



International Covenant on Civil and Political Rights

Distr.: General
24 April 2020
English
Original: French

Human Rights Committee

Concluding observations on the sixth periodic report of Tunisia*

1. The Committee considered the sixth periodic report of Tunisia (CCPR/C/TUN/6) at its 3692nd and 3693rd meetings (see CCPR/C/SR.3692 and CCPR/C/SR.3693), held on 3 and 4 March 2020. On 27 March 2020, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting, albeit considerably late, its sixth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/TUN/QPR/6). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing after the dialogue.

B. Positive aspects

3. The Committee welcomes the following legislative, institutional and political measures:

- (a) The Constitution of 26 January 2014, which contains provisions that strengthen some of the rights enshrined in the Covenant;
- (b) Organic Act No. 51 of 29 October 2018 on the Human Rights Commission;
- (c) Organic Act No. 50 of 23 October 2018 on the elimination of all forms of racial discrimination;
- (d) Organic Act No. 58 of 11 August 2017 on the elimination of violence against women;
- (e) Organic Act No. 53 of 24 December 2013 on the establishment and regulation of transitional justice, which created the Truth and Dignity Commission, and Decree No. 2887 of 8 August 2014 establishing specialized criminal chambers in the field of transitional justice;
- (f) Government Decree No. 1593 of 30 October 2015 establishing the National Committee for the Coordination, Preparation and Submission of Reports and Follow-up to Recommendations on Human Rights.

* Adopted by the Committee at its 128th session (2–27 March 2020).



4. The Committee welcomes the State party's accession, on 29 June 2011, to the Optional Protocol to the Covenant. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 29 June 2011;
- (b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 29 June 2011;
- (c) The Rome Statute of the International Criminal Court, on 24 June 2011;
- (d) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 23 September 2008;
- (e) The United Nations Convention against Corruption, on 23 September 2008;
- (f) The Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, on 18 July 2017.

C. Principal matters of concern and recommendations

Applicability of the Covenant in the domestic legal order

5. The Committee notes with satisfaction that article 20 of the Constitution establishes the primacy of international treaties over domestic legislation, but remains concerned that the Tunisian courts apply such treaties only very rarely (art. 2).

6. **With a view to ensuring the primacy of the Covenant and to fully realizing the rights enshrined therein, the State party should step up measures to raise awareness of the Covenant among judges, prosecutors and lawyers.**

Constitutional Court

7. The Committee notes the adoption of Organic Act No. 50 of 3 December 2015 on the Constitutional Court. The Committee remains concerned, however, that the Court has not yet been formally established, that its members have not yet been appointed and that there are a number of gaps and shortcomings in the Act, including:

- (a) The fact that two thirds of the members are appointed by the President of the Republic and the Assembly of People's Representatives, which could be detrimental to the independence and impartiality of the Court and its credibility in the eyes of the public if the diversity of political opinion in the State party is not adequately represented;
- (b) The lack of clear and precise eligibility criteria concerning the expertise and skills required of members of the Court and of information on the grounds for their removal;
- (c) The fact that individuals may not have access to the Court to raise issues concerning the constitutionality of laws in the event of a violation of their rights (art. 2).

8. **The State party should finalize the establishment of the Constitutional Court and make the necessary amendments to Organic Act No. 50 of 2015 in order to:**

- (a) **Ensure the diversity of the members of the Court, in particular through adequate representation of different political opinions, in order to guarantee its independence and impartiality, as well as its credibility in the eyes of the public;**
- (b) **Ensure that the members of the Court have the skills and knowledge necessary to enable them to exercise their functions effectively, individually and collectively, and better define the conditions for their removal;**
- (c) **Allow any individual to have access to the Court to raise issues concerning the constitutionality of laws in the event of a violation of his or her rights.**

National human rights institution

9. The Committee welcomes the adoption of Organic Act No. 51 of 2018 on the establishment of the Human Rights Commission, an independent body in accordance with article 128 of the Constitution, but remains concerned that its members have not yet been appointed and that the Commission has not yet been formally established (art. 2).

10. **The State party should take all necessary measures to bring the Human Rights Commission into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), ensure a clear, transparent and participatory process for the selection and appointment of its members, and provide it with adequate resources and capacity and full autonomy.**

The fight against impunity and past human rights violations

11. While welcoming the measures taken to establish transitional justice mechanisms and the work of the Truth and Dignity Commission in investigating serious or gross human rights violations committed between 1955 and 2013, the Committee is concerned about:

(a) The insufficient duration of the mandate given to the Commission to report on the human rights violations committed over a period of almost 60 years and to fulfil its tasks in the areas of reparation and combating corruption;

(b) The fact that the Commission's final report has not yet been published in the Official Gazette, that the action plan and strategies for implementing the recommendations contained in the report have still not been adopted, and that the special parliamentary committee responsible for following up on them has not yet been established;

(c) The low number of cases referred by the Commission to the specialized criminal chambers;

(d) Delays in the trials opened by the specialized criminal chambers due to the turnover of judges, the numerous postponements owing to the refusal of defendants and witnesses to appear and the lack of cooperation from the police in delivering summonses to the accused to appear in court;

(e) The lack of information regarding reparations provided to victims of serious human rights violations under Act No. 53 of 2013 on transitional justice (arts. 2, 6, 7 and 14).

12. **The State party should:**

(a) **Ensure that complaints of serious human rights violations submitted to the Truth and Dignity Commission are referred to an independent investigative authority and are investigated thoroughly and impartially within a reasonable period of time;**

(b) **Publish the Truth and Dignity Commission's final report in the Official Gazette, adopt an action plan and strategies for implementing the recommendations contained in the report and establish a special parliamentary committee to follow up on them;**

(c) **Guarantee the right of victims to seek judicial remedies, regardless of the remedies available through the Truth and Dignity Commission and the specialized criminal chambers;**

(d) **Ensure that all perpetrators of serious human rights violations committed during the period covered by Act No. 53 of 2013 on transitional justice, including military and civilian superiors, are prosecuted and, if found guilty, are sentenced to punishments commensurate with the gravity of their acts;**

(e) **Ensure that public entities cooperate with the specialized criminal chambers, ensure proper management of judges and take measures against any attempt to hinder the work of these chambers;**

(f) **Ensure that victims of serious human rights violations covered by Act No. 53 of 2013 on transitional justice receive adequate reparation and prompt and fair compensation.**

Combating corruption

13. The Committee notes the various anti-corruption measures taken by the State party, including the adoption of Organic Act No. 59 of 24 August 2017 on the establishment of the Authority for Good Governance and Combating Corruption and the adoption of a national strategy for the period 2016–2020. However, it is concerned at reports that corruption is still common practice in the State party, particularly in the public sector, and that preventive and whistle-blower protection measures are insufficient. It is also concerned at the low number of prosecutions and convictions for corruption. Organic Act No. 62 of 24 October 2017 on reconciliation in the administrative sphere could, moreover, lead to impunity for those guilty of large-scale corruption before 2011 (arts. 2, 14 and 25).

14. **The State party should:**

(a) **Intensify its efforts to combat corruption, adopt the draft laws to operationalize the Authority for Good Governance and Combating Corruption, revise and supplement the legal framework to better protect whistle-blowers, and strengthen good governance practices by renewing and monitoring the implementation of the anti-corruption strategy;**

(b) **Strengthen the capacity of the prosecution service and law enforcement agencies to combat corruption, including through continued training and the provision of adequate resources;**

(c) **Ensure that all acts of corruption are investigated in an independent and impartial manner and that those responsible, including officials at the highest level of government and other notable figures, are brought to justice and adequately punished, if convicted;**

(d) **Carry out further awareness-raising campaigns, directed at politicians, government officials, the business sector and the general public, on the economic and social costs of corruption.**

Non-discrimination

15. The Committee regrets that the State party has yet to adopt a legislative framework against discrimination that covers all the prohibited grounds contained in article 2 of the Covenant. In that connection, it notes with interest the draft code of individual rights and freedoms, which would bring national legislation into line with article 2 of the Covenant (arts. 2, 19, 20 and 26).

16. **The State party should expedite the adoption and ensure the implementation of legislation in line with the Covenant by incorporating a definition of direct and indirect discrimination, including in the private sphere, which contains an exhaustive list of the grounds for discrimination enumerated in the Covenant and covers sexual orientation and gender identity. It should also ensure that this legislation provides sufficient guarantees of effective civil, administrative or other remedies for any type of discrimination, including multiple discrimination.**

Combating racial discrimination

17. While welcoming the adoption of Organic Act No. 50 of 2018 on racial discrimination, the Committee notes with concern that the implementing legislation for this act has not yet been adopted and that the national commission to combat racial discrimination has not yet been established. The Committee is also concerned at the low number of investigations and prosecutions on grounds of racial discrimination and at the fact that racist motivation does not constitute an aggravating circumstance for acts punishable under the Criminal Code (arts. 2, 25 and 26).

18. **The State party should:**

(a) **Adopt implementing legislation for Act No. 50 of 2018 on racial discrimination and ensure its effective implementation and dissemination among the public, judges, prosecutors, lawyers, the police and other law enforcement officials;**

(b) **Establish the national commission to combat racial discrimination and provide it with the human, technical and financial resources necessary for its effective functioning;**

(c) **Recognize racist motivation as an aggravating circumstance for all acts punishable under the Criminal Code.**

Discrimination on grounds of sexual orientation and gender identity

19. The Committee welcomes the recent court decision allowing the association Shams, which works to protect the rights of lesbian, gay, bisexual, transgender and intersex persons, to operate legally, but notes with concern that discrimination against lesbian, gay, bisexual, transgender and intersex persons persists in law and in practice. Consensual relations between same-sex partners are defined as an offence (sodomy) under article 230 of the Criminal Code, and article 226 of the Code, which penalizes gross indecency, is frequently used as an excuse to harass members of sexual minorities. Persons suspected of being homosexuals continue to be compelled by the courts to undergo anal examinations (arts. 2, 6, 19, 20 and 26).

20. **The State party should repeal article 230 of the Criminal Code and provide law enforcement officials with training on respect for diverse sexual orientations and gender identities. In addition, it should recognize associations for the protection of the rights of lesbian, gay, bisexual, transgender and intersex persons, combat discrimination and harassment of sexual minorities and prohibit intrusive medical examinations that have no medical justification.**

Gender equality and discrimination against women

21. While welcoming the State party's commitment to continue its efforts to achieve gender equality, the Committee remains concerned about the persistence of discrimination in the area of personal status, particularly with respect to marriage, inheritance and custody of children. Despite the State party's efforts, women's representation remains insufficient, especially in the Assembly of People's Representatives, the Government, the judiciary, the diplomatic service, senior civil service and local government (arts. 2, 3, 25 and 26).

22. **The State party should amend the discriminatory provisions of the Personal Status Code, particularly those concerning marriage, inheritance and child custody, with the aim of giving full effect to the principle of gender equality enshrined in the Constitution and the Covenant. It should also continue its efforts to improve, in practice, the representation of women in political and public life, including through the adoption of temporary special measures.**

Violence against women

23. The Committee welcomes the adoption of Organic Act No. 58 of 2017 and the repeal of the criminal provisions allowing for the discontinuation of prosecution in the event of the perpetrator's marriage to the victim of a rape or kidnapping or in the event that the victim withdraws her complaint. It remains concerned, however, about the continued prevalence of violence against women and about:

(a) The delay in the adoption of the implementing legislation for Act No. 58 of 2017 and in the establishment of a national observatory;

(b) The fact that marital rape is not explicitly criminalized and that domestic violence is only considered a separate offence in cases of repeated abuse of a spouse;

(c) The lack of accurate information on the number of convictions for gender-based violence and on the reparation measures applied;

(d) The lack of sustainable funding for shelters and drop-in centres for women victims of violence, the concentration of such services in urban areas and the uneven quality of the services provided (arts. 3, 6, 7 and 17).

24. **The State party should:**

(a) **Expedite the adoption of the implementing legislation for Act No. 58 of 2017 and set up a national observatory;**

(b) **Amend national legislation in order to explicitly criminalize marital rape and, in the area of domestic violence, to consider the ill-treatment of a spouse as a separate offence, even if it is not repeated;**

(c) **Ensure that all cases of violence against women are effectively and impartially prosecuted, that the perpetrators are prosecuted and receive punishment commensurate with the seriousness of their acts, and that the victims receive protection and obtain reparation;**

(d) **Ensure that there are a sufficient number of good quality shelters and drop-in centres and that they are equitably distributed throughout the country.**

Voluntary termination of pregnancy

25. While noting the measures adopted by the State party to improve access to health services and information on family planning and reproductive health, especially in rural areas, the Committee is concerned at the lack of availability and accessibility of abortion services, which continues to lead pregnant women to resort to clandestine abortions in conditions that endanger their life and health. It is also concerned about the discrimination and stigmatization of unmarried women and girls when it comes to access to abortion services (arts. 3, 6, 7, 17 and 26).

26. **The State party should ensure access in practice to legal abortion services for women and girls throughout its territory, respecting their right to privacy, and strengthen measures to combat discrimination and stigmatization of unmarried women and girls who have abortions.**

Death penalty

27. The Committee takes note of the de facto moratorium observed by the State party since 1993. It is concerned, however, at the large number of crimes for which the death penalty continues to apply in legislation and be imposed by the courts, including certain crimes related to terrorism. The Committee notes that some of these crimes do not fall within the category of the most serious crimes under the Covenant and that the non-execution of death sentences is dependent on pardons or commutations of sentences, which are granted on a case-by-case basis (arts. 6, 7 and 14).

28. **The State party should:**

(a) **Limit the crimes punishable by the death penalty to the most serious crimes involving intentional killing, in accordance with article 6 (2) of the Covenant;**

(b) **Commute the sentences of prisoners currently on death row to prison sentences;**

(c) **Ensure the abolition of the death penalty through public awareness-raising measures in favour of abolition;**

(d) **Consider acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.**

State of emergency and counter-terrorism

29. While acknowledging the requirements related to the fight against terrorism, the Committee is concerned that the regulations on states of emergency are not in conformity with the provisions of article 4 of the Covenant or with the Committee's general comment No. 29 (2001) on derogations from the Covenant during states of emergency, and notes:

(a) The regular extension of the state of emergency since 2015, without a notification specifying the provisions from which the State party has derogated and the reasons for doing so;

(b) The abusive use of Decree No. 50 of 26 January 1978 on the state of emergency and the powers conferred on the police to execute executive orders substantially restricting fundamental rights and freedoms;

(c) The lack of adequate judicial review of these executive orders, thus depriving the persons subject to them of their right to challenge the legality, necessity and proportionality of such measures (arts. 4, 7, 9, 10, 14, 18 and 19).

30. **The State party should:**

(a) **Envisage ending the continuous extension of the state of emergency;**

(b) **Accelerate the process of adopting a law that is in conformity with the provisions of article 4 of the Covenant and the Committee's general comment No. 29 (2001) on derogations from the Covenant during states of emergency;**

(c) **Ensure the rule of law and respect for non-derogable rights enshrined in the Covenant during states of emergency, in particular the right to due process of law;**

(d) **Put an end to the misuse of house arrest, restrictions on freedom of movement and violations of the right to privacy.**

31. The Committee is concerned at:

(a) The overly broad and imprecise definition of an act of terrorism contained in Organic Act No. 9 of 23 January 2019 amending and supplementing Organic Act No. 26 of 7 August 2015 on the fight against terrorism and the suppression of money-laundering;

(b) The improper use of counter-terrorism legislation to criminalize conduct linked to the exercise of the right to freedom of expression or peaceful assembly;

(c) The fact that the public prosecutor can extend the maximum period of police custody for suspects of crimes of terrorism to up to 15 days;

(d) The fact that, in accordance with Act No. 5 of 16 February 2016 amending and supplementing certain provisions of the Code of Criminal Procedure, assistance by a lawyer may be postponed for up to 48 hours in cases of terrorism;

(e) Allegations of arbitrary arrest and detention, torture and long prison sentences in inhuman and degrading conditions of persons suspected or accused of terrorism (arts. 4, 7, 9, 10, 14, 18 and 19).

32. **The State party should take the measures necessary to ensure that its counter-terrorism legislation and practices are in full conformity with its obligations under the Covenant, inter alia by:**

(a) **Revising Organic Act No. 9 of 2019 in order to strictly define an act of terrorism and to ensure that counter-terrorism legislation is not used to limit the rights enshrined in the Covenant;**

(b) **Reducing the length of police custody without judicial supervision to a maximum of 48 hours, including for terrorism-related cases;**

(c) **Ensuring that persons in police custody are afforded fundamental legal safeguards, including access to a lawyer from the outset of the preliminary investigation, irrespective of the reason for the custody, and sanctioning any failure to do so;**

(d) **Ensuring that any restrictions on the rights of persons suspected or accused of terrorism are not arbitrary, that they are lawful, necessary and proportionate, that they are effectively monitored by the judicial authorities, and that any allegations of ill-treatment are promptly, thoroughly and impartially investigated.**

Torture and cruel, inhuman and degrading treatment

33. While welcoming the explicit prohibition of torture in the Constitution of 2014, the Committee notes that the definition of torture contained in article 101 bis of the Criminal Code remains incomplete and is not in conformity with article 7 of the Covenant, as it does not include punishment as a prohibited purpose for inflicting torture. The Committee is also concerned that article 101 quater of the Criminal Code provides for the exemption from punishment of public servants or their equivalents who denounce acts of torture “in good faith”, which opens the door to impunity (arts. 2 and 7).

34. The State party should take the necessary steps to amend article 101 bis of the Criminal Code on the definition of torture, in order to bring it into line with the internationally accepted definition, and article 101 quater, in order to eliminate the clauses on exemption from penalties aimed at encouraging denunciation of the crime of torture.

35. While noting the numerous measures taken to prevent and combat torture, including the adoption of the Constitution of 2014, which refers to the non-applicability of a statute of limitations to the crime of torture, and the establishment in 2016 of the National Authority for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee is concerned that:

(a) Torture continues to be practised in the security sector, particularly during police custody;

(b) The public prosecutor is not practically involved in monitoring interrogation, although the police are under his or her authority during investigations;

(c) The number of convictions for cases of torture and ill-treatment remains very low, sentences handed down remain particularly lenient and reparations to victims are still insufficient;

(d) Measures to protect the confidentiality of complaints submitted to the public prosecutor through the prison administration remain inadequate;

(e) Despite the provisions of article 155 of the Code of Criminal Procedure, judges still consider confessions obtained under torture and coercion to be admissible as evidence against the accused and the allegations of torture are not investigated (arts. 2 and 7).

36. The State party should:

(a) **Enforce the absolute ban on torture and ensure that anybody who commits or orders such acts, is an accomplice to their commission or tacitly allows them to be committed is held personally accountable before the law;**

(b) **Ensure that prosecutors properly monitor the measures taken by the security officers in charge of investigations;**

(c) **Ensure that complaints of torture or ill-treatment are investigated promptly, impartially and with due diligence by independent judicial officials, that persons suspected of such acts are duly tried and, if found guilty, are punished in a manner commensurate with the gravity of their acts, and that victims are granted adequate reparation;**

(d) **Put in place an independent, effective, confidential and accessible mechanism to facilitate the submission of complaints by victims of torture or ill-treatment;**

(e) **Ensure that statements obtained under torture cannot be invoked as evidence against the accused.**

Conditions of detention

37. Despite the State party’s efforts to improve conditions of detention, the Committee remains concerned about prison overcrowding, the very high number of remand prisoners and the high rate of incarceration, even for minor offences, and about the fact that the

separation of convicted and remand prisoners and of adults and minors is not effective in all establishments (arts. 7 and 10).

38. **The State party should:**

(a) **Significantly reduce overcrowding in prisons by making more use of alternatives to incarceration and of alternatives to pretrial detention;**

(b) **Continue its efforts to improve conditions of detention and strengthen reintegration and rehabilitation activities;**

(c) **Put in place the measures required to ensure the strict separation of accused persons from convicts, and of adults from minors, and appropriate treatment for them.**

Human trafficking and child labour

39. The Committee welcomes the adoption of Organic Act No. 61 of 3 August 2016 on preventing and combating trafficking in persons, the National Strategy to Combat Trafficking in Persons (2018–2023) and the national plan of action to combat child labour (2015–2020). It remains concerned, however, at:

(a) The lack of human and financial resources allocated to the National Anti-Trafficking Authority;

(b) The low number of prosecutions and convictions of perpetrators of human trafficking;

(c) The lack of standardized mechanisms for the early identification and referral of victims of trafficking and the failure to establish conditions and modalities for covering the costs of their care;

(d) The insufficient human, technical and financial resources allocated for the protection of victims of trafficking, including shelters and legal, medical and psychosocial services;

(e) Insufficient efforts to tackle forced labour, including child labour, in particular in agriculture and domestic work (arts. 8 and 24).

40. **The State party should:**

(a) **Allocate sufficient human and technical resources to the National Anti-Trafficking Authority;**

(b) **Pursue its efforts to conduct impartial and effective investigations, ensuring that traffickers are prosecuted and punished with appropriate penalties;**

(c) **Pursue its efforts to train law enforcement officials, including on standards for the early identification and referral of trafficking victims to appropriate services for their assistance and rehabilitation;**

(d) **Allocate adequate resources for the creation of accessible shelters in all governorates of the State party and for the provision of adequate legal, medical and psychosocial assistance;**

(e) **Eliminate forced labour and all forms of exploitation of child labour, particularly in agriculture and domestic work, by strengthening the role of labour inspectors.**

Liberty and security of person

41. The Committee notes with satisfaction the adoption of Act No. 5 of 2016, which provides for a reduction in the legal duration of police custody for ordinary crimes to 48 hours, for detainees to be able to contact a lawyer from the outset of police custody and during interrogations, and for improvements relating to the right to undergo a medical examination. However, Act No. 5 of 2016 does not mention the minimum penalties that would warrant taking a person into custody, the time at which custody begins, the criteria for the extension of custody by the public prosecutor, or the right to appeal against the

legality of custody. Furthermore, the right of persons deprived of their liberty to be informed of their rights to communicate with a lawyer of their choice and to see a doctor as soon as they are taken into custody is reportedly still being violated in practice, while it seems that the time limits for police custody are exceeded, particularly in terrorism-related cases (arts. 9, 14, 19, 21 and 22).

42. The State party should clarify the conditions under which police custody commences and ensure that any period in excess of 48 hours remains absolutely exceptional and is justified by the circumstances. All detained persons should have effective access to a lawyer from the outset of police custody and be brought before an independent judicial authority within 48 hours of their arrest in order to ensure that the reasons for police custody and its extension are reviewed and that the lawfulness of police custody is subject to appeal. The State party should regularly monitor compliance with fundamental legal safeguards by all public officials and ensure that those who fail to respect them are punished.

Independence of the judiciary and administration of justice

43. The Committee notes with satisfaction the establishment in 2016 of the High Council of the Judiciary, which has a constitutional mandate to take decisions on matters relating to the career and discipline of members of the judiciary and the prosecution service, but is concerned at reports that the judiciary continues to be influenced by the executive branch, particularly in politically sensitive cases. The Committee also notes with concern that prosecutors may receive instructions from the Minister of Justice, which may undermine their independence (art. 14).

44. The State party should take measures to strengthen the protection of judges and prosecutors against all forms of political pressure, intimidation and harassment in order to guarantee their full autonomy, independence and impartiality. It should also guarantee the impartiality of criminal investigations. Lastly, it should adopt the draft law on the revision of the status of judges and the code of ethics for judges.

Freedom of expression and protection of human rights defenders

45. While noting the adoption of Decree-Law No. 115 of 2 November 2011 on freedom of the press, printing and publishing, and of Organic Act No. 22 of 24 March 2016 on the right of access to information, the Committee is concerned that a number of legislative provisions set excessive limits on the content of discourse, including in the Criminal Code, the Code of Military Justice and the Telecommunications Code, and is concerned at the vagueness of these provisions. The Committee is particularly concerned about a number of legal provisions that continue to criminalize activities related to the exercise of freedom of expression, such as publication of false information, damage to the reputation of public institutions, defamation or libel, which may hamper the activities of journalists or human rights defenders and restrict their freedom of expression. The Committee is further concerned at reports of intimidation, harassment and arbitrary detention of human rights defenders, which creates a climate that prevents criticism of violations of human rights, including those recognized in the Covenant (arts. 2, 6, 7, 14, 18, 19, 21 and 22).

46. The State party should:

(a) Expedite the process of revising the Criminal Code, the Code of Military Justice and the Telecommunications Code to bring them into line with articles 18 and 19 of the Covenant;

(b) Refrain from intimidating, harassing, arresting, detaining and prosecuting journalists and human rights defenders, on the basis of loosely defined offences, for exercising their right to freedom of expression;

(c) Ensure that all violations committed against human rights defenders are thoroughly and impartially investigated as quickly as possible, that those responsible are prosecuted and sentenced to penalties commensurate with the gravity of their acts and that the victims obtain redress.

Freedom of peaceful assembly and excessive use of force by State agents

47. The Committee notes that the legislative framework governing the maintenance of law and order does not fully conform to international standards. It is also concerned that excessive force is often used by law enforcement officers, especially during demonstrations, which has resulted in injuries and deaths. It is deeply concerned at reports that the officers responsible for demonstrators' injuries and deaths are rarely prosecuted for such acts and that this has created a climate of de facto impunity (arts. 6, 7, 9, 10, 14, 19 and 21).

48. **The State party should:**

(a) **Ensure that legislative and regulatory provisions governing the use of force comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, that law enforcement officials apply non-violent measures before any use of force when conducting demonstration control operations and that law enforcement officials respect the principles of legality, necessity, proportionality and accountability;**

(b) **Ensure that all allegations of excessive use of force and extrajudicial killings by State agents during demonstrations are investigated promptly, thoroughly and impartially, that those responsible are prosecuted and, if found guilty, are punished, and that the victims obtain redress.**

Freedom of association

49. The Committee notes with satisfaction that Decree-Law No. 88 of 24 September 2011 on the organization of associations provides for a declaratory system and welcomes the significant increase in the number of associations since 2011. However, the Committee is concerned at the harmful delays in the registration of some associations and at certain obstacles to the establishment of organizations dealing with politically sensitive issues. The Committee is also concerned that access to public funding involves complex procedures that most associations are not able to complete (arts. 9, 19, 21 and 22).

50. **The State party should ensure the effective implementation of Decree-Law No. 88 of 2011 and take effective measures to protect civil society organizations, in particular those defending human rights, and allow them to register and carry out their activities freely, in accordance with the current declaratory system. It should also simplify the procedures for access to public funding for associations.**

Participation in public life

51. While noting the adoption of Organic Act No. 7 of 14 February 2017 amending and supplementing Organic Act No. 16 of 26 May 2014 on elections and referendums, the Committee is concerned about the conditions in which the Independent High Electoral Commission operates and about the proper conduct of the forthcoming elections and the election timetable (arts. 2, 19, 21, 22 and 25).

52. **The State party should take the necessary measures to ensure the effective and independent functioning of the Independent High Electoral Commission and the proper conduct of the various elections.**

D. Dissemination and follow-up

53. **The State party should widely disseminate the Covenant, the first Optional Protocol, its sixth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into its official language.**

54. **In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 27 March 2022, information on the implementation**

of the recommendations made by the Committee in paragraphs 8 (Constitutional Court), 30 (State of emergency and counter-terrorism) and 48 (Freedom of peaceful assembly and excessive use of force by State agents) above.

55. In accordance with the Committee's planned review cycle, the State party will in 2026 receive from the Committee the list of issues prior to submission of the report and will have one year to submit its replies to the list of issues, which will constitute its seventh periodic report. The Committee also requests the State party, in preparing its report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2028.
