



ATLAS COUNCIL

Redefining Disability

October 2010

To CRPD COUNTRY REPORT

TUNISIA

Independent information for the 4th session

Of the COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

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TUNISIA

Initial State Party report (CRPD/C/TUN/1)

Submitted on 1 July 2010

A. BASIC COUNTRY INFORMATION¹

Government type: Republic

Independence (from France): 20 March 1956

Constitution: June 1959; amended 1988, 2002

Population: July 2010 estimate: 10,486,339

Age structure: 2010 estimate: 0-14 years: 22.7% (male 1,227,238/female 1,149,796)

15-64 years: 70.1% (male 3,701,661/female 3,652,322)

65 years and over: 7.2% (male 352,003/female 403,319)

¹See Core Document forming part of the Reports of the States Parties (HRI/Core/1/ Add.46, 8 June 1994); US Department of State, Human Rights Reports Tunisia; World Fact Book, Tunisia.

Ethnicities: 98% Arab, 1% European, 1% Jewish and other

Religion: 98% Muslim, 1% Christian, 1% Jewish and other

Executive branch: Chief of State: President Zine el Abidine Ben ALI (since 7 November 1987)

Head of government: Prime Minister Mohamed GHANNOUCHI (since 17 November 1999)

Cabinet: Council of Ministers appointed by the President

Parliament:

Bicameral system which consists of:

a) The Chamber of Advisors (126 seats; 85 members elected by municipal counselors, deputies, mayors, and professional associations and trade unions; 41 members are presidential appointees; members serve six-year terms);

b) and the Chamber of Deputies or Majlis al-Nuwaab (214 seats; members elected by popular vote to serve five-year terms

Elections: President elected by popular vote for a five-year term (no term limits), election last held on 25 October 2009 (next to be held in October 2014); prime minister appointed by the President.

Suffrage:

8 years of age; **universal except for** active government security forces (including the police and the military), **people with mental disabilities**, people who have served more than three months in prison (criminal cases only), and people given a suspended sentence of more than six months.

GDP, 2009: \$86.35 billion

GDP, annual growth rate (2009): 0, 3%

GDP per capita, 2009: \$8,200 (2009 est.)

Major industries:	petroleum, mining (especially phosphate and iron ore), tourism, textiles, footwear, food and beverages
Employment (2.65 million):	49.8% (2009 est.) services, 31.9% industry, 18.3% agriculture
Unemployment rate, 2009:	14.7%
Annual population growth rate, 2010:	0.98%
Infant mortality rate, 2010:	22.57 deaths per 1,000 live births
Life expectancy at birth (2010):	<i>male: 74 years</i> <i>female: 77.7 years</i>
Maternal mortality rate:	170 per 100,000 live births
Literacy rate (2004 census):	<i>male: 83.4%</i> <i>female: 65.3%</i>

B. STATUS OF PERSONS WITH DISABILITIES IN TUNISIA PER CRPD CONVENTION

I. Critical Issues

Article 1 (Definition of persons with disabilities)

Does not match with the Convention definition

Only persons with long term forms of disability (incorporates the medical model definition)

The definition does not sufficiently match the Convention definition and makes emphasis on the impairments of the persons, rather than on the environmental and attitudinal barriers

Article 5 (Equality and Non-discrimination)

Prevalence of discrimination practices towards persons with disabilities (in particular against children with disabilities)

According to the recent CRC concluding observations (June 2010) the Committee noted with concern that the principle of non-discrimination declared in the national legislation, in practice did not find sufficient implementation in the available legal framework with regard to certain categories of children, in particular *children with disabilities*. It requested the state party to proceed to a careful scrutiny of its policies and its reorientation by raising the budgetary allocations to combat discrimination towards vulnerable groups in particular children with disabilities (CRC Concluding observations docCRC/C/TUN/CO/3,16 June 2010, para. 21). This recommendation repeats the same made in 2002 (docCRC/C/15/Add.181, paras. 22, 23 a)

Article 12 (Legal capacity)

Restrictive concept of legal capacity in practice

While declaring its adherence to a full concept of legal capacity, Tunisia's national practice amounts more to a restrictive concept. This narrow definition of legal capacity of persons with disabilities (PWD), usually includes the ability "to acquire the capacity to act", but not the ability "to practice the capacity to act".²

This position which is contrary to article 12 of the Convention has negative implications in particular for persons with mental forms of disabilities. On the basis of this restrictive concept persons with mental forms of disabilities in Tunisia are automatically deprived by law of their right to vote in elections. They are also deprived of the right to marry and found a family without the consent of a tutor.

While certain states parties (6 expressly³) have made a number of reservations or declarations to safeguard the so called exceptional cases, the states majority ratified the Convention with no such interpretative declarations. This only confirms that the true interpretation in light of the ordinary meaning of the words, the object and purpose and the *travaux préparatoires*, should indicate states had no intention to make any exception from the general rule that everyone's legal capacity encompasses both the ability to acquire a legal capacity to act and the ability to practice that legal capacity to act. The rule therefore applies to all adult persons with disabilities in the same way that this applies to all other adult members of the society.

Moreover, paragraph 3 of article 12 requires that *all measures that relate to the exercise* of legal capacity should provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. This obviously should include prohibition of inhuman and degrading treatment. It is clear that measures that relate to the exercise of legal capacity cannot involve measures that nullify the exercise of legal capacity. I.e. it cannot include substitute-decision making. Moreover, the Convention itself refers that in the exercise of their legal capacity persons with disabilities should ***be provided with the support*** they might need.

The term substitution is never mentioned in the text of the convention. Moreover it is clear that the reference to "in accordance with international human rights" should be intended to prevent and put a bound on the scope of the measures that can be taken to support the exercise of legal capacity. It is Atals understanding that if the measure, no matter how it is termed, amounts to a *degrading treatment* either for the person or for those around him, or both, it should be considered contrary to international law and therefore not applicable.

²This position found expression in the Letter dated 5 December 2006 from the Permanent Representative of Iraq to the United Nations (in his capacity as the Chairman of the Arab Group (21 countries including Tunisia) for the month of December 2006) addressed to the Chairman of the ad hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The Letter contained the position of the Arab Group with regard to the interpretation of Article 12 of the Convention. See <http://www.un.org/esa/socdev/enable/rights/ahclet5deciraqc1.doc>

³These states are: Australia, Canada, Egypt, Mexico, Syria, UK

Article 14 (deinstitutionalization)

Prevalence of the practice of institutionalization of PWD

The state party recognizes that institutionalization of persons with disabilities is still a recurrent practice despite all the efforts to develop policies of deinstitutionalization.

Article 19 (independent living in the community)

Absence of social services enabling life in the community

A corollary of the obligation incumbent on states parties to deinstitutionalize persons with disabilities (PWD) is the obligation to provide reasonable accommodations to enable life in the community of persons with disabilities.

The report shows that despite the many efforts of the state party, a lot remains to be done, and the state is aware of.

Article 24 (Education)

The prevalence and high rate of special education system institutions

According to the recent concluding observations of the CRC (June 2010), despite efforts conducted with a view to general school integration of children with disabilities, the Committee remained concerned at the slow path of the implementation of the national plan of general school integration of children with disabilities, with regard to its own established benchmarks, and urged the state party to allocate sufficient budgetary and human resources for the accomplishment of the objective of full integration of children in the general education system.⁴

The state party itself recognizes that it is still far away from achieving the objectives that it set to itself to provide for full integrated schools for every child with disability by the year 2015.

Article 27 (Work and Employment)

Prevalent Lack of equal opportunities for PWD in employment

Despite efforts to change the situation for the better, the state party is aware that full employment of persons with disabilities a long term objective

Article 28 (Political and Public life)

No right to vote for persons with mental disabilities

Persons with mental forms of disability remain denied a right to vote in equal terms with other not even when they are under tutorship. The State party is advised to revise its national legislation to conform it with the Convention articles 12 and 28.

⁴ (CRC Concluding observations docCRC/C/TUN/CO/3 ,para. 49, 50).

II. General issues regarding reporting to the CRPD Committee

The committee requests states parties preparing their reports to meet certain goals

1. State parties should use the opportunity of report drafting to conduct a comprehensive review of the measures undertaken to harmonize national law and policy with the Convention

The contents of the report show generally that the state party has followed this recommendation and indeed it provides a general overview of all such measures.

The report enumerates a number of measures the state party has undertaken (most of which before the adoption of the convention), but the report fails to provide in a consistent way the measures the state has undertaken to harmonize the existing national law with the convention.

One example is the article 12 of the Convention. Another example is article 28 of the Convention.

By assuming that its legislation already meets the requirements of the new Convention, the state party has no incentive to amend it. The approach taken is therefore not helpful because it tends to convince the government and the society that there is no longer a need to change anything in the national legislation, and policy approach to disability issues, and this is not the case.

This course of action hampers progress in the realization of the objectives of the Convention.

The State party should be encouraged to proceed to harmonize more fully its national legislation with the Convention. It should also be encouraged to proceed with efforts to adopt a specific plan of action by confronting existing legislation, policies and plans with the requirements of the Convention, and accordingly develop a strategy for its implementation with clear benchmarks timelines and funding

2. State parties should use the opportunity to monitor progress in achieving the goals of the Convention in the context of the promotion of human rights in general

The report does not contain a general evaluation of progress made in promoting the enjoyment of the rights, and accordingly of that what still remains to be done. Rather it gives an overview of that what the state has done for persons with disabilities since the 90s, but the report seems to fail to connect those efforts with the Convention goals. In particular it provides little comparative statistics about trends and needs in achieving the main goal set out in the convention which is the full enjoyment of the rights of persons with disabilities in equal footing with others.

The state party should be encouraged to provide in future reports detailed disaggregated statistics with benchmarks, and trends, in achieving the goals of the Convention

3. States parties should use the opportunity to identify problems and shortcomings in their approach to the implementation of the Convention

The report does not clearly identify the problems or shortcomings the state has encountered in implementing the convention.

The State party is encouraged to provide in future periodic reports detailed information about problems and shortcomings encountered by the State party. This will enable the Committee to propose a course of action that can better assist in the implementation of the convention including with recourse to international cooperation

4. States parties should plan and develop appropriate policies to achieve the goals of the Convention

The report indicates that the following 4 plans were adopted (para. 29 of the report):

- 1) A National plan of prevention of disabilities (2007)
- 2) A National plan of requalification of the environment (physical and communication) (2008)
- 3) A National plan of school integration of persons with disabilities (2003)
- 4) Special program for the employment of persons with disabilities (2005)

The state party is praised for designing these sectorial plans and is encouraged to provide additional information to the Committee about the policies adopted to support the successful realization of these plans

5. States parties should encourage and facilitate the involvement of NGOs including DPOs in the preparation of the report, and explain the procedure used to consult with civil society and the measures taken to ensure that this process was fully accessible.

The report states that the following organizations were consulted in the process of drafting the report: a) the Basma association for the promotion of the employment of persons with disabilities; b) The Tunisian national blind persons union; c) the Tunisian Union of support to persons with mental disabilities; d) the association of support to persons with physical disabilities; e) the Tunisian mothers' organization; f) the association of support to persons with serious forms of disabilities; g) the Tunisian league of the sports for persons with disabilities; h) the Tunisian association of parents and friends of persons with disabilities; i) the Tunisian association of assistance to deaf persons; j) the Tunisian association of deaf-dumb.

The state party is praised for this active engagement of the civil society. The state party is encouraged to provide further detailed information to the Committee on how the NGOs did participate in the report preparation

6. States parties must recognize and respect the diversity of persons with disabilities and ensure that their report is not generalized, but specific to different types of disability. The report should provide statistical data on the realization of each Convention right, disaggregated by sex, age, type of disability (physical, sensory, intellectual and mental), ethnic origin, urban/rural population and other relevant categories, on an annual comparative basis over the past four years

While we are pleased to see in the report a number of tables with statistical information. The information given does not unfortunately data all the different types of disabilities. Nor is there a consistent impact assessment of the measures taken not in general by ofr each of the single groups of persons with disabilities by types of disabilities.

For example when the report talks about education it does not refer to the impact of the integration measures for blind, deaf, mentally disabled children, rather that there is just a number of measures without an evaluation of its impact for the beneficiaries. This diminish the impact of the information provided to the detriment of the state itself.

The state party should be encouraged to provide disaggregated data and information with regard to the impact of the measures, plans, policies and programs for different groups of persons with disabilities, including children and women.

7. The report should indicate whether the state party has adopted policies, strategies and a national legal framework for the implementation of each Convention right, identifying the resources available for that purpose and the most cost-effective ways of using such resources

The state party should be praised for adopting the 2005 framework law on the promotion, and protection of persons with disabilities. The framework law is global enough to include activities to prevent disability, protect persons with disabilities and integrate them in all aspects.

As a framework convention it is intended to establish a framework under which policies, plans, programs and mechanisms adopted by the state can be implemented in the area of promotion and protection of the rights of persons with disabilities.

While the state party should be praised for adopting 4 sectorial plans of implementation of the framework law, it should be noted that the plans do not cover let alone all of the areas subject of regulation under the Convention.

The state party should be encouraged to give a short and long term perspective and agenda for the implementation of each of the Convention rights.

8. The report of the state parties should not merely list or describe the legislation adopted by the State Party. It should contain specific information relating to the implementation, in law and in fact of articles 1 to 33 of the Convention, taking into account analytical information on recent developments in law and practice affecting the full realization of the rights recognized in the Convention by all persons, with all forms of disabilities within the territory or jurisdiction of the State Party.

The report provides an enormous amount of quotations from existing legislation, in particular the different provisions of the 2005 framework law. Unfortunately, however, there is little (with some exceptions) added information on its real impact in practice. The state party itself recognises that the framework law would require additional legislation and implementation strategies.

The state party should be encouraged to provide information now or in future reports on how the state party intends to implement each of the provision of its framework law. The same information should also be provided with regard to any piece of legislation quoted

9. The report should indicate whether the State party has adopted comprehensive disability anti-discrimination legislation to put into effect provisions of the Convention

Apart provisions contained in the general 2005 framework law on disability, other more specific anti-discrimination legislation has been cited as covering the following areas:

- a) (Non-discrimination of children (see legislation cited in para. 13)
- b) Non-discrimination of persons with disabilities in professional education (see legislation cited in para. 14)
- c) Monitoring institutions (see para. 15)

The state party should be encouraged to adopt a comprehensive anti-discrimination legislation building upon the general framework law 2005

10. The report should indicate any mechanisms in place to monitor progress towards the full realization of the Convention rights, including recognition of indicators and related national benchmarks in relation to each Convention right.

Unfortunately the report contains little information about state's mechanisms such as indicators and national benchmarks to measure or monitor progress in the realization of the convention rights. This situation is detrimental to the best interest of the state party to provide a clear picture of progress trends in achieving the goals of the Convention.

The state party is encouraged to establish such mechanisms of measuring progress. This enables anyone to have a better picture of the real achievements of the state party in implementing its own agenda for the promotion of the rights of persons with disabilities.

11. The report should indicate the mechanisms in place to ensure that a State Party's obligations under the Convention are fully integrated in its actions as a member of international organizations

Unfortunately the report contains little information about these mechanisms (see paras. 18 and 232 for some references in this respect). In any event Tunisia would certainly benefit from a more active engagement in international efforts to implement the Convention. In particular Tunisia's participation in efforts within WIPO to adopt a protocol that would easier access of blind persons to copy- righted material would appear to be in the direct interest of the state party, as the adoption of such a protocol would enormously benefit persons with visual impairments in Tunisia.

The state party is encouraged to continue engaged in international efforts to toimplement theConvention

12. The report should testify about the incorporation and direct applicability of each Convention right in the domestic legal order, with reference to specific examples of relevant legal cases

Tunisia has stated before other UN committees, that its constitution provides that provisions of treaties are directly applicable in the national framework. Unfortunately there are not many specific examples of how in practice this provision would work with regard to protecting the rights of persons with disabilities under the Convention. The citation of relevant case laws could have assisted.

It should, nevertheless, be noted that some of the rights under the convention require specific implementation, and relying solely on the convention text would not give the desired result. For example, for the right to education, one cannot rely on the provision of the convention alone to request that a child is accepted at a school. He could actually be accepted, but if the government has not put in place a strategy that involve accessibility of schools, sensitization of children, and teachers, such an experience might become just impossible.

The state party should be encouraged to incorporate the Convention rights in the domestic legal order, not by mere indication that the convention is directly applicable by force of the constitution, rather the state party is encouraged to adopt specific legislation and supporting policies and programs to achieve the full implementation of each of the convention rights

13. The report should indicate the judicial and other appropriate remedies in place enabling victims to obtain redress in the case of violation of their Convention rights

Unfortunately there is little information provided about the real role of judicial organs, with concrete examples in the enforcement of the convention rights. There is information about the appointment of the higher Committee for human rights as the monitoring body under article 33 of the convention. This organ is given in certain cases a right of monitoring institutions for PWD. competence, roles resources to enable them to carry their monitoring work.

The state party should be encouraged to provide a comprehensive information on how the system of remedies for enforcement of the convention rights operates in the national system. In particular it would be in its own interest, to provide more specific information about the competence, roles, resources given to the Committee on Human Rights. It is also in the interests of the state party to provide information about the organs entitled to reviews decisions on restrictions to legal capacity, as another example.

14. The report should indicate any structural or other significant obstacles arising from factors beyond the State Party's control which impede the full realization of the Convention rights, including details of the steps being taken to overcome them

Unfortunately the report does not mention any factors as such that would prevent it from implementing the convention. But it is obvious that the heavy financial burden can be a problem to implement provisions like those requiring progressive realisation. For example, accessibility, the right to education and life in community and etc.

It is in the interests of the state party to provide a frank description of specific problems that it encounters while attempting to implement the convention provisions.

15. The report should include information on the implementation of the disability elements of the Millennium Development Goals and on the outcomes of other relevant United Nations conferences, summits and reviews.

The report provides little additional information useful for the proper evaluation of the good intentions of the state party in implementing the convention. The implementation of many of those other recommendations would meet or at least greatly facilitate the implementation of the convention provisions. This includes measures taken to implement the standard rules of equalization of opportunities for persons with disabilities; the World program of Action for persons with disabilities, the Durban Program of Action against racism on double discrimination, and the millennium development goals on the relationship between poverty and disability.

The state party should be encouraged to provide information with regard to progress in the implementation of these other programs

19. In the report, any reservation to or declaration relating to any article of the Convention by the State Party should be explained and its continued existence clarified.

Tunisia signed the convention on 30 Mar 2007, and ratified it on 2 Apr 2008. The convention entered into force for the state party on 3 May 2008. It is also a party to the optional protocol signed and ratified in the same dates as the Convention.

The state party has not made any specific reservation to any of the provisions of the Convention. However at the time of the adoption of the Convention text by the UN General Assembly, the permanent representative of Iraq speaking in the name of the Arab group of 21 states parties (including Tunisia) made a statement to the effect that these Arab states understood legal capacity under article 12 (para. 2) to mean only the ability to have the capacity, but not the ability to practice that capacity.

It should be in the interest of the state party to clarify its position with regard to article 12 in light of its own legislation.

20. If a State Party is a participant to any of the International Labour Organization (ILO) Conventions listed in appendix 2 of the harmonized guidelines, or to any other relevant conventions of United Nations specialized agencies, and has already submitted reports to the supervisory committee(s) concerned that are relevant to any of the rights recognized in the Convention, it should append the respective parts of those reports rather than repeat the information in the treaty-specific document.

The state party provides no information about its implementation of ILO Conventions.

The state party should be encouraged to provide information with regard to its implementation of relevant ILO conventions, and if necessary append the relevant parts of the reports

21. The report should indicate any provisions of legislation currently in force that the State party considers an obstacle to the implementation of the Optional Protocol, and whether there are plans to review such provisions.

The report provides not such information, which can be interpreted as an indication that no such obstacles exist and that Tunisian nationals could report any violations to the committee as a last resort.

III. Analysis of the report article by article

Articles 1 to 4 of the Convention

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

- a) *The definition of “disability” and “long term” impairment under Tunisian national law*
- b) *The definition of “reasonable accommodation” , and “disproportionate and undue burden”*
- c) *The implementation of the convention principles in particular the principle of promotion of the full realization of the rights*
- d) *Indicating which rights are for immediate implementation and those that could be implemented in a progressive way*

Examination

A. Definition of “persons with disabilities”

Under article 2 of the 2005 framework law on promotion and protection of persons with disabilities, a person with disabilities is “a person who has a long term impairment of his/her abilities and capacities, physical, mental, or sensory (be they from birth or acquired) which limit his/her ability to exercise one or more personal or social basic daily activities and which reduces his/her chances of integration in society” (see para. 22 quotation).

First remark (the definition embodies the medical model)

In this definition emphasis is made on the long term impairments of the person which limit his capacity of integration.

This definition is different from the one in the Convention, which makes emphasis on the environmental and attitudinal barriers.⁵

Under the convention which supports the social model of disability, impairments *per se*, do not hinder a PWD’s ability to exercise such daily activities.

The impairments are relevant and make the persons disabled only when they *interact* with environmental and attitudinal barriers.

If societal barriers (environmental and attitudinal) are removed, these impairments should not make the person disabled. Such a focus on societal barriers in the convention definition clearly directs the state party to the kind of legislative measures and activities that it should be undertaking (i.e. concentrate on removing societal barriers) and not put effort on charity measures.

Second remark (The definition is overly restrictive and does not enclose all possible types of disabilities)

⁵ Compare, under article 1 of the Convention: PWD “include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.

- a) The Tunisian definition restricts the concept to 3 groups of impairments (physical, mental, and sensory), whereas the convention mentions four (physical, mental, sensory and *intellectual*)

This means persons with intellectual forms of disabilities are not in principle considered “PWD” and therefore may not be entitled to the benefits accorded to such persons under the applicable legislation.

- b) The Tunisian definition restricts the concept to persons with “long term impairments”, whereas the convention uses the term “including”, it does not say that these are the only ones.

Through the *travaux préparatoires* it became clear that the group of persons with disabilities includes at least the following additional two groups:

- i) Persons with short term forms of disabilities
- ii) Family members of persons with disabilities

These groups are not referred to in the definition of PWD of Tunisia. This might have implications on the range of benefits to which they are entitled.

Conclusion:

Although the state party affirms that the definition is a mix of medical and social elements (para. 23), unfortunately it might be entirely the case. We also note the number of legislative acts cited in the report that relate to charity and medical support (paras. 11- 15). This is not to say that these are not necessary. Rather that they should be complemented with policies, strategies and programs that contribute to social inclusion of persons with disabilities.

B. The definition of “reasonable accommodation”, and “disproportionate and undue burden”

The report attempts to define these terms by reference to legislative acts “on accessibility of public building and installations and “on accessibility of communications and information tools” (see citations and quotes in paras. 24 to 26).

The Tunisian law adopts a definition of “reasonable accommodation” without limiting it to any specific requirements of “undue burden”, by simply stating that public and private buildings intended to serve the public “should be made accessible to persons with disabilities”. However, the legislation in force appears to indicate that the modifications required only affect buildings and institutions built after 1991. This fact is confirmed by independent sources.⁶ This would imply that the state party thinks conducting changes in buildings before that period would constitute “undue burden”. Whether this is the case or not, the most important and positive is that the law exists and Tunisian PWD can confirm that as it pertains to new buildings this law is progressively being implemented.

The state party should be encouraged to develop the same accessibility policy with regard not only to the new ones, but all buildings open for the public. Since PWD need to enter those buildings as well, there is no reason why the changes should apply only to buildings built after 1991. If changes are to be made they are needed in all buildings. Experience from other countries shows that facilitations can always be made to new and old buildings, and this should be in principle enforced. Needless to say these are measures that the convention itself admits could be implemented progressively.

C. The implementation of the convention principles in particular the principle of promotion of the full realization of the rights

The state party should be praised for taking a number of measures to ensure the full realization of their human rights and freedoms, including the national plans of implementation of the 2005 framework law on disability issues (paras. 27-29).

The state party should be encouraged to proceed with the adoption of measures that will lead to the full implementation of all and each convention right.

D. Rights for immediate implementation versus rights for progressive implementation

The state party does not provide in its legislation, policies and strategies, a distinction between those rights that need immediate implementation and those that not. However, the convention itself in article 4(2), states that social, economic and

⁶ See information provided by US Department of State” Human Rights Report, Tunisia, 2009.

cultural rights could be implemented in a progressive way. This should be done without prejudice to those rights that should be implemented immediately according to international law. To this category fall the civil and political rights.⁷

The state party is encouraged to indicate which convention rights are covered by its plans and strategies in place. It would be in its own best interests its own long term assessment of the prospects for the implementation of those rights for which no such plans were adopted yet.

Article 5 Equality and non-discrimination

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

- a) The real possibility of using existing laws to protect rights;*
- b) Measures to guarantee equal and effective protection including reasonable accommodation; policy and programs and affirmative action to ensure a de facto equality of PWD with other members of the society*

A. The real possibility of using existing law to protect rights

The report relies on the framework law of 2005 as a basis for its proposition that at least in terms of legislation there is an interest of the state party to ensure an equality of chances for all (article 1) (paras. 45, 46).

Based on the 2005 framework law, a number of acts were adopted targeting specifically the issue of discrimination in such areas like education; professional training and employment (paras. 13, 14).

While the state party should be praised for this, unfortunately the absence of information with regard to control, reporting lines and responsibilities for the implementation of these acts, makes uncertain just how effective the anti-discrimination framework functions.

The state party is encouraged to provide for each of the anti-discrimination acts detailed information about existing controlling mechanism that can ensure the real possibility of their use to protect rights as provided under the Convention.

The state party is also encouraged to expand the anti-discrimination legislative framework to cover all areas protected under the Convention

B. Measures to guarantee equal and effective protection including reasonable accommodation; Policy, programs and affirmative action to ensure a de facto equality of PWD with other members of the society

The state party is raised for developing implementation plans for certain areas (education, employment, accessibility). However, the report provides no indications of the progress in achieving the planned goals. Independent sources have indicated that affirmative actions taken in the way of quotas for employment (para. 48) for example are not known or seriously followed up by employing entities.⁸ Absence of follow up measures and control mechanisms seem to diminish the impact of otherwise powerful instruments for changing the situation for better in the state party.

Moreover, the Committee on the Rights of the Child concluded recently in June that discrimination in the education sector continues, and urged the state party to allocate more financial and human resources for the accomplishment of the targeted objective of integration of children with disabilities in the education system.⁹

⁷ See comments on article 29 below.

⁸ See US Department of State, Human Rights Report, 2009, Tunisia.

⁹ CRC Concluding Observations, 16 June 2010, paras.22, 49.50.

The state party is encouraged to provide additional information with regard the measures undertaken to ensure a de facto equality between PWD and other members of the society.

It is also in the state party's best interest of the achieving the goals of its strategies in the area of promotion of the rights of PWD to revise affirmative action plans, to ensure proper control over their execution, and the allocation of appropriate resources (financial and human are allocated), for their implementation.

Article 6 women with disabilities

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

- a) *Recognition of gender inequality of women*
- b) *Parity of rights between women girls and men and boys with PWD (in schools, employments and etc),and between these and other members of the society*

A. Recognition of gender inequality of women

The report states that gender inequality of women was recognised and abolished in law and in practice with the adoption of the code of personal status by abolishing polygamy and other usages such as the use of hijab which put women in inhuman conditions. Further laws were adopted in 1981 and 1993 in favour of equality of sexes. Indeed in this respect the national legislation of Tunisia is considered one of the most progressive in the Arab world.¹⁰

But still as recognised by the CEDAW in its recommendation to the state party, discrimination against women continues in practice an in its effects.¹¹

The State party is encouraged to provide similar statistical data with regard to facts of discrimination against women with disabilities. The state party is encouraged to revise its strategies to combat acts of discrimination against women with disabilities.

B. Parity of rights between women girls and men and boys with PWD (in schools employments and etc), and between these and other members of the society

The report states that efforts are being undertaken to ensure this parity (see paras.54, 57). Specific provisions in the 2005 framework law do speak of the rights specifically of women to education, professional requalification and employment.

In terms of projects the reports states that 20% of beneficiaries of special programs of assistance to develop activities generating revenues were given to women (para. 54).

There is no disaggregated data statistics with regard to education or other areas.

The state party should be encouraged to conduct data collection with regard to the education employment and other areas disaggregated by type and sex of the person with disability.

Article 7. Children with disabilities

¹⁰ See US Department of State, Human Rights Report, 2009, Tunisia.

¹¹ CEDAW Concluding Observations, CEDAW/C/TUN/CO, 14 June 2002.

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Identify the principles guiding decisions on children issues; the ability to express freely their views and have appropriate assistance

A. Identify the principles guiding decisions on children issues

The report relies on the text of the code of protection of the children adopted in 1995 (para.58, 60, 62) which contains a specific provision (article 17) regarding children with disabilities. The provision states that “a child with mental or physical disability has a right in addition to those recognised in general for children, to protection and medical assistance as well as *to a degree of education and training* which consolidates his self-determination and facilitates his active participation in the society life.” (Emphasis added).

To the extent that the law speaks of the children’s entitlement to *a degree of education and training*, it appears discriminatory and against the Convention, as the Convention requires the same type of education that should be accorded to these children as to those who are not disabled and their full integration in society.

It is not a question of giving him *just a degree* of education; it is question of giving him *the same type of education* as others receive. To do so, the society needs to provide accommodations of the educational environment (with accessibility improvements of the schools environment, awareness-raising, training and re-education of the schooling staff and others).

In a social model of disability, measures are tailored to change society behaviour and not the PWD themselves.

The state party is encouraged to provide further information with regard to measures undertaken to give effect to the acts protecting the rights of children persons with disabilities.

B. The ability to express freely their views and have appropriate assistance

The report states that the right of children to expressly freely their views is effectively granted. It is further indicated that the right to education of the child, should be followed by a right to participate and to express freely his opinion (para. 63).

The state party is praised for this approach, however it should be noted that the child’s own views should also be listened in matters concerning his health, conditions of accommodation etc.

Article 8. Awareness-raising

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Work done in the education system and the media to portray a positive image of PWD (change attitudinal behaviour, and bias with regard to PWD); work done with PWD and others to inform about the contents of the Convention

A. Work done in the education system and the media to portray a positive image of PWD (to change attitudinal behaviour, and bias with regard to PWD)

In order to portray a positive view of PWD the report states that the following measures were adopted (paras. 65-69):

a) A new law on the reform of the education system was adopted in 2008. Under this law school manuals were revised to include human rights education in the curriculum

b) Inclusion of specific modules on PWD in the school program and thesis topics for universities

A number of media dissemination programs were developed. Including at least 20 daily programs at national and regional level intended to portray a positive view of PWD

In addition an unspecified number of seminars were organized (concerning integration of PWD)

The state party is encouraged to proceed with dissemination of positive information about persons with disabilities.

B. Work done with PWD and others to inform about the contents of the Convention

With regard to dissemination of information about the convention and the rights therein contained, the reports mentions that it has planned the realization of 24 regional seminars for the second semester of 2010, and that it has produced a number of booklets on the issue and published a collection of relevant legislative texts on the promotion and protection of the rights of persons with disabilities both in Arabic and French.

The state party is recommended to disseminate this material widely to the extent possible to all 150000 PWD living in Tunisia.

The state party is also encouraged to disseminate information about the existing remedies that PWD could address in case of violation of their convention rights.

Article 9 - Accessibility

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures (legislative and others) for access to the environment (physical (built in, transport), information, communications, social (facility and services provided to the public); accessibility standards, control, and sanctions for non-compliance

A. Measures (legislative and others) for access to the environment (physical (built in, transport), information, communications, social (facility and services provided to the public)

The state party has adopted a number of acts, some of which before the adoption of the convention aimed at facilitating the accessibility of the built in environment (paras. 75-78).

These acts include:

- i) The 1981 law on the promotion and protection of persons with disabilities. Under article 23 of this law, “civil buildings open to the public must be accessible and adapted for the use of persons with disabilities”.
- ii) The 1991 decree requiring under article 7 compliance of building projects with technical standards of accessibility for PWD.
- iii) The 1991 decision of the ministry of equipment with regard to technical norms to facilitate the movement of PWD in the interior of buildings, lifts, stairs, parking, toilets, telephones, signalizations and facilitation of the use of equipment.
- iv) The 1994 law on physical education and the sports which obliges sport clubs to create conditions for the sport activities of PWD

These acts were complemented by the adoption of the relevant national plan of requalification of the public environment was developed in 2007 and its execution started in 2008 (para. 80). Based on this plan work has been ongoing to make accessible all public spaces including buildings and installations constructed from 1991.

The state party is encouraged to proceed with the realization of its accessibility plan including by providing adequate resource funding. The state party is encouraged to provide additional information, with regard to the scope, objectives, and phases of implementation.

B. Accessibility standards, control, and sanctions for non-compliance

Accessibility standards were comprehensively developed in the 2006 decree regarding technical norms of accessibility and the 2006 decree with regard to adaptation of means of communication and information, and the facilitation of the transport of PWD (see 79).

The state party is encouraged to provide additional information with regard to control mechanisms and sanctions for non-compliance. In the absence of these controlling mechanisms, the state party is encouraged to develop them.

Article 10 – Right to Life

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Right to life of PWD; Prohibition of arbitrary deprivation of life

Right to life of PWD

We should note as a positive sign the fact that both in law and practice the state party has established a national strategy for the early finding and prevention of disability (paras. 83-86). The state party should also be praised for granting free medical service for all persons with disabilities, including mobile devices and prosthesis.

The state party is encouraged to ensure that the free and informed consent of mother and parents is requested in all case of enforced miscarriage for reasons of disability prevention (para. 84).

Article 11 - Situations of risk and humanitarian emergencies

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures taken to include persons with disabilities in national emergency protocols; Measures taken to ensure that humanitarian aid relief is distributed in an accessible way to people with disabilities caught in humanitarian emergency

The report refers (para. 88) to provisions of the 2009 law on the code of security and prevention of risks of fire, explosion or panic in buildings, article 2 of which refers specifically to the needs of PWD in cases of emergency.

The state party is encouraged to adopt a comprehensive legislation for situations of emergency.

Article 12 - Equal recognition before the law

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

- a) *Legislation does or does not exist which restricts the full legal capacity on the basis of disability and measures being taken towards conformity with article 12; Support for PWD to exercise their legal capacity and manage their financial affairs; Existence of safeguards against abuse of supported decision-making models*
- b) *Measures taken for PWD to enjoy legal capacity in particular to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and their right not to be arbitrarily deprived of their property*

A. Legislation does or does not exist which restricts the full legal capacity on the basis of disability and measures being taken towards conformity with article 12; Support for PWD to exercise their legal capacity and manage their financial affairs;

The report affirms that in principle no such law exists and that on the contrary the 2005 law ensures the effective equality of chances and of treatment between PWD and others (para. 92).

According to the report the existing law makes two exceptions to this rule (with regard to persons with mental disabilities and persons with visual impairments) in the following circumstances (paras. 93-96):

- i) Under the code of obligations and contracts (1906) article 6, persons with mental disability may be restricted in their capacity to act, in case of non-participation of a tutor at the signature of the contract for which the law requires such participation

However in compensation under the Penal code of Tunisia persons with mental disability are also protected in case of commission of an act subject to penal sanction

- ii) Under the 2008 Law for persons with visual impairments public officers are obliged to read out the text for his signature and the signature must be done in the presence of a witness if he intends to sign an official document
- iii) A person with mental disability whose rights have been restricted may sign a marriage contract through a tutor. He may request the review of a decision restricting his legal capacity.

In addition to this we should note that a person with mental disability is also denied a right to vote.

The state party should be encouraged to proceed to a gradual replacement of substitute decision making mechanisms by mechanisms granting full legal capacity including the possibility of supported-decision making. Any such measures of supported decision making should be subject to regular review.

B. Measures taken for PWD to enjoy legal capacity in particular to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and their right not to be arbitrarily deprived of their property

The report states (99-100) that PWD are granted certain measures of positive discrimination (less interest rates for example) to enable them to have access to bank loans, mortgages and other forms of financial credit. However, some of the banks such as the *caisse social* provide credits only to those PWD who are members of the *caisse*.

In total some 12000 PWD have taken credits from banks out of 150000 PWD in Tunisia.

The state party is encouraged to proceed with such positive measures and extend to reach to all PWD.

Article 13 - Access to justice

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Effective access to justice at all stages of the legal process; effective training of personnel in the national justice and prison system; Age-related accommodations

The report states that the state party is working to ensure the availability of effective access to justice at all stages of the legal process (paras. 101, 103).

One procedural accommodation is mentioned for persons with hearing impairments, with the decision to assign experts in sign languages to work with the courts.

There is little information with regard to age-related accommodations.

The state party is encouraged to ensure effective access to justice for PWD who allege that their rights under the convention have been violated.

Article 14 - Liberty and Security of the Person

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures to ensure that PWD are not deprived of liberty on the basis of disability; Prohibition of institutionalization of PWD; reasonable accommodation, and similar procedural guarantees for PWD in prison for criminal acts; Awareness raising campaign

The report affirms that the liberty and security of the person is assured under the existing legislation and therefore no one can be deprived of liberty on the basis of disability (paras. 105-108). Moreover the state party provides assistance to persons with disabilities under the following circumstances:

- a) Assistance and care to the PWD in their family
- b) Material assistance to a needing PWD person or his legal tutor to contribute to meeting his fundamental needs
- c) The placement of a PWD in a welcoming family.

The reports recognises though that an exception to these measures which consists in depriving a PWD of his liberty on account of his disability is till made in one particular situation:

When the PWD himself, or his tutor requests his placement in such an institution under article 17 of the 2005 framework law.

The report mentions the existence of 3 centres of deprivation of liberty on account of disability. The report does no mention the case of psychiatric institutions.

The state party is praised for all its efforts to materially assist persons with disabilities including with incentives to welcoming families.

The state party is recommended to take phased steps towards the gradual replacement of the tutorship system and its replacement of a system support decision making in compliance with provisions of the Convention.

Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Prevention from medical or scientific experimentation without their free and informed consent; PWD should be made part of national strategies and mechanisms to prevent torture

The report refers in general terms to its adherence to the Convention against torture as a guarantee for prevention of such experiments (para. 110).

Unfortunately the report provides no information with regard to specific legislation on prevention of medical and scientific experimentation without the free and informed consent of persons with disabilities. The report also provides little information with regard to the work of psychiatric institutions.

The report mentions efforts at prevention of situations of degrading treatment of PWD at hands of private entities. Indeed it mentions that under article 3 of the framework law on PWD, the state and the society are collectively responsible to avoid situations of sexual and economic exploitation and the abandon of PWD (para. 111).

The state party is recommended to provide statistics regarding the practice of medical experimentations in hospitals, and the strategy and policies adopted to prevent such experiments without the free will of persons with disabilities.

Article 16 - Freedom from exploitation, violence and abuse

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Measures to protect PWD, from all forms of exploitation, violence and abuse; Social protection measures to assist and support PWD; Measures to ensure that all services and programmes designed to serve PWD are accessible and effectively monitored by independent authorities; Measures to ensure that all PWD who are victims of violence have access to effective recovery, rehabilitation and programmes; and acts of violence and abuse against PWD are identified, investigated and, where appropriate, prosecuted

The report states that specific penal legislation is available criminalizing certain types of violence committed against PWD, specially the exposure of children with disabilities to abandon (para. 111).

The report also mentions that according to article 30 of the code of protection of the child adopted in 1995 according to which the delegate for the protection of childhood has been entrusted with the generic mission of controlling situations where children are exposed to violence (para. 115).

In addition, the Higher Committee of Human Rights and Fundamental Freedoms is intrusted with monitoring places where PWD are placed (para. 113).

The state party is encouraged to provide detailed information with regard to the work of independent monitoring authorities. The state party should also be encouraged to provide practical information regarding cases of prosecutions of abuses against persons with disabilities.

Article 17 - Protecting the integrity of the person

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Protection of PWD from medical (or other) treatment given without the free and informed consent; Protection of PWD from forced sterilization, and girls and women from forced abortions; Independent review organizations (role and composition) and programmes of work

The report provides no answer to the issues recommended to the state party with regard to this article, apart from repeating what that article requires it to do (para. 117).

The state party is encouraged to provide additional information with regard to the implementation of the right to the integrity of the person.

The state party is recommended to adopt specific legislation prohibiting medical treatment without free consent; prohibiting forced sterilization and forced abortion on the basis of disability.

The state party is also encouraged to establish independent review boards in the composition of both NGOs human rights entities and medical and judicial institutions.

Article 18 - Liberty of movement and nationality

Under this article the Committee has recommended the state party to provide information with the regard *inter aliato* the following issues:

Measures to ensure the right of PWD to acquire a nationality and not to be deprived of it; to ensure the right of PWD to enter or leave his country arbitrarily; Measures to ensure that every newborn child with a disability be registered upon birth and given a name and a nationality

According to the report the right of everyone to acquire a nationality is granted under the Tunisian code on nationality. A person cannot be deprived of it (para. 120).

PWD also have a right to enter and leave their country. However a person can be denied a passport by decision of an organ of justice (para. 122).

According to the report every new-born is indeed assured registration on birth (paras.118, 119).

The state party is praised for its very progressive legislation with regard to the safeguards it grants to PWD.

The state party is recommended to revise its national legislation on national passports. A passport like an identity card is a person's document, and as such should not be used to enforce a judicial decision.

Article 19 - Living independently and being included in the community

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

The existence of available independent living schemes, including the provision of personal assistants for persons who so require; The existence of in-house support services allowing persons with disabilities to live in their community; The existence and range of options of residential services for living arrangements, including shared and sheltered accommodation which take into account the form of disability; The degree of accessibility for persons with disabilities to community services and facilities provided to the general population

The report states that persons with serious forms of disability benefit from in-house medical and re-adaptation services given by specialized associations. It also states that under the 2005 framework law sheltered accommodations that take into account forms of disability should be provided in buildings. There is little information on the availability of such accommodations (para. 125).

The report also states that under a 2009 decree a new speciality of life assistants has been created to support independent living schemes (para. 127).

The state party is praised for its measures taken to ensure independent living in the community of PWD.

The state party is encouraged to develop further the range of its support services for PWD and include in house shopping services, escort services and others.

Article 20 - Personal mobility

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Measures to facilitate the personal mobility of persons with disabilities, including the use of street signs for accessibility, Measures taken to ensure that the technologies are user-friendly; Measures taken to give training in mobility skills to persons with disabilities and specialist staff

The report refers that a number of measures were adopted to facilitate the personal mobility of PWD. In particular, it refers to the national plan of requalification of public spaces already mentioned above. As a result of the implementation of the plan many public institutions, roads and means of transport having been adapted or built to meet the requirement of personal mobility of PWD (paras. 129-135).

The plan includes accessibility of the information and communication sector and contemplates financial facilities to encourage service providers to make the relevant services adjustments (paras. 133-134).

Awareness raising campaign was launched to assist in the sensitization of the general public about the need of establishing a PWD friendly public environment.

The report also refers that with the same objective of facilitating personal mobility assistive technologies and devices are given free of charge to all registered PWD, the transport itself is also free for the PWD and his assistant.

The state party is encouraged to double efforts and resources intended to promote a culture of accessibility of the public environment to persons with disabilities. It is encouraged to expand the scope of the plan to involve building of the period before 1991.

Article 21 - Freedom of expression and opinion, and access to information

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Measures to ensure that information provided to the general public is accessible to persons with disabilities; measures to ensure that persons with disabilities can use their preferred means of communication in all forms of official interaction and access to information, such as sign language, Braille, and other accessible means; measures to urge private entities and mass media to provide their information and services in an accessible form for persons with disabilities; degree of accessibility of mass media and percentage of public websites that comply with the Web Accessibility Initiative (WAI) standards; Legislative and other measures taken linked to the official recognition of sign language(s)

The report states that a number of legislative and other measures were taken to ensure that information services both public and private were accessible to PWD (decree 2006) , and that the public TV channels and radio channels produce regular programs for PWD (some 20 programs per week) (paras. 138 -140).

The report also states that braille is used in the education system. Legislative and practical measures were taken for the official recognition of sign language, and the development of the Tunisian dictionary of sign language. The use of Tunisian sign language in public institutions is promoted by way of indication of the most common used signs (para. 141).

The report states that a number of other initiatives and measures were taken to ensure web accessibility, and in particular all administrative websites were made accessible for PWD (paras. 144, 147), and PWD benefit from a reduction of 50% for internet services.

The state party is encouraged to proceed with work towards ensuring full freedom of expression and access to information for PWD

Article 22 - Respect for privacy

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Measures to protect the privacy of personal, health and rehabilitation related information of persons with disabilities; measures taken so that persons with disabilities not be concealed on the pretext of protection of privacy

The report presents a generic statement with regard to the requirement of protection of personal information (para. 150).

The state party should be encouraged to provide further details with regard to protection of the privacy of personal and health information of PWD.

The state party is recommended to adopt specific legislation granting the inviolability of health information of PWD.

The state is encouraged to adopt specific legislative and other measures intended to prevent concealing of PWD on pretext of protection of privacy.

Article 23 - Respect for home and the family

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Measures to ensure that persons with disabilities may exercise the right to marry and to found a family on the basis of full and free consent; that persons with disabilities have access to family planning, assistive reproduction and adoption or fostering programmes; that parents with disabilities, who so require, are provided with the adequate support in their child-rearing responsibilities, ensuring the parent-child relationship; that no child is separated from her/his parents because of the disability of either the child or one or both of the parents; to support fathers and mothers, in order to prevent concealment, abandonment, of the boy or girl with a disability; to avoid institutionalization of boys and girls with disabilities whose parents are unable to care for them

The code of personal status of Tunisia provides that PW mental forms of disability may marry, and if he is restricted in his legal capacity he should do so only with the agreement of his tutor (para. 154).

The report provides that families of PWD are given the necessary monetary assistance to enable them to educate their children in the family environment (para. 157).

The report states that everything is done to avoid institutionalization of PWD. These measures include the setting up of the so called centres of daily care (para. 161) in a number of 279 and the consequent reduction of the number of institutions for PWD to only 4; these measures also include incentives to place PWD with interested welcoming families to which the State provides material assistance. The program which has been active since 2008, lead to the placement of 40 PWD in such welcoming families (para. 155-163).

The state party is recommended to proceed with measures that support families to enable them to educate their children with disabilities in the family environment, and this way contribute to the phased closing down of institutions for PWD.

The state party is encouraged to consider revising its legislation with regard to marriage contracts of persons with mental disability as this may be in violation of article 12 of the Convention.

Article 24 - Education

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures to ensure that every child with disabilities has access to early-stage education, and mandatory primary, secondary and higher education

According to the report, the 2002 law on professional education (as amended in 2008) provides specifically that the state will ensure equal right to education of children with disabilities (para. 164, 165).

Tunisia has designed a national plan of school integration whose implementation started in the year 2003/2004 and whose full implementation is expected to be achieved by 2015. The goal of the plan is full integration of all school age children in the ordinary system of education and includes a number of preparatory projects such as requalification of education institutions, programs of early identification of disabilities, integration in the school system from early stage education, capacity building and awareness-raising work (para. 169).

The so called integrated schools number now some 327 in which 1496 are registered added to the 6000 other children with disabilities accepted automatically in the school system (para. 170).

The state party is praised for its efforts to implement its plan of school integration of children with disabilities. The state party is recommended to increase available resources in order to meet the time line of full general school integration of children with disabilities by year 2015.

Article 25 - Health

Under this article the Committee has recommended the state party to provide information with the regard to the following issues:

Measures that protect against discrimination and ensure that persons with disabilities have the same access to quality health services, including in the area of sexual and reproductive health; to ensure that persons with disabilities have access to disability-related health rehabilitation in their community freely and without financial cost

The report affirms that by ratifying the Convention the State party showed its intention to ensure for PWD the same access to quality health services as other members of society benefit. Programs of sexual and reproductive health are provided to PWD as well (paras. 181, 184).

The reports states that on the basis of the 2005 framework law, PWD are granted treatment free of charge. The expenses are taken care of by the state for the case of those in extreme need, and by the insurance companies for those who part thereof (para. 182). A number of other measures intended to prevent disability were devised (para. 183.)

The state party is encouraged to provide additional information regarding the system of health insurance, and whether or not it covers all persons with disabilities. The state is urged to develop a health insurance package that can cover all PWD.

Article 26 - Habilitation and rehabilitation

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

General habilitation and rehabilitation programmes for persons with disabilities, in the areas of health, employment, education and social services, including in rural areas; to ensure that participation in habilitation and rehabilitation services and programmes is voluntary

The report refers that the state party has established one institution for habilitation and rehabilitation training, and that it is planning the opening of a second institution in the south of the country in 2010. In addition it has 24 regional centres of habilitation and rehabilitation (paras. 185, 188, 189). The report says nothing about the availability of such services and programs in rural areas.

The report states that programs of rehabilitation are designed with the assistance of the PWD themselves and their parents, which ensure its voluntary character (para. 185).

The state party is encouraged for proceed with its efforts to provide quality programs of habilitation and rehabilitation for person with disabilities. The state party is recommended to extend these programs to the rural areas.

Article 27 - Work and employment

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures taken to ensure protection against discrimination in all stages of employment; The impact of targeted employment programmes and policies in place to achieve full and productive employment among persons with disabilities; Affirmative and effective action measures for the employment of persons with disabilities in the regular labour market; Accessibility of persons with disabilities to open employment and vocational training services, including those for the promotion of self-employment; Availability of technical and financial assistance for the provision of reasonable accommodations; measures to assure the retention and retraining of workers who suffer a workplace injury resulting in a disability preventing them from performing their previous tasks; to ensure various forms of work, such as work on location, telecommuting (off-site/at home) and subcontracting, and work opportunities offered by new communication technologies

The reports affirms that the prohibition against discrimination of PWD in all stages of employment is ensured by reference to the relevant national laws (2005 framework law (article 26); article 27 of the Constitution) (para. 191). Based on this a comprehensive national plan for employment of PWD was set up.

The report also affirms that a number of targeted employment programs and affirmative actions are in place to meet the needs of employment of PWD. It quotes the 2005 framework law, which establishes a minimum quota of 1% for employment of PWD in the public sector each year. According to the report this policy has enabled the employment of 600 PWD since the start of the project (para. 192).

Among the affirmative employment actions the report also counts

- i) The requirement for any company (public or private) employing more than 100 employees to reserve 1% of its posts for PWD (para. 193).
- ii) The employment of PWD has been made the subject of regular labour agreements.
- iii) A number of tax exemptions is provided for private entities employing PWD (para. 196)
- iv) An Annual presidential prize for the integration of PWD was established in 2008 (para. 205)

In addition vocational training is supported and promoted by the state party, through training projects and special funding initiatives for PWD (paras. 198-202).

The report states indeed that a number of schemes for funding microcredits were developed which include the national program of promotion of revenue generating activities for PWD. Due to this policy some 700 new revenue generating projects are developed each year for PWD (paras. 203, 204)

In terms of retaining and retraining policies, the report states that when the disability is a result of a working accident, the employer is obliged to retrain and continue to employ the person in another position (para. 197).

A number of measures are provided under the framework law 2005 to ensure various alternative forms of employment of persons with disabilities including telecommuting; work from home, etc. (para. 195).

The state party is encouraged to provide additional information with regard to the national plan of employment (its long term goals, benchmarks and funding).

The state party is recommended to continue awareness raising campaigns to develop a national culture of inclusion of persons with disabilities through offering of more opportunities for their valid engagement in productive employment.

The state party is encouraged to continue finding ways of involving more persons with disabilities in employment. It is urged to reinforce control mechanism to ensure that the program of quotas are known by all and enforced effectively.

Article 28 - Adequate standard of living and social protection

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures taken to ensure availability and access by persons with disabilities to clean water, adequate food, clothing and housing; to ensure access by persons with disabilities to services, devices and other appropriate assistance at affordable prices, including the availability of programmes that cover disability related extra financial costs; to ensure access by persons with disabilities, in particular women and girls and older persons with disability, to social protection programmes and poverty reduction programmes

The report affirms that statistic data available shows that Tunisia will be able to meet the millennium development goal in terms of combat against poverty. There is an increase in families owning houses up to 80%, the significant diminution of the mortality rate for children below the age of 5 years; a better life expectancy up to 74 years at birth in 2009, among other indicators (paras. 208-211).

The report affirms that in addition to the policy of full free medical assistance to PWD which includes free mobility devices (paras. 210-211), the state party has also developed a policy of direct public material assistance to families in need including 23000 families of PWD (para. 211). This is part of its national social assistance program to poor families (para. 213). In addition a fund of national solidarity exists that has been effective in achieving poverty reducing policies especially in rural areas (para. 214). These poverty reducing plans have included the building of new infrastructures, housing, electricity, clean water and cover more than 1800 zones (para. 214).

The state party is encouraged to continue developing and implementing these plans, including by lifting the amount of material assistance allocated to families of PWD.

Article 29 - Participation in political and public life

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Legislation and measures to guarantee to persons with disabilities, in particular persons with mental or intellectual disability, political rights, including, if it is the case, existing limitations and actions taken to overcome them; Support provided, if any, to persons with disabilities for the establishment and maintenance of organizations to represent their rights and interests at local, regional and national level

According to the report, the 2005 framework law insists on the need to ensure equal chances for PWD and the other members of the society. And that the electoral code and the constitution grants to all PWD full right of participation in political life (paras. 215, 216).

According to the report the relevant national laws of the state party also grant freedom of association to persons with disabilities (para. 218). These organizations are entitled and in practice do benefit from substantive support from the state party (219).

The state party is praised for its policies towards granting full right of participation of persons with disabilities in political and decision making life of the society.

The state party is requested to provide additional information to confirm allegations that persons with mental disabilities are still denied a right to vote under the present electoral laws. The state party should be encouraged to revise its legislation to conform it to the requirements of the convention under articles 29 and 12 of the Convention. It should be noted that the right to vote is a civic and political right and therefore can be implemented immediately.

The state party is recommended to consider amending its legislation in a way that ensures an effective representation of persons with disabilities at all levels of the decision-making which affects their interests in accordance with the wishes of the local associations of persons with disabilities (para.221).

Article 30 - Participation in cultural life, recreation, leisure and sport

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures taken to recognize and promote the right of persons with disabilities to take part on an equal basis with others in cultural life, including opportunities to develop and utilize their creative, artistic and intellectual potential; to ensure that cultural, leisure, tourism and sporting facilities are accessible to persons with disabilities, taking into account children with disabilities, including through the conditional use of public procurement and public funding; to ensure that intellectual property laws do not become a barrier for persons with disabilities in accessing cultural materials, including participation in relevant international efforts

The report states that among the measures taken to grant the right of PWD to take part on equal basis with others in cultural life, leisure and sports are such affirmative actions like the granting of free access to museums, cultural sites, stadiums and sport installations for PWD. The state party has also undertaken initiatives to facilitate the practice of sports such as the obligation of physical education courses for PWD in schools, the creation of a specialization in physical education and sports in institutes of physical education and the obligation for the special education schools to have in their curricula the subject of sports and cultural recreation for PWD (paras. 222-226).

The state party actively supports the establishment of sport associations of PWD organize regular national competitions and ensure their participation at international events. The State party has also provided for facilities in beaches for access of PWD (para.226).

The state party is recommended to proceed with its efforts to integrate fully PWD in cultural life and sports.

The state party is recommended to participate actively in international efforts to easier intellectual property laws that prevent access of PWD to cultural material.

Article 31 - Statistics and data collection

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures taken to collect disaggregated appropriate information, including statistical and research data, to enable the state party to formulate and implement policies to give effect to the Convention respecting human rights and fundamental freedoms, ethics, legal safeguards, data protection, confidentiality and privacy; the dissemination of these statistics and measures to ensure their accessibility by persons with disabilities

The report states that population census are conducted regularly every 10 years and that they are intended to collect disaggregated data including with regard to persons with disabilities. Apart from these other regular data collection work is done specifically targeting persons with disabilities (paras. 229-231).

The report refers that on this basis an information database exists containing information on all PWD (para. 230).

The report affirms that the data collected has been used to better focus efforts at eliminating barriers in the way of providing better services for persons with disabilities (paras. 232,233).

The state party is recommended to provide further details with regard to methods of collection of such data, respect for ethics, legal safeguards confidentiality and privacy and the application of these principles in the use of the information data base of PWD in the state party.

Article 32 - International cooperation

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

Measures taken to guarantee that international cooperation be inclusive and accessible by persons with disabilities; Actions toward facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices; On the progress, and effectiveness of programmes for the exchange of technical know-how and expertise for the assistance of persons with disabilities

The report states that the state party has been making concerted efforts to associate organizations of PWD in programs of international cooperation efforts. In this connection the state party has signed protocols with the European Union and the League of Arab States (para. 234).

The report states that the different programs of international cooperation pursue the goal of facilitating capacity building and the exchange of information and experiences, these exchange programs exist with Spain, Italy, Belgium and France (paras. 236-239).

The state party is encouraged to participate more actively in international cooperation efforts.

Article 33 - National implementation and monitoring

Under this article the Committee has recommended the state party to provide information with the regard *inter alia* to the following issues:

The designation of one or more focal points within the Government for matters relating to the implementation of the Convention and facilitate related action in different sectors and at different levels; the establishment of a framework, including one or more independent mechanisms, as appropriate and measures taken to promote, protect and monitor implementation of the Convention taking into account the principles relating to the status and function of national institutions for the protection and promotion of human rights; On budget allocations for the purpose of national implementation and monitoring

The state party has designated the Higher Council for Persons with Disabilities established under the framework law as the coordination mechanisms within the government for the implementation of the convention (para. 240)

The state party has designated the Higher Committee for Human Rights and Political Freedoms as the monitoring organ under article 33 of the Convention (para. 241).

The state party is praised for the designation of the institutions which under the convention are to coordinate implementation efforts of the state on one side and monitor implementation of the Convention on the other.

The state party is encouraged to enable these organs to fulfil their proper role by ensuring the proper budget allocations are made for the purpose of national implementation and monitoring.