



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities Fifth session

Summary record of the 5th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 13 April 2011, at 10 a.m.

Chairperson: Mr. McCallum

Contents

Consideration of reports submitted by States parties under article 35 of the Convention
(*continued*)

Initial report of Tunisia (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 35 of the Convention *(continued)*

Initial report of Tunisia (continued) (CRPD/C/TUN/1; CRPD/C/TUN/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Tunisia took places at the Committee table.*
2. **Ms. Doula** (Tunisia), replying to questions posed at the Committee's fourth meeting, said that Tunisian legislation distinguished between mental and physical disabilities with regard to guardianship and legal capacity. Persons with physical disabilities enjoyed full legal capacity. Various degrees of mental disability were recognized. For example, persons who were insane were considered to be incapable of making decisions and were therefore subject to guardianship.
3. Before a guardian was appointed for a person with a mental disability, a judge would order an expert assessment of the person's mental faculties and would then rule on the issue of guardianship. All subsequent actions taken by the guardian were supervised by the judge. Thus, a guardian was not permitted to take decisions regarding the administration of the property of the person in his or her care without the judge's consent.
4. Persons who were declared legally incompetent could apply directly to a judge to have their legal capacity restored. There were examples in case law of successful appeals for the removal of guardianship. The Government stood ready to share information on recent developments with regard to guardianship and to cooperate with other countries in that area.
5. As stipulated in international covenants and agreements, consent was a prerequisite for marriage. Accordingly, persons who had been declared legally incompetent and who could not therefore give consent, were unable to marry.
6. With regard to torture, the Transitional Government of Tunisia had ratified a number of international instruments, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, by decree. It would report to the Committee against Torture on implementation of the Convention in 2011; statistical information on victims of torture would be provided at that time.
7. A general amnesty had been declared for all political prisoners. The Government was reviewing the situation of persons with disabilities in prisons to ensure that they too benefited from such measures. The cases of all 68 persons with disabilities held in Tunisian prisons had been or were being considered, and a number of pardons had been granted.
8. With regard to the institutionalization of persons with disabilities, there was provision for the involuntary admission of persons with psychiatric disorders, as well as safeguards to ensure that such admissions were not arbitrary. Only a first-degree relative or a spouse could request the institutionalization of a person without his or her consent. Involuntary admissions were permitted in certain other circumstances, such as medical emergencies. Moreover, patients were always admitted to public institutions.
9. Involuntary admissions could be ordered only by a judge and were valid for a renewable period of three months. A patient could be discharged earlier if two medical certificates, including one from the resident psychiatrist, were submitted to the judge, who could then order that person to be discharged immediately. Alternatively, the person concerned could apply directly to the judge.
10. The issues of violence against women with disabilities and marriage between a rapist and his victim had been raised by the Committee on the Elimination of

Discrimination against Women in 2010. Under existing legislation, charges against a rapist were dropped if he married his victim. However, such marriages were now viewed as forced, and the relevant provisions were therefore being reviewed. It was important to recall, however, that women with certain degrees of mental disability were not able to consent to marriage. The Ministry of Justice was also considering the introduction of new legislation in that field.

11. **Mr. Chaker** (Tunisia) said that he wished to share his own experience, which demonstrated the impact of legislation on legal capacity on the lives of persons with disabilities. Previously, a legal signature had been required on all contracts or official documents. Under the relevant legislation, blind persons had been treated in the same way as illiterate persons, with two witnesses, who could not be family members and who were sometimes complete strangers, also having to sign any contract or document to which they were signatories.

12. Persons with visual impairments had campaigned long and hard to change the law, and Tunisia's ratification of the Convention on the Rights of Persons with Disabilities had provided them with a new weapon in the form of the Convention's article 12. The law had eventually been amended, thus proving the importance of the Convention in securing the dignity of persons with disabilities.

13. **Mr. Belazi** (Tunisia) said, with regard to the issue of international cooperation, that Tunisia had long collaborated with other countries on disability issues. Following its ratification of the Convention, Tunisia had used the instrument as the main point of reference for all relevant bilateral agreements, with other countries, international organizations, intergovernmental organizations and NGOs. The scope of cooperation activities ranged from logistics and care in the home, under agreements concluded with Italy and Monaco that aimed to improve the services provided to persons with disabilities, to educational programmes and a pilot project conducted with the World Bank. Tunisia was committed to international cooperation but did not view it as a precondition for the implementation of the Convention.

14. **Mr. Zribi** (Tunisia) said, with regard to the question posed by Ms. Maina on the issue of psychological disabilities, that such disabilities were recognized under Tunisian legislation. The State party had tried, as far as possible, to avoid placing persons with psychological disabilities in institutions. However, in order to address the need for care, it had built small placement units. Each unit cared for fewer than 20 persons and was designed to provide residents with as much access to family life as possible.

15. Under article 19 of the joint decision of the Ministry of Social Affairs and the Ministry of Health, persons with psychological disabilities were placed in an institution only at their written request, or that of their court-appointed guardian. It was also possible to arrange a placement with a host or foster family. By way of safeguards in such cases, consent was required from both the person being placed and the host or foster family, either party could terminate the agreement and periodic assessments were carried out by experts.

16. Persons with psychological disorders who had been institutionalized and whose mental state had subsequently stabilized, could be transferred from hospital to a social care institution. The transfer process was lengthy because a team of experts had to ensure that it was carried out properly.

17. Creating a database of statistics obtained pursuant to the Convention was at the heart of the Government's plans, as it was vital to have a body of data that reflected all the Convention's provisions and would enable the State party to provide comprehensive statistics on the implementation of the instrument.

18. The recommendations made by civil society organizations to the Higher Council for the Protection of Persons with Disabilities would be reviewed each year to assess the progress made in implementing them. The views of persons with disabilities would be sought by the Constitutional Council, and all new legislation adopted by the Council would take into consideration their specific needs and rights. All programmes for persons with disabilities took into account the specific nature of each disability.

19. The delegation had been asked whether different kinds of disability were treated by the same institutions. Although social policies were aimed at integrating persons with disabilities in society, a distinction was made in institutions between varying types and stages of disability. For example, older persons with disabilities were cared for differently from younger persons with disabilities. The protection measures and facilities for persons with disabilities were adapted as far as possible to meet the specific needs of the persons concerned. In addition, prisons had been renovated to meet the needs of persons with disabilities and beaches had been made accessible to all, to cite just two examples of the steps that had been taken under the national accessibility plan.

20. **Mr. Kim Hyung Shik** said that article 12 of the Convention did not distinguish between mental and physical disabilities. The delegation had said that legal capacity was not an issue for persons with physical disabilities. However, article 12 dealt with the right to equal recognition before the law in general. People with physical disabilities faced discrimination in their daily lives and did not have easy access to the legal system. Such access was costly in some countries, and persons with disabilities were often among the poorest members of society. Furthermore, for persons without a full educational background, documenting a case without the assistance of legal counsel could be daunting. There was therefore a need for a publicly funded, competent, independent and impartial authority to ensure that persons with disabilities, regardless of their type of disability, could exercise their legal capacity.

21. **Mr. Gombos** enquired whether there was one hospital specializing in the treatment of persons with mental impairments and, if so, how many persons were treated.

22. **Mr. Ríos Espinosa** asked whether sign language was officially recognized under Tunisian law.

23. **Mr. Al-Tarawneh** said that the many amendments and new legislation pending adoption in the wake of the revolution were significant achievements and should be publicized throughout the Middle East and North Africa.

24. **Ms. Cisternas Reyes** enquired whether a law on domestic violence was envisaged and whether there was criminal legislation dealing specifically with domestic violence against persons with disabilities. She sought clarification concerning the adjustments made, if any, in court proceedings, such as sign language interpretation for witnesses or defendants, to ensure access to justice for persons with disabilities.

25. **Ms. Maina** said that there was a need to move from a medical to a human rights model in programmes for people with intellectual and mental disabilities. Such programmes must be incorporated in disability laws and policies, rather than being subsumed under mental health policies.

26. **Ms. Hadj-Salah** asked whether persons had been empowered under the law to notify the relevant authorities about the ill-treatment of women and children with disabilities, whether there were centres for victims of abuse and whether there were support services that visited families with many children with disabilities.

27. **Ms. Doula** (Tunisia) said that all persons with disabilities who were on trial or were parties to proceedings had free access to justice. A lawyer was made available to persons with disabilities free of charge if the person in question could not afford one. A committee

under the supervision of a judge decided whether a person with disabilities required such legal assistance. The payment of necessary forensic experts was also covered by public funding. Free legal counsel had been extended to cover both civil and criminal cases. The courts provided sign language interpreters for persons who needed them, whether they were criminal defendants or civil respondents.

28. The courts treated disability as an aggravating circumstance in domestic violence cases. Individuals involved in the care of persons with disabilities, including doctors, were required by law to report signs of violence against those persons. Tunisia had in place a Child Protection Code, child protection officers and family courts to protect children with disabilities against abuse.

29. **Mr. Zribi** (Tunisia) said that persons with psychological disabilities were not isolated from society in institutions. All facilities for persons with disabilities were open institutions. Such institutions sought to reintegrate persons with disabilities in a family setting if possible.

30. There were temporary shelters for women and children who were victims of domestic violence. There were also women's associations that ran centres and a hotline for victims of abuse.

31. The Government was currently drafting a model law on the protection of persons with disabilities in the Arab world. It had planned to hold a workshop on the issue but had had to postpone it in the light of the current situation in Tunisia. However, it would continue to make efforts to disseminate good practice in accordance with the Convention.

32. **Mr. Moncef** (Tunisia) said that mental health needs in general and the needs of persons with mental impairments in particular were covered under the general health-care system in Tunisia. Such care had been provided in Razi Hospital, which specialized in mental disabilities. However, mental health care was now available in all hospitals, including university and local hospitals. Razi Hospital, which had about a thousand beds, treated persons with severe mental impairments, who also received the general care provided by the hospital.

33. **Ms. Maina** said that the isolation of persons with mental or psychological disabilities in institutions or other centres was prohibited under the Convention. She suggested that the delegation should continue to consult with the Committee on ways to ensure that the approach taken to persons with disabilities protected their rights and went beyond a medical model.

34. **Ms. Al-Suwaidi** (Country Rapporteur) said in conclusion that Tunisia had placed the Convention at the heart of its concerns following its revolution. The Committee hoped that Tunisia would hold seminars to raise awareness about the rights of persons with disabilities. It wished to see more public funds allocated to the education of persons with disabilities, which would help them to be integrated in society. Rights were interdependent and, through education, children in particular would be better able to assert their rights. The protection of the rights of persons with disabilities must not be limited to access to public buildings. They must have access to technologies as well. More readily available information would give them more scope to assume decision-making positions. She trusted that the delegation's fruitful and positive dialogue with the Committee would help the State party to meet its obligations under the Convention.

35. **Mr. Ennaceur** (Tunisia) said that the dialogue with the Committee had been productive and that his Government would focus on ways to implement the recommendations made. He thanked the Committee members for their expertise, commitment and professionalism and the secretariat for the excellent organization of work

and the assistance it had provided in translating the report into Braille and the discussions into sign language.

36. More remained to be done. His delegation would be seeking more public funding for programmes to protect the rights of persons with disabilities and promote greater equality of opportunity. Nevertheless, Tunisia had managed to submit its initial report despite the exceptional circumstances prevailing in the country in recent months, which attested to Tunisia's determination to join international efforts to ensure better protection of the rights of persons with disabilities. The revolution that had occurred marked a step forward towards the strengthening of universal principles and values in Tunisia, including equality of rights for men and women and persons with disabilities, and towards the implementation of the Convention. He hoped that the next report to the Committee would include more comprehensive and detailed information on the progress made to achieve those lofty objectives.

The meeting rose at 11.20 a.m.