especially NGOs, and encourage them to submit their contributions to OHCHR in the form of parallel reports to the national report no later than 21 November 2011.

12. Media seminars and training courses (including seminars and workshops) were organized for key players involved in the universal periodic review process, in collaboration with OHCHR and *l'Organisation internationale de la Francophonie*.

## **B. Development of the legal and institutional framework for the promotion and protection of human rights**

### **1. Promoting accession to international conventions relating to the protection of human and monitoring implementation thereof**

#### **1. Ratification of international conventions**

13. The Tunisian State has ratified:

- The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto (law no. 4/2008 (11 February 2008) and ordinance no. 568/2008 (4 March 2008));
- The Optional Protocol to the Convention on All Forms of Discrimination against Women (law no. 35/2008 (9 June 2008) and ordinance no. 2503/2008 (7 July 2008)).

14. The report of the Universal Periodic Review Working Group contains the recommendation that Tunisia considers the possibility of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. In keeping with this recommendation and consistent with the goals and demands of the Tunisian revolution, the State has ratified several international treaties, including:

- The International Convention for the Protection of All Persons from Enforced Disappearance (statute no. 2/2011 (19 February 2011) and ordinance no. 550/2011 (14 May 2011));
- The Optional Protocol to the International Covenant on Civil and Political Rights (statute no. 3/2011 (19 February 2011) and ordinance no. 551/2011 (14 May 2011));
- The Rome Statute of the International Criminal Court and the Agreement on Privileges and Immunities of the Court (statute no. 4/2011 (19 February 2011) and ordinance no. 549/2011 (14 May 2011));
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (statute no. 5/2011 (19 February 2011) and ordinance no. 552/2011 (17 May 2011)).

## **2. Withdrawal of reservations**

16. In its concluding observations on Tunisia (11 June 2010), following review of the third periodic report, the Committee on the Rights of the Child expressed satisfaction at “the withdrawal by the State Party of its declaration and of reservations to article 2 of the Convention relating to personal status.....and article 7 relating to nationality” (law no. 36/2008 (9 June 2008) and ordinance no. 2503/2008 (7 July 2008)).

17. Following the recommendations issued on 22 October 2010 by the CEDAW Committee, Tunisia entered a new phase, taking the decision to withdraw the reservations to CEDAW pursuant to statute 103/2011 (24 October 2011) and ordinance no. 4260/2011 (28 November 2011).

## **3. Submission of periodic reports pursuant to international conventions**

18. Since the review of its first report in the universal periodic review process, Tunisia has submitted a number of reports in line with its commitments under the following international conventions and protocols:

- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (January 2009);
- The International Convention on the Elimination of All Forms of Racial Discrimination (February 2009);
- The Convention on the Rights of the Child (June 2010);
- The Convention on All Forms of Discrimination against Women (October 2010);
- The Convention on the Rights of Persons with Disabilities (April 2011).

## **2. Fostering cooperation with international bodies to develop and protect human rights**

19. The report of the Universal Periodic Review Working Group recommended that Tunisia consider cooperating with “the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of human rights while countering terrorism.”

20. The report of the OHCHR assessment mission recommended: “Enhance Tunisia’s cooperation with the UN human rights system, including collaboration with OHCHR [and] issue an open invitation to Special Rapporteurs.

21. Subsequent to these recommendations, Tunisia issued an open invitation to United Nations special procedures on 28 February 2011. In this context, two Special Rapporteurs – on the question of torture and the promotion and protection of human rights while countering terrorism – made a working visit to Tunisia in May 2011. Note that the Special Rapporteur on the promotion and protection of human rights while countering terrorism had made a working visit to Tunisia in January 2010.

22. The Tunisian authorities are committed to following up and implementing the recommendations made by the two Special Rapporteurs following their visits in order to benefit from their experience and assistance, especially in reviewing relevant Tunisian legislation.

23. In this regard, several visits to Tunisia in 2012 have been scheduled by:

- The Special Rapporteur on the situation of human rights defenders;
- The Special Rapporteur on the rights to freedom of peaceful assembly and of association;
- The Special Rapporteur on the right to education;
- The working group on the question of discrimination against women in legislation and practice.

24. Furthermore, cooperation has been fostered with international agencies by the opening of an office of OHCHR and the United Nations High Commissioner for Refugees (UNHCR) following Tunisia’s signature of a headquarters agreement with both bodies.

25. In 2008 and 2010, Tunisia received three Special Rapporteurs from the African Commission on Human and Peoples’ Rights within the framework of cooperation with regional human rights mechanisms. These were: the Special Rapporteur on human rights defenders in Africa, the Special Rapporteur on the rights of women and the Special Rapporteur on the question of prisons and other places of detention in Africa.

### **3. Interim measures to develop and protect human rights**

26. The first measures taken by the Tunisian authorities after the revolution consisted in rehabilitating human rights defenders who, for many years, were prosecuted for their struggle for freedom. This took the form of (1) quashing previous political convictions, (2) ensuring the rights of the revolution’s martyrs and wounded and (3) consolidating the path of transitional justice.

#### **1. Quashing of previous political convictions**

27. The first statute promulgated after the revolution concerned the abuses to which human rights activists and the political opposition were subjected. The rehabilitation of the victims of oppression and dictatorship had become essential to build a new State that respects the dignity of its citizens. This was done by adopting a policy focusing on the two integrated themes of a general legislative amnesty and reparations.

**(a) General legislative amnesty**

28. Statute no. 1/2011 (19 February 2011), relating to the general legislative amnesty, enabled the release of more than 500 political prisoners, in addition to the granting of 8,700 amnesty certificates.

29. A clear choice was made to make a complete break with the past and halt all prosecutions based on political, trade union and association-based activity. It is worth pointing out that, in Tunisian law, a general amnesty erases both the crime and the sentence, with the actions forming the subject of the amnesty being treated as if they had not occurred (articles 376 and 377 of the Code of Criminal Procedure).

30. In particular, the amnesty covers persons convicted of:

- Violation of the internal security of the State;
- Activities relating to breach of the press code (a number of persons were convicted after publishing articles and reports in the press critical of the regime);
- Activities relating to breach of the provisions relating to associations, political parties, public assembly and demonstrations, given that many activities of the political opposition were banned and subject to prosecution;
- Public order crimes or military crimes, where there is evidence that the convicted persons were targeted for trade union or political activity.

**(b) Reparations**

31. The rehabilitation of victims will remain incomplete if limited to the quashing of the crime and the sentence. In this context, statute no. 1/2011 (19 February 2011) stipulates the right of those benefiting from the general amnesty to return to work and to claim compensation. A draft law is currently being drawn up to enshrine the principle of universal compensation for damage, designed to ensure the right of those benefiting from the general amnesty to material and moral reparations.

**2. Ensuring the rights of the revolution's martyrs and wounded**

32. Three basic measures have been taken to ensure the rights of the revolution's martyrs and wounded: (a) investigation of the facts regarding violations recorded during the revolution, (b) prosecution of those responsible for these violations and (c) rehabilitation of victims.

**(a) Investigation of the facts regarding violations recorded during the revolution**

33. An in-depth investigation of what happened during the revolution with a view to uncovering the truth of the circumstances surrounding the suppression of demonstrations, which left dead and wounded, is an urgent and pressing matter.

34. Statute no. 8/2011 (18 February 2011) created the National Fact-Finding Committee, pledged to investigate violations and abuses recorded since 17 December 2010.

35. The committee has been able to study all documentation relating to investigations, as well as listen to victims, their families and witnesses.

36. The committee published its initial conclusions on violations committed between 17 December 2010 and the end of January 2011 and estimated the number of victims at 240 dead and 1,464 wounded. Scores of prisoners were burned to death between 13 and 16 January 2011. The committee is expected to reveal the results of its investigations in a detailed report explaining to the public the truth of the circumstances surrounding the abuses committed during the revolution.

**(b) Prosecution of those responsible**

37. In the days immediately after 14 January 2011, the public prosecutor brought charges against persons suspected of involvement in acts of repression causing the death of many demonstrators and injury of many more.

38. The prosecutions included all officials suspected of giving orders to carry out repression and the security personnel suspected of committing the abuses. These prosecutions are still underway, several of them having reached the courts.

**(c) Rehabilitation of victims**

39. In honour of the martyrs of the revolution and in recognition of their sacrifices for the dignity and freedom of the Tunisian people, a series of measures for the benefit of victims was adopted, pursuant to statute no. 97/2011 (24 October 2011), relating to compensation for the revolution's martyred and injured.

40. Several of these measures are material in nature, consisting basically of granting compensation, aid and privileges to victims or their families in the form of a monthly salary and free transport and medical treatment.

41. Other measures are basically symbolic, expressing the gratitude of the nation toward the victims of the revolutionary, considering them to be "martyrs of the nation". Local communities should name streets and public squares after martyrs and construct monuments in memory of the revolution, bearing the names of martyrs.

42. Furthermore, the statute provides for the struggle of the defenders of human rights and dignity during the revolution to be included in educational programmes, to help sensitize the rising generation to the value of their sacrifice, spread the values of freedom and dignity and disseminate the culture of human rights.

**3. Consolidating the process of transitional justice**

43. Transitional justice is an unavoidable process that seeks to uncover the truth about the abuses, identify those responsible, bring the guilty to account and make reparation to victims, as well as provide guarantees that such abuses will not be repeated, by means of a set of institutional and legal reforms aimed at building a state of law and institutions.

44. Article 24 of constituent law no. 6/2011 (16 December 2011), on the provisional organization of public authorities, stipulates that the NCA shall be responsible for enacting a constituent law regulating transitional justice and defining its principles and mandate.

45. Transitional justice in Tunisia requires national consultation and consensus between the parties, elements of civil society and victims. It has been officially announced that a national dialogue on this matter will be initiated on 14 April 2012.



46. Upon the conclusion of consultations and the submission of proposals, an independent higher commission for transitional truth and justice will be set up, drawing upon the experience of several countries in the sphere of transitional justice.

#### **4. Development of national human rights institutions**

##### **1. Reform of the judicial system**

47. The existing legal provisions regulating the juridical, administrative and financial aspects of the judiciary do not provide the necessary guarantees to establish an independent judiciary in accordance with accepted international standards and criteria.

48. Reform of the judicial system and the provision of legal and material guarantees of the independence of the judiciary is one of the foundations on which a State of law is built.

49. Article 22 of constituent law no. 6/2011 (16 December 2011), on the provisional organization of public authorities, stipulates that the NCA shall be charged with enacting basic laws to reorganize the judiciary, restructure the juridical, administrative and financial aspects of the higher judicial councils and define the principles of and reform the judicial system in accordance with international standards of judicial independence.

50. Concerted efforts are being made by public authorities, in consultation with the judiciary, political parties and components of civil society, to draft new legal provisions to ensure the real independence of the judiciary in order to protect the rights of litigants and the freedoms of the individual.

##### **2. Creation of the Ministry of Human Rights and Transitional Justice**

51. Pursuant to ordinance no. 22/2012 (19 January 2012), the Ministry of Human Rights and Transitional Justice was created, with responsibility for proposing, monitoring and implementing human rights policy. In coordination with the relevant bodies, it is further responsible for disseminating and consolidating these rights and ensuring that they are exercised in accordance with national legislation and international charters. The ministry is further charged with drawing up the legal framework and coordinating with elements of civil society to formulate a comprehensive mechanism to achieve transitional justice within a framework of national consensus.

##### **3. Fostering the role of the Higher Committee for Human Rights and Basic Freedoms**

52. Despite the measures taken to ensure CSDHFLF compliance with the principles relating to the system of national institutions for the promotion and protection of human rights (the Paris Principles – resolution 48/134 (20 December 1993) of the General Assembly of the United Nations), including the promulgation of law no. 37/2008 (16 June 2008), relating to the CSDHFLF, the Tunisian revolution conspicuously revealed the structural shortcomings of this organization and demonstrated its inability to carry out its role of monitoring human rights abuses, especially those committed since the first spark of the revolution on 17 December 2010, including crimes of murder during demonstrations, torture, mistreatment and arbitrary detention.

53. A comprehensive review of the CSDHLF is currently underway, on the basis of a draft law creating a higher council for human rights and freedoms, founded on a new vision that will raise the council's structure and human and material resources up to the level of a national, public human rights institution with real power to promote and protect human rights.

#### **4. Reform of the security apparatus**

54. During the transitional period, Tunisia is endeavouring to enshrine the principles of democracy, plurality and respect for human rights and public freedoms. It has sought to make a complete break with all repressive practices. The security sector occupies a fundamental place in the transition process. The comprehensive strategy adopted, which draws inspiration from recognized international democratic values, practice and experience, is based on a new approach that gives priority to restructuring internal security, reviewing training methods and programmes (the curricula and content of training were evaluated in collaboration with international organizations, including OHCHR, the United Nations Development Programme (UNDP), *l'Organisation internationale de la Francophonie*, the International Committee of the Red Cross (ICRC) and the Geneva Centre for the Democratic Control of Armed Forces), improving the legislative and educational framework and strengthening the relationship with citizens, as well as professional and social supervision of members of the internal security forces.

55. To bring about the decisive break with the practices of the past, the first measures taken after the revolution consisted in abolishing the state security department commonly known as "the political police".

56. In an embodiment of openness and transparency, the Tunisian authorities revealed the location of secret places of detention to the public.

57. The question of secret detentions and torture is an aspect of justice that sits atop a large number of issues relating to violation of the rights of political activists and defenders of freedoms and needs to be addressed in an atmosphere of respect for guarantees of judicial transparency and independence.

58. Following the complaints brought against regime officials, the Ministry of Interior forwarded to the judiciary the results of its administrative investigations. These contained accusations of abuses committed during the revolution by officials in the course of their duties. Furthermore, the ministry issued a memorandum of action affirming compliance with the legal procedures relating to respect for bodily inviolability, while working to improve conditions of detention in respect of accommodation, subsistence, cleanliness and preservation of health.

59. An undersecretary at the Ministry of Interior has been charged with carrying out reforms designed to consolidate effective, transparent and responsible governance in the security sector, responsive to the needs and aspirations of Tunisian citizens.

#### **5. Creation of stakeholders in the sphere of human rights**

60. Tunisia follows a policy of human rights education consistent with the wider directions of phase two of the 2010-2014 action plan of the World Programme for Human Rights Education, prepared by OHCHR in consultation with the United Nations Educational, Scientific and Cultural Organization (UNESCO). This plan

focuses on human rights education in higher education, for teachers, educators and staff, as well as those responsible for law enforcement, including judges, lawyers, prison staff, internal security officials and those employed in the social and military spheres.

### **C. The promotion and protection of human rights on the ground**

#### **1. Civil and political rights**

##### **1. Protection of bodily inviolability**

##### **(a) Continued suspension of execution of the death penalty**

61. The report of the Universal Periodic Review Working Group recommends that Tunisia implement a resolution not to apply the death penalty under any circumstances.

62. Tunisia affirms that the death penalty has not been carried out since 1991.

63. The treatment of those condemned to death has significantly improved, as is evident from the following measures:

- The first measure was taken on 16 February 2011 and consisted in recognising the right of those on death row to receive visits and food from their relatives. This measure has had a positive impact on all those condemned to death and their families, improving their psychological condition by enabling them to re-establish family ties.
- The second measure was taken on 14 February 2012, on the occasion of the first anniversary of the revolution, and consisted in granting all those on death row (122 convicts) a presidential amnesty, under which the death penalty was commuted to imprisonment. This measure is consistent with the commitments entered into by Tunisia in this regard.

##### **(b) Fostering the legal framework against torture**

64. Within the framework of ratification of the Optional Protocol to the Convention against Torture, studies essential for application of the protocol were prepared, in collaboration with various relevant bodies. These studies basically seek to create an independent national mechanism for preventing torture, enabling surprise periodic visits to all places of detention, in accordance with article 17 of the said protocol, such that opposing torture acquires the effectiveness it has lacked.

65. For the Tunisian Government, the issue of combating torture is a matter of urgency. The activities and efforts of human rights defenders, especially national and international NGOs, have shown that the mechanisms to combat torture were ineffective. Furthermore, the number of accusations and complaints of mistreatment continually increased and were not properly addressed. The gap gradually increased between, on the one hand, the provisions of the law criminalizing torture and the discourse rejecting it, and, on the other hand, the practice of violating the bodily inviolability of persons.

66. Aware of the importance of this issue, the Tunisian authorities have expedited the taking of supplementary measures designed to foster mechanisms to combat torture. These consist of the formulation of a new law on the crime of torture,

recognising the invalidity of confession extracted under torture and forbidding criminals being handed over if there is a threat of torture.

### **1. The formulation of a new law on the crime of torture**

67. The need to establish a new approach to combating torture imposed a break with the practices of the former regime. This will take the form of abolishing the provision relating to torture, which was frequently criticized for its shortcomings, and replacing it with a new provision containing a definition of torture wholly consistent with the international convention of 1948.

68. This essential legal revision was carried out pursuant to statute no. 106/2011 (22 October 2011), relating to amendment of the Penal Code and Code of Criminal Procedure, whereby article 101(bis) of the former stipulates the following definition of torture: Torture shall mean any act producing physical or mental pain or extreme suffering inflicted intentionally upon a person in an effort to obtain from him or a third party information or a confession to an act he committed or an act that he or a third party is suspected of committing. Causing fear or distress to a person or third party to obtain the above shall be considered torture. Inflicting pain or suffering or causing fear or distress motivated for any reason by racial discrimination shall fall within the scope of torture. It shall be considered torture if a civil servant or equivalent orders, incites, consents to or is silent about torture in the course of or in connection with the performance of his job.

69. The new law brought about essential changes to the crime of torture, consisting basically of the following points:

- More severe penalties for torturing children, with the penalty raised from eight to 10 years imprisonment and raised to 16 years, if the torture resulted in the amputation or fracture of a limb or permanent disability;
- Extension of the period of statutory limitation from 10 to 15 years (consideration is being given to making torture a crime to which no statutory limitation shall apply) and adoption of a special system of statutory limitation, if the victim is a child, by suspending the period of limitation calculated from the date of reaching the age of majority.

### **2. Recognising the invalidity of confession extracted under torture**

70. Tunisian law contains no explicit provision regarding the legal position of confessions extracted under torture. This represents a legislative void that damages the credibility of the legal system's fight against torture.

71. Statute no. 106/2011 (22 October 2011) fills this void by adding paragraph 2 to article 155 of the Code of Criminal Procedure, to read explicitly as follows: Statements or confessions of suspects or statements of witnesses shall be invalid if it is proven that they made as a result of torture or coercion.

72. Tunisian legislation has been brought into line with the recommendations of international bodies and organizations calling on Tunisia to adopt legislation invalidating statements extracted under torture. Furthermore, it provides judges with a legal basis to invalidate confessions and statements extracted illegally.

### **3. The prohibition on handing over criminals if there is a threat of torture**

73. The prohibition on handing over criminals if there is a threat of torture is an essential addition to statute no. 106/2011 (22 October 2011). A third paragraph has been added to article 313 of the Code of Criminal Procedure stipulating this prohibition, if it feared that the person will be subjected to torture.

## **2. Prisoners' rights**

74. Respect for human dignity limits the penalties involving deprivation of liberty, which ought to remain exceptional. In the desire to establish this principle, law no. 68/2009 (12 August 2009) was promulgated, relating to establishing the penalty of criminal compensation and developing alternatives to prison. The law stipulates the following:

- Affirmation of the penalty of criminal compensation in Tunisian law, enabling a judge to replace imprisonment with financial compensation to be paid by the convicted person to the victim;
- Expansion of the scope of application of the community service penalty, enabling a judge, in the case of misdemeanours, to replace imprisonment with community service;
- A prohibition on stating community service and criminal compensation penalties on the criminal record of the concerned individual.

75. Particular care is accorded prisoners by providing the necessary conditions to protect them and preserve their dignity. In this context, work has gone into improving conditions of detention in accordance with internationally accepted criteria. The most important measures taken since 2008 have been to address the phenomenon of prison overcrowding, foster the oversight of prison institutions and improve conditions of detention for pregnant women and nursing mothers.

### **1. Addressing the phenomenon of prison overcrowding**

76. The period from 2008 to 2011 saw a significant increase in the absorption capacity of prison units due to expansion work, the renewal and renovation of 12 prison units and the construction of one new unit, in use since 2009. These efforts were designed to reduce pressure on prison capacity and improve conditions of detention, affirming respect for the human dignity of prisoners.

77. Further improvement in the situation of prisons and detention centres continues to be linked to the material circumstances of the Tunisian State.

### **2. Fostering oversight of prison institutions**

78. Wishing to foster the independent oversight of prison institutions, it was decided after the revolution to allow international governmental bodies and national and international NGOs to carry out inspection visits to all Tunisian prisons, without exception. The Tunisian League for the Defence of Human Rights, Human Rights Watch, World Organisation against Torture and OHCHR were thus able to make inspection visits to prisons. It is worth pointing out that this oversight contributes to fostering the periodic oversight carried out by the sentencing judge, CSDHLF and ICRC.

### **3. Improving conditions of detention**

79. Anxious to guarantee special protection for pregnant women and nursing mothers in prison, the legislature promulgated law 58/2008 (4 August 2008),

relating to pregnant women and nursing mothers in prison, which stipulates the following measures:

- Pregnant women and nursing mothers in prison are to be consigned to a special place with medical, psychological and social care for mother and child available;
- The space allocated to imprisoned pregnant women and nursing mothers is to be guarded by female guards in civilian clothes;
- During their imprisonment, mothers shall be accompanied by their children up to the age of one year; the same shall apply to children born in prison. This period may be extended for not more than a further year by decision of the family judge, taking the child's best interests into account.

### **3. Promoting freedom of expression and the right to form parties and associations, and fostering the role of civil society**

80. The Universal Periodic Review Working Group recommended that Tunisia:

- Promote freedom of expression and assembly in particular, by reviewing article 51 of the Press Code;
- Facilitate the registration of civil society organizations, associations and political parties.

#### **(a) Promotion of freedom of expression**

81 Pursuant to ordinance no. 161/2011 (3 February 2011), the Ministry of Communication, which had been a propaganda tool, embodying political control of the media in all its forms, was dissolved.

82. The National Independent Committee for Media and Communication Reform (INRIC) was established pursuant to statute no. 10/2011 (2 March 2011) as an independent body charged with proposing the measures needed for reform of the media and communication sector.

83. The discussions, deliberations and consultations which permeated the work of INRIC and which took place in close collaboration with bodies representing journalists and several other professions in the media sector, as well as the High Commission for the Realization of Revolutionary Goals, Political Reforms and Democratic Transition, enabled the formulation of the text of statute no. 115/2011 (2 November 2011), relating to freedom of the press, printing and publishing. This statute, which is consistent with the relevant international standards, repealed the criminalization of criticism of public institutions and the President of the Republic.

84. In this connection, statute no. 116/2011 (2 November 2011) was promulgated, relating to freedom of audio-visual communication and creating an independent higher authority for audiovisual communication.

85. INRIC has endeavoured to establish media plurality and independence by submitting recommendations to the Office of the Prime Minister on 29 June 2011 in support of licences for five new television stations and 12 radio stations, including 8 regional ones, to allow a plural and diverse media scene to be offered. INRIC submitted 14 urgent recommendations to the Prime Minister in December 2011, in anticipation of the completion of its final report.

86. All forms of censorship have been lifted since the revolution, including the censorship persistently imposed on the internet, translating an irreversible political choice in favour of respecting all forms of expression and acknowledging the place and role of modern technology in the Tunisian revolution.

**(b) Promoting the right to form political parties**

87. Statute no. 87/2011 (24 September 2011), relating to the regulation of political parties, has replaced the old legislation. This statute seeks to promote political life by providing an effective guarantee of the right to form parties and establish political plurality. It bans the resort to violence and incitement to hatred. Furthermore, it simplifies the conditions for forming political parties, charging the Office of the Prime Minister rather than the Ministry of Interior with receiving applications and deciding thereon.

88. Since the first days of the revolution, the State has pledged to ensure the complete neutrality of the administration toward political parties, thus ending the control of the ruling party over administrative bodies.

89. It is said that more than 100 political parties were established compared with 166 applications rejected for failing to meet the necessary legal conditions. The administrative court heard nine cases seeking the overturning of decisions to reject the formation of a party, accepting four.

**(c) Promoting the right to form associations**

90. Statute no. 88/2011 (24 September 2011), relating to the regulation of associations, replaced the old legislation, thereby forming an appropriate legal framework for exercising the freedom to associate and making a decisive break with the former regime by removing all the powers of the Ministry of Interior to found associations and appoint the Government Secretary-General, as the competent body in this respect.

91. Several formerly banned associations have been able to obtain legal licenses. These include the International Association for the Support of Political Prisoners, the National Council for Freedom in Tunisia, the Tunisian Association against Torture and the Freedom and Justice Association.

92. After the revolution, more than 1,300 associations were created, including 13 devoted to the defence of human rights, including the Tunisian League for Citizenship, the Tunisian Center for Freedom of the Press, the Tunisian Association for the Development of Human Rights and the International Community for Human Rights.

**(d) Fostering the role of civil society**

93. All the obstacles and restrictions which hindered the activity of associations under the former regime, have been removed. These associations include the Tunisian League for the Defence of Human Rights, the Associations of Tunisian Judges and the National Union of Tunisian Journalists.

94. Similarly, all the restrictions which impeded the work of international NGOs have been lifted, enabling them to pursue the tasks of ensuring human rights and public freedoms and supporting the efforts of national organizations. This has enabled the Arab Institute Human Rights to support its presence in Tunisia and

Reporters without Borders, Médecins Sans Frontières, the Euro-Mediterranean Human Rights Network and Human Rights Watch to set up in the country.

## **2. Economic, social and cultural rights**

95. The report of the Universal Periodic Review Working Group commended Tunisia's efforts in the field of economic, social and cultural rights and in its recommendations called for these efforts to continue.

96. Tunisia has reached a relatively advanced level in promoting human capital, particularly in relation to education, health and improved living conditions. It has achieved this by virtue of national efforts designed to promote human resources and by adopting the principle of linking the economic and social dimensions in its development strategies.

97. The Tunisian revolution revealed that the achievements do not embrace the entire population and all regions. Disparities basically concern employment, development, living conditions and the employment position of women.

### **1. Fostering trades union freedom**

98. The Tunisian trades union movement has seen:

- The establishment of union pluralism by the creation of new unions (the Tunisian Workers Union and the General Confederation of Tunisian Labour), in addition to the historical union organization in the form of the Tunisian General Labour Union (UGTT);
- The recognition of the right of unions to have previously banned affiliations, including the internal security forces (statute no. 42/2011 (25 May 2011), amending and supplementing the general basic system of the internal security forces).

### **2. The right to suitable employment and the fight against unemployment and poverty**

99. The social aspect of the State plan is evident in the ensuring of workers' rights by the abolition of subcontracting in the public sector. In April 2011, an agreement was concluded between the Government and UGTT that provides for the incorporation of directly contracted workers into public administration and public businesses by the gradual appointment of agricultural workers and permanent appointment of casual, contract and temporary staff. A number of other measures were taken to ensure the right to suitable employment and the right to enjoy fair and appropriate terms of employment in accordance with articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights.

100. Other social measures have been taken to achieve social justice and resist poverty, marginalization and exclusion. These measures include:

- Creating new areas of employment in the public sector and private businesses and with national associations and organizations;
- Developing the spirit of initiative, offering incentives to small businesses and providing input from entrepreneurs, supporting companies that are experiencing economic difficulties and giving effective assistance to job seekers by enhancing their employability;



- Minimum wages and relocation allowance;
- Negotiations in the public and private sectors have led to wage increases;
- Boosting the assistance provided to needy families to cover all families living below the poverty line, increasing the number of beneficiaries and including objectivity and transparency in the procedures for granting fixed assistance, small loans and home improvement grants. This has resulted in an increase of families benefiting from fixed assistance in 2011 from 50,000 to 185,000. The number of families registered as benefiting from free medical treatment rose from 25,000 to 195,000.

### **3. Development of deprived regions**

101. The following indicators show the scale of the economic and social disparities between regions:

- The unemployment rate is more than 18% in interior regions and 9% in coastal regions; the national average is 13%.
- The unemployment rate among holders of higher certificates is between 3.31% and 7.47% in 10 governorates from the south, north west and centre west; the national average is 3.23%.
- The level of chronic poverty is 8.12% in the centre west, compared with a national average of 8.3%.
- The density of physicians is extremely uneven, ranging from one per 1,420 population in the south west to one per 2,204 population in the centre west, with a national average of one per 800 population.

102. The Government has made a start on regional development by revising the 2011 budget law to grant regional authorities credits from the state budget with a view to making exceptional efforts to develop deprived regions, particularly by boosting infrastructure such as roads, electric lighting and clean drinking water, and by bringing essential services, such as education and health, close to citizens. The budget registered an increase of 11%. Some 80% of the credits were allocated to interior regions and 20% to coastal areas.

103. In support of these efforts, the 2012 budget law provided for the creation of regional development advisory committees in each governorate with the aim of giving the regions a greater share of development. These committees are formed from all actors: the regional council, private sector, governorate deputies in the NCA, civil sector, unions etc.

### **4. Ensuring academic freedoms and the independence of institutions of higher learning**

104. Within the framework of effective guarantees for academic freedoms and the independence of institutions of higher learning and scientific research, law no. 19/2008 (25 February 2008), relating to higher education, was amended pursuant to statute no. 31/2011 (26 April 2011) to establish the principle of voting by academics in all higher education bodies.

105. On 20 January 2011, the cabinet resolved to take the measures needed to ensure respect for the sanctity of university institutions by abolishing the so-called campus police.

### **3. The rights of women, children and the disabled**

#### **1. The rights of women**

106. The concluding observations of the Committee on the Elimination of Discrimination against Women, adopted on 22 October 2010 after studying Tunisia's fifth and sixth periodic reports, state the following: "While noting that article 6 of the Constitution of the State party provides for equality before the law, the Committee regrets that the Constitution does not embody the principle of equality between women and men nor contain a definition of discrimination against women in accordance with article 1 of the Convention."

107. First indications of consensus between most of the political parties, including those charged with running affairs of State, reveal the intention to embody the principle of gender equality in the text of the constitution itself and affirm Tunisia's commitments to the gains it has made in this area.

108. Tunisia, while considered to be a relatively advanced country in the sphere of human rights, has broken new ground in this regard.

109. Pursuant to statute no. 103/2011 (24 October 2011), Tunisia resolved to agree to withdraw the reservations to CEDAW, in order to strengthen gender equality further.

110. Pursuant to law no. 55/2010 (1 December 2010), amending certain provisions of the Tunisian Nationality Act, Tunisia lifted all forms of discrimination between mother and father in respect of granting Tunisian nationality to children, thus enabling a Tunisian mother to pass on her nationality to her children, the same as a father.

111. In its above-mentioned concluding observations, the Committee on the Elimination of Discrimination against Women recommended that Tunisia "pursue sustained policies aimed at the promotion of the full and equal participation of women in decision-making in all areas of public, political and professional life."

112. As regards this issue, the report affirms adoption of the principle of equal participation of both sexes in the electoral law during the recent elections for the NCA. Candidates were required to submit lists based on the principle of gender equality in each electoral list, with candidates arranged on the list on the basis of alternating female and male (statute no. 35/2011 (10 May 2011), relating to the election of the NCA). Out of 219 members, 49 women (6.22%) were elected to membership of the NCA.

113. The Tunisian State is working in collaboration with elements of civil society to eradicate the phenomenon of violence against women. In this context, listening units have been established, charged with listening to battered women and offering guidance. Work remains to be done on developing provisions and mechanisms to ensure further protection for women from violence.

#### **2. The rights of the child**

114. In its concluding observations adopted on 11 June 2010 after reviewing Tunisia's third periodic report, the Committee on the Rights of the Child expressed its satisfaction with the measures taken to implement the rights contained in the convention.

115. In the same context, the committee stated that it was occupied with several issues, chief among them being recommendations designed to strengthen the legal framework and policies to promote and protect the rights of the child.

116. The ministries concerned with assisting specialist NGOs and other elements of civil society are endeavouring to take steps to formulate the appropriate mechanisms to enable legislation and policies to protect children in all spheres to be developed and fostered.

117. The Tunisian State is working to incorporate the system of human rights and culture of non-violence within education programmes at primary, preparatory and secondary levels.

118. Furthermore, the State is endeavouring to carry out a thorough reform of the education sector to bring it up to international standard in terms of legal provisions and material resources.

### **3. The rights of the disabled**

119. The Tunisian State is endeavouring to develop further the legal provisions to eliminate all forms of discrimination against the disabled and integrate them fully within society.

120. Furthermore, the State is working to develop education programmes to change ways of thinking and bring the disabled up to the level of the able-bodied by giving them opportunities to develop their capacities.

121. Efforts will be made to achieve greater integration between public and private sector bodies to provide the resources needed to improve the situation of the disabled.

## **D. Recommendations by civil society actors**

122. Organizations and associations active in civil society have submitted numerous recommendations, of which the most important are:

- Formulate a constitution guaranteeing respect for human rights, the supremacy of international law over domestic law and providing for the creation of a constitutional court;
- Reform the security agencies responsible for enforcing the law and establish clear rules regarding the use of force;
- Create a national mechanism to prevent torture and other types of abuse, with the stipulation that no statutory limitation shall apply to the crime of torture;
- Upgrade the prison system in line with international standards;
- Ensure the independence of the judiciary from the executive authority and revise the basic law regulating the judicial system in line with international standards;
- End the trial of civilians by military courts;
- Ensure the independent and neutral investigation of human rights abuses committed in the era of the former regime;

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights;
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- Support all regions, particularly remote and border regions, with basic infrastructure, such as roads, clean drinking water, electric lighting, housing and by bringing essential services, such as education and health, close to citizens;
- Support positive discrimination in favour of persons with special needs, the poorest sections of society, the elderly and rural and divorced women in the economic, social and health spheres;
- Affirm the right to work in the constitution and institute unemployment benefit for those out of work;
- Encourage the creation of social service associations and establish funds to care for street children and adolescents;
- Oppose the economic exploitation of children;
- Create university hospitals in the interior regions, staffed with specialist physicians and equipped with modern equipment;
- Create a higher council for education and scientific research to ensure the neutrality of education and its independence from political inducements and carry out a thorough educational reform to bring the education sector up to global standards;
- Affirm the principle of gender equality and fairness in all spheres and create mechanisms in the constitution to ensure that women share political and social responsibility;
- Guarantee freedom of expression, creativity and academic freedoms;
- Introduce digital services and facilitate access thereto for all groups, particularly disabled persons.

#### **E. Challenges and difficulties**

123. Today, the Tunisian authorities are determined to move forward with the promotion and protection of human rights and basic freedoms. Within the context of the democratic tide which the country is experiencing and the hopes arising from the Tunisian revolution, the authorities are called upon to overcome the challenges and surmount the obstacles which stand in the way, especially political, economic, cultural and social obstacles.

124. The absence of an effective benchmark and lack of democratic experience and practice in the country have had an impact on the process of spreading the culture of democracy. There is no doubt that Tunisian society is moving toward peaceful coexistence between the various elements of the political spectrum that has emerged as the society advances along the path of liberation. Successive transitional governments have been committed to achieving the goals of the revolution and sought to make their platforms and programmes consistent with the legitimate expectations and aspirations of the various sections of Tunisian society. However,

given that urgent matters generally have priority over important ones, these governments had little choice but to manage business, which has not allowed the required level of trust to develop between citizens and politicians.

125. The free, transparent and impartial nature of the elections for the NCA held on 23 October 2011 enabled the Tunisian Government to work with the consent of the popular will.

126. Freedom of thought, expression and peaceful demonstration are among the most prominent challenges which the Tunisian Government is determined to overcome during the transition phase.

127. Given that the country is in a recession caused by internal and external factors, these challenges have economic dimensions. The indicators of growth have been affected by declining rates of investment, reduced revenues from tourism and increased social spending by the State. Regional political, economic and financial perils have increased the severity of the challenges. Fighting unemployment, overcoming social disparities and addressing the development imbalance between the coast and the interior and border regions are national priorities.

128. There are still signs of the practices inherited from the former regime and the judiciary and transitional justice must complement one another in opposing escape from punishment, ensuring due compensation and giving priority to frank admission before Tunisians can be reconciled with each other, their institutions and their past.

129. Civil society has a fundamental role to play in this regard. Its ability to regain its place after suffering under a dictatorial regime will allow it to achieve the desired integration with Government activity without fearing a return to interference in its work.

130. The political forces are expected to seek to boost the country's economy, ensuring reciprocal development to enable the creation of jobs and reduce regional and social disparities, not to mention rebuilding confidence between citizens and politicians, working for the success of the process of democratic transition, promoting and protecting human rights and basic freedoms and consolidating the culture of citizenship.

131. Tunisia is working strenuously to recover plundered wealth by doing what is necessary at bilateral and multilateral level. In this context, it should be stated that, in report A/HRC/17/23, the Human Rights Council stressed the negative impact on the enjoyment of human rights, especially economic, social and cultural rights of failing to restore funds derived from unlawful sources to their country of origin.

132. Today, Tunisia is marching along the path of democracy, under the banner of making a clean break with the past and building upon its achievements. The new Tunisia, liberated from the baggage of dictatorship, today faces profound challenges that pose essential questions. From the experience of other peoples, we can conclude that the difficulties we face need not be alarming, for history teaches us that economic and social difficulties typically accompany any democratic transformation. It also teaches us that cooperation and solidarity with partners is extremely important to achieve the desired goals of economic and social development and to build democracy.