



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Tunisia and welcome the constructive engagement of your Government during the 27th session of the UPR Working Group in early May 2017.

As the final outcome report on the review of Tunisia was recently adopted by the Human Rights Council at its 36th session, I am writing to follow up on a number of areas raised in two reports that my Office prepared for the review – the compilation and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 98 countries, Tunisia's presentation and responses, and the action taken by Tunisia to implement the 110 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I would like to highlight two areas that were raised during the review of Tunisia and which I am particularly encouraged by. Firstly, I noted with satisfaction the adoption of the 2014 Constitution and the notable efforts still underway to revise the Tunisian legislation to bring it in line with the new Constitution and international obligations, especially efforts to foster the independence of the judiciary and Constitutional Court. The revision of the Code of Criminal Procedure and of the Code of the Rights of the Child confirms the willingness of the Government to continue in this direction. Secondly, I warmly welcome the landmark adoption on 26 July 2017 of a law on eliminating violence against women and impunity for perpetrators. This law, which included repealing article 227 bis of the Penal Code that allowed rapists to avoid criminal prosecution by marrying their minor victims, is an important step in providing protection for victims and ensuring perpetrators of such violence are held to account.

I encourage Tunisia to develop a national human rights action plan in order to achieve concrete results in the areas contained in the annex and to facilitate Tunisia's preparations for the fourth cycle of the UPR. The development of the national human rights action plan should include consultations with all stakeholders, in particular the NHRI and civil society organisations, and, where necessary, the support of international organisations, including the Office of the United Nations High Commissioner (OHCHR) and other United Nations entities, under the leadership of the UN Resident Coordinator.

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H.E. Mr. Mehdi Ben Gharbia
Minister to the Head of Government in charge of Relations with Constitutional
Institutions, Civil Society and Human Rights Organizations
Tunisia



I welcome the efforts of Tunisia towards strengthening its national mechanism for comprehensive follow up and reporting in relation to international and regional human rights mechanisms and treaty obligations. I encourage Tunisia to continue its efforts in this sense. I strongly recommend to Tunisia the use of the practical guide that my Office released in 2016 on this topic and which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them to begin implementing recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report and congratulate Tunisia for submitting such a report during the second cycle. I encourage Tunisia to submit a mid-term report for the third cycle, by September 2019.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office, and particularly the OHCHR Country Office in Tunis, may assist Tunisia to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; the Protocol of the African Charter on Human and Peoples Rights on the Rights of Women in Africa and the ILO Domestic Workers Convention, 2011 (No.189).

National human rights framework

- Strengthen the independence of the national mechanism for the prevention of torture and other forms of ill-treatment, including through the provision of a separate and adequate budget;
- Continue efforts to align national legislation relevant to human rights with the new Constitution and Tunisia's international human rights obligations, in particular the Convention for the Elimination of All forms of Discrimination against Women. These efforts should include the swift establishment of the Constitutional Court and the revision of laws incompatible with it and international human rights standards, such as revision of the Penal Code and the Code of Criminal Procedure;
- Ensure that the Constitutional Court and other constitutional bodies and institutions, including the National Authority for the Prevention of Torture, are independent, adequately resourced, and swiftly operational;
- Finalize the establishment of a new national human rights institution (NHRI) in compliance with the Paris Principles. Capacity development programs for the newly established NHRI could be developed with the support of OHCHR, UNDP and regional coordinating bodies of NHRIs.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Combat discrimination, in particular discrimination against women and children, and racial discrimination;
- Criminalise racism, in line with international commitments;
- Improve gender equality both in legislation and practice, including by granting men and women equal property and family rights;



- Align national legislation with international instruments to promote gender equality through the active participation of women in the political and economic spheres, in particular stimulating access for women to jobs, increasing their participation in political and economic life and ensuring wage equality between men and women.

Human rights and counter terrorism

- Combat terrorism and violent extremism by inter alia, ensuring respect of human rights, such as the right to fair trial and due process, including accountability for all acts of torture and other ill-treatment that occur within the framework of the fight against terrorism;
- Amend Organic Act No. 2015-26 in order to bring the definition of torture in to accordance with the requirements of the Convention against Torture.

B. Civil and political rights

Right to life, liberty and security of person

- While maintaining the de facto moratorium on the use of the death penalty, promote a national dialogue on its final abolition;
- Pursue efforts to further advance in the reform of the justice system, in particular the High Judicial Council;
- Adopt measures to reduce overcrowding in prison facilities, including alternative measures to pre-trial detention;
- Ensure fair treatment during all stages of judicial proceedings, which is in line with international human rights standards, in particular immediate access to an attorney upon arrest.;
- Step up efforts to combat and prevent torture and ill treatment by ensuring that allegations of these crimes are systematically investigated, perpetrators are prosecuted and punished, and victims are compensated in an equitable manner;
- Remove any reference in national legislation to a statute of limitation for the crime of torture.

Administration of justice, including impunity and the rule of law

- Implement legislative reforms to ensure that the courts enjoy administrative and financial independence through their own separate budget allocation;
- Ensure that the selection, appointment and promotion of judges are based on fair and objective criteria and procedures;
- Ensure that the legislation governing the military court system is explicit in ensuring that military courts only have jurisdiction over military personnel who have committed military offences, especially when such offences do not amount to human rights violations, and that no civilian cases are tried in the military court system;



- Ensure that impunity for human rights violations be addressed as a matter of priority through independent, impartial and expedient investigations and by bringing perpetrators to justice.

Fundamental freedoms and the right to participate in public and political life

- End administrative practices and other forms of discrimination that infringe on freedom of religion and belief;
- Strengthen the implementation of legislation in the areas of freedom of expression, assembly and association, freedom of information, freedom of the press and freedom of speech, ensuring alignment with international standards;
- Safeguard the rights of journalists and of human rights defenders, including by decriminalising defamation, ensuring that the Press Code is in conformity with international standards and implementing the recommendations contained in Human Rights Council resolution 27/5 on the safety of journalists.

C. Economic, Social and Cultural Rights

Right to work and to just and favourable conditions of work

- Reduce unemployment, especially youth unemployment, and guarantee the right to work and equality of all public sector workers ensuring their human dignity is respected, without discrimination, including gender based discrimination.
- Strengthen the national legislation regarding the rights of domestic workers.

Right to an adequate standard of living

- Prioritise the elimination of poverty, extreme poverty, exclusion and marginalisation, including through the reform of the existing social security and protection system and coordinating it with a national action plan to combat poverty.

Right to health

- Continue to strengthen healthcare infrastructure and improve access to health services in remote and rural areas, including access to sexual and reproductive health services, in view of reducing maternal mortality.

Right to education

- Continue efforts to improve access to education, especially in rural areas, including through a mandatory and free-of-cost year of primary school and a national plan to encourage girls to remain in school, especially in disadvantaged regions of the country.

D. Rights of specific persons or groups

Women

- Take action to eliminate discrimination and violence against women by amending relevant laws, in particular legislation on domestic violence and marital rape and



equal inheritance rights, and ensuring that these laws are consistent with the Convention on the Elimination of All Forms of Discrimination against Women;

- Train members of the judiciary and law enforcement officials to make them aware of all types of violence against women and strengthen public awareness campaigns.

LGBTQI persons

- Eliminate discriminatory practices based on sexual orientation and gender identity and ensure the protection of LGBTQI persons from all forms of stigmatization, harassment, discrimination and violence;
- Immediately cease forced medical examinations of LGBTQI persons;
- Decriminalize same-sex relations by repealing Article 230 of the Penal Code.

Children

- Continue to strengthen measures to combat human trafficking and child labour and ensure protection of victims by pursuing efforts towards child protection, the implementation of an independent mechanism to monitor children's rights, and a nation action plan against child labour, in cooperation with ILO.

Persons with disabilities

- Step up protection and promotion of human rights of persons with disabilities with a rights-based approach in order to ensure their full integration into society.

Migrants, refugees, asylum seekers and internally displaced persons

- Adopt measures to promote and protect the rights of migrants through the strengthening of mechanisms to detect, identify and assist vulnerable migrants at the border, including minors, potential asylum seekers and victims of trafficking. Ensure that unaccompanied minors and families with children are not detained.

Minorities and indigenous peoples

- Protect the economic, social and cultural rights of Amazigh minorities and collect disaggregated data by ethnicity and cultural background in order to allow a proper assessment of the situation of the Amazigh;
- Officially recognize the language and culture of the indigenous Amazigh people and ensure their protection and promotion, and adopt legislative and administrative measures to provide instruction in the Amazigh language at all education levels.