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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities**Fifth session**

11-15 April 2011

Consideration of reports submitted by States parties under article 35 of the Convention**Concluding observations of the Committee on the Rights of Persons with Disabilities****Tunisia**

1. The Committee considered the initial report of Tunisia (CRPD/C/TUN/1) at its 46th, 47th, and 48th meetings (see CRPD/C/SR.46-48), held on 12 and 13 April 2011, and adopted the following concluding observations at its 52nd meeting, held on 15 April 2011.

I. Introduction

2. The Committee welcomes the initial report of Tunisia, which was one of the first States to ratify the Convention and its Optional Protocol, as well as the written replies to the list of issues (CRPD/C/TUN/Q/1/Add.1). The two documents enabled the Committee to gain a better understanding of the implementation of the Convention in the State party.

3. The Committee highly appreciates the presence of the delegation for the dialogue, despite the country being in a transitional situation since the democratic revolution of 14 January 2011, and welcomes the open dialogue with a competent delegation representing several segments of the Government, and including an expert with disabilities among its members.

II. Positive aspects

4. The Committee notes with appreciation that the initial report was prepared in a process of extensive national consultations, including with disabled persons' organizations.

5. The Committee welcomes the measures taken by the State party to initiate harmonization of domestic law and policy with the Convention, including the adoption of:

- (a) Law No. 83 of 15 August 2005 on the advancement and protection of persons with disabilities;
- (b) Law No. 80 of 23 July 2002, supplemented by Law No. 9 of 11 February 2008, which prohibits discrimination against school-age children.

6. The Committee welcomes the amendment of article 319 of the Penal Code in 2010, which prohibits all forms of violence against children, regardless of who the perpetrator – including parents or tutors – may be.

III. Factors and difficulties impeding the implementation of the Convention

7. The Committee notes that the implementation of some aspects of the Convention might be influenced by the uncertainty and rapidly changing situation in the State party, following the democratic revolution. It notes the far-reaching institutional changes taking place in recent months, and views those changes as a unique opportunity for persons with disabilities to take part in the building of a new country.

IV. Principal areas of concern and recommendations**A. General principles and obligations (arts. 1 and 4)**

8. The Committee notes Order No. 3086 of 29 November 2005, defining disability and setting forth the proof required to obtain a disability card, and the State party's endeavour to shift from a medical approach to a social approach. However, it is concerned at the risk of exclusion of persons who should be protected by the Convention, in particular persons with psychosocial disabilities ("mental illness") or intellectual disabilities, or others who are unable to obtain a disability card, either due to disability or by association with a disability.

9. **The Committee invites the State party to review and reformulate the definition of disability based on the Convention.**

10. **In accordance with article 4, paragraph 3, of the Convention, the Committee recommends that the State party encourage and support the creation, capacity-building and effective participation of representative organizations or groups of persons with disabilities, and parents of persons with disabilities at the local and national levels in the conception, design, reform and implementation of policies and programmes. In particular, the Committee urges the State party to ensure that persons with disabilities are consulted and actively involved, including as members of the Constitutional Council, in the drafting of the new Constitution.**

11. **The Committee recommends that the State party take steps to further facilitate the full participation of women, men, girls and boys with disabilities and their families in society.**

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

12. The Committee takes note of Law No. 2005-83 on the advancement and protection of persons with disabilities. However it regrets the lack of clarity on the application of the concept of reasonable accommodation.

13. **The Committee recommends that the State party incorporate the definition of reasonable accommodation in national law, and apply it in accordance with article 2 of the Convention, in particular by ensuring that the law explicitly recognizes the denial of reasonable accommodation as disability-based discrimination. The Committee invites the State party to make greater efforts to raise awareness on non-discrimination among members of the legal profession, particularly the judiciary, and persons with disabilities themselves, including through training programmes on the concept of reasonable accommodation. The Committee recommends that the State party act with urgency to include an explicit prohibition of disability-based discrimination in an anti-discrimination law, as well as ensure that disability-based discrimination is prohibited in all laws, particularly those governing elections, labour, education, and health, among others.**

Women with disabilities (art. 6)

14. While noting the improvements in the condition of women in general, the Committee is concerned by the negative perception of women with disabilities within the family and society, and the reported cultural, traditional and family pressures that favour the concealment of women with disabilities, and prevents them from obtaining a disability card, thereby limiting their opportunities to participate in society, and develop to their full potential.

15. **The Committee recommends that the State party:**

(a) **Design and implement awareness-raising campaigns and education programmes throughout society, including at the family level, on women with disabilities in order to foster respect for their rights and dignity; combat stereotypes, prejudices and harmful practices; and promote awareness of their capabilities and contributions;**

(b) **Ensure the visibility of women with disabilities in the collection of data and statistics (see paragraph 37 below);**

(c) **Undertake studies and research in order to identify the situation and specific requirements of women with disabilities, with a view to elaborating and adopting strategies, policies and programmes, especially in the fields of education, employment, health and social protection, to promote their autonomy and full participation in society, and to combat violence against women.**

Children with disabilities (art. 7)

16. The Committee is particularly concerned at the low rate of reporting (*signalement*) of cases of habitual mistreatment of children, including children with disabilities, which may amount to situations of danger, in view of the results of the Multiple Indicator Cluster Survey (MICS 2006) which indicated that 94 per cent of children aged between 2 and 14 years are disciplined in the home through violent means, whether verbal, physical, or through deprivation.

17. **The Committee recommends that the State party:**

(a) **Evaluate the phenomenon of violence against boys and girls with disabilities, and compile systematic disaggregated data (see paragraph 39 below) with a view to better combating it;**

(b) **Ensure that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated, and establish complaint procedures accessible to children with disabilities;**

- (c) Establish independent follow-up mechanisms; and
- (d) Take steps to replace institutional care for boys and girls with disabilities with community-based care.

Awareness-raising (art. 8)

18. The Committee notes the strategy of information, education and communication to raise awareness on persons with disabilities, including training for judicial and education personnel. The Committee, however, regrets the lack of information about training provided to other public officials on the Convention.

19. **The Committee encourages the State party to establish awareness-raising and training programmes that are in conformity with the principles of the Convention for all officials involved in the promotion, protection or implementation of the rights of persons with disabilities, including officials at the local level dealing with persons with disabilities.**

Accessibility (art. 9)

20. The Committee takes note of the National Strategy on environmental management and the implementation of the first Action Plan in this area, covering the period 2008-2010. However, it remains concerned that gaps continue to impede full accessibility for persons with disabilities, on an equal basis with others, to all facilities and services open or provided to the public, including access to information, communications and transport.

21. **The Committee recommends that the State party, in close consultation with persons with disabilities and their representative organizations, undertake a comprehensive review of the implementation of laws on accessibility in order to identify, monitor and address those gaps. It recommends that awareness-raising programmes be conducted for the relevant professional groups and all stakeholders. It further recommends that sufficient financial and human resources be allocated as soon as possible to implement the national plan on accessibility for existing and future infrastructure.**

Equal recognition before the law (art. 12)

22. The Committee is concerned that no measures have been undertaken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.

23. **The Committee recommends that the State party review the laws allowing for guardianship and trusteeship, and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making. It further recommends that training be provided on this issue to all relevant public officials and other stakeholders.**

Liberty and security of the person (art. 14)

24. With reference to article 14 of the Convention, the Committee is concerned that having a disability, including an intellectual or psychosocial disability, can constitute a basis for the deprivation of liberty under current legislation.

25. **The Committee recommends that the State party repeal legislative provisions which allow for the deprivation of liberty on the basis of disability, including a psychosocial or intellectual disability. The Committee further recommends that until new legislation is in place, all cases of persons with disabilities who are deprived of their liberty in hospitals and specialized institutions be reviewed, and that the review include the possibility of appeal.**

Freedom from exploitation, violence and abuse (art. 16)

26. The Committee expresses concern at the situation of violence that women and children with disabilities might face.

27. **The Committee encourages the State party to include women and girls with disabilities in the National Strategy for the prevention of violence in the family and society, and to adopt comprehensive measures for them to have access to immediate protection, shelter and legal aid. It requests the State party to conduct awareness campaigns and develop educational programmes on the greater vulnerability of women and girls with disabilities with respect to violence and abuse.**

Integrity of the person (art. 17)

28. The Committee is concerned about the lack of clarity concerning the scope of legislation to protect persons with disabilities from being subjected to treatment without their free and informed consent, including forced treatment in mental health services.

29. **The Committee recommends that the State party incorporate into the law the abolition of surgery and treatment without the full and informed consent of the patient, and ensure that national law especially respects women's rights under article 23 and 25 of the Convention.**

Education (art. 24)

30. The Committee takes note of the national programme of inclusive education for children with disabilities. However, it notes with deep concern that, in practice, the inclusion strategy is not equally implemented in schools; rules relating to the number of children in mainstream schools and to the management of inclusive classes are commonly breached; and schools are not equitably

distributed between regions of the same governorate.

31. The Committee is equally concerned that many integrated schools are not equipped to receive children with disabilities, and that the training of teachers and administrators with regard to disabilities remains a concern in the State Party.

32. **The Committee recommends that the State party:**

- (a) **Take measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion on an equal basis with others and, in this regard, provide information intended for the general public in accessible formats and – especially with respect to the deaf, hard-of-hearing, and deafblind – recognize and promote the use of sign language;**
- (b) **Increase its efforts to enforce inclusive education for girls and boys with disabilities in all schools;**
- (c) **Intensify training for education personnel, including teachers and administrators;**
- (d) **Allocate sufficient financial and human resources to implement the national programme of inclusive education for children with disabilities.**

Work and employment (art. 27)

33. The Committee takes note of the State party's efforts to support the employment of persons with disabilities in public services. However, it remains concerned at the low level of inclusion of persons with disabilities in the private sector.

34. **The Committee recommends that the State party:**

- (a) **Ensure the implementation of measures of affirmative action provided for in the law for the employment of women and men with disabilities;**
- (b) **Increase the diversity of employment and vocational training opportunities for persons with disabilities; and**
- (c) **Ensure the participation of persons with disabilities and their representative organizations within the Labour Inspection Office and the Conciliation Committees.**

Participation in political and public life (art. 29)

35. **The Committee recommends the urgent adoption of legislative measures to ensure that persons with disabilities, including persons who are currently under guardianship or trusteeship, can exercise their right to vote and participate in public life, on an equal basis with others.**

C. Specific obligations (arts. 31-33)

Statistics and data collection (art. 31)

36. The Committee welcomes the plans to develop a database to store all available data on persons with disabilities (CRPD/C/TUN/1, para. 7), but regrets the low level of visibility of women with disabilities. The Committee recalls that such information is indispensable to understanding the situation of women with disabilities in the State party, and to assessing the implementation of the Convention.

37. **The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability, enhance capacity-building in this regard, and develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention.**

38. The Committee regrets the invisibility of children with disabilities in data related to protection of children.

39. **The Committee recommends that the State party systematically collect, analyse and disseminate data, disaggregated by sex, age and disability, on abuse and violence against children.**

International cooperation (art. 32)

40. **The Committee encourages the State party to ensure that all international cooperation carried out on its territory, or in partnership with it, is fully inclusive of persons with disabilities, and promotes their active participation in international cooperation projects.**

National implementation and monitoring (art. 33)

41. The Committee takes note of the existence of specialized institutions mandated to protect the rights of persons with disabilities, namely the Higher Council for the Social Advancement and Protection of Persons with Disabilities and the Higher Committee for Human Rights and Fundamental Freedoms. However, it is concerned by the low participation of persons with disabilities in, and the independence of, these institutions.

42. **The Committee recommends that the State party:**

- (a) Ensure that disabled persons' organizations are able to participate in the Higher Council for the Social Advancement and Protection of Persons with Disabilities, and thus play a central role in monitoring the implementation of the Convention;
- (b) Ensure that the Higher Committee for Human Rights and Fundamental Freedoms complies with the Principles relating to the Status of National Institutions (see General Assembly resolution 48/134, annex), and establish a dedicated unit on disabilities.

Follow-up and dissemination

43. The Committee notes with appreciation the voluntary pledge and commitment made by the State party to implement the recommendations of the Committee (CRPD/C/TUN/1, para. 4) and, in this regard, requests it to include in its second periodic report detailed information on measures taken to follow up the recommendations made in the present concluding observations. The Committee recommends that the State party take all appropriate measures to ensure that these recommendations are implemented, by, inter alia, transmitting them for consideration and action to members of the Government and Parliament, as well as local authorities.

44. The Committee encourages the State party to continue to implement the Convention, and to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

45. The Committee requests the State party to disseminate these concluding observations widely, including to public agencies, the judiciary, non-governmental organizations and other members of the civil society, and to take steps to make them known to persons with disabilities and members of their families in accessible formats.

Technical cooperation

46. The Committee recommends that the State Party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group (IASG) for the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations. It recommends, in this regard, that the State party conclude an agreement with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to establish a country office as soon as possible.

Next report

47. The Committee requests the State party to submit its second periodic report no later than 2 April 2014, and to include therein information on the implementation of the present concluding observations.

48. The Committee draws the State party's attention to the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6), which require State reports to be submitted in two parts: a common core document and a treaty-specific document, of which, only the later was available to the Committee during the dialogue. The Committee recommends that the State party elaborate and submit a common core document in accordance with the guidelines.