

## THE CONDITIONS OF THE CHILD IN TUNISIA

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This paper explores the conditions of the child in Tunisia and investigates whether the child in this state enjoys his full human rights. In the first part, I will describe the place of the child in this country and examine his/her situation. Then, I will study the rules and codes established by the government that promote the status of the child in general and the girl in particular. The next part is an assessment of the extent of improvement of the position of the Tunisian boys and girls. Indeed, this part will deal with the critical issues that hamper the Tunisian children from enjoying their full rights. In fact, according to the United Nations Committee on the Rights of the Child, despite the progress that this country has achieved in the field of children's rights, there are still inequalities from which these children suffer.

### 1. Introduction

If we focus on the conditions of children in Tunisia, we notice that this country is a very interesting source of study. Nowadays, the State of Tunisia appears to be a country in transition, and is no longer counted among the poorest nations of the world, but among the emerging economies. This country is known unanimously to be a state which has built an efficient model concerning children's rights. It reserves to childhood a privileged place and considers the child as a full person who represents the future.

Indeed, the promotion of the rights of the child in Tunisia is given great attention at the highest level. The Tunisian Government believes that the respect of man's rights begins

with the way that society treats its children. Each community should love its children and grant them freedom and dignity. Every society should provide their young generation with the conditions and means that enable them to develop their abilities and sharpen their natural gifts so that they might have a free and decent life.

Tunisia maintains the position of its child at the very heart of national development plans. In order to promote children's rights, the government has taken several important measures and translated them into a practical reality, such as the commitment to education, of both girls and boys, in the Constitution. Institutions have been created and legal mechanisms, such as a Code for the Protection of the Child, introduced in 1995 so that every child, as a member of society, can enjoy all his/her rights whether they are political, civic, economic, social or cultural.

As long as the government continues on a large scale to respect its commitment to promote the rights of its children, child survival remains an urgent priority. Tunisian childhood policy has undergone a thorough change, based on a progressive move to a strategy based on the acknowledgement that the child is a right-bearing individual. In fact, the Tunisian Government is taking more seriously the issue of children's rights and the child has become a priority.

## **2. The place of the Child in Tunisia**

Various indicators show a substantial improvement of the living standards of all Tunisians. For instance, life expectancy increased to 78.4% and the mortality rate decreased to 5% in 2003. The population growth increase rate fell from 3% in 1996 to 1.08% in 2002.<sup>1</sup> Furthermore, the poverty rate dropped to about 4%. It was limited to 4.2% of the population in 2004

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<sup>1</sup> Tunisia 2005. *Key Economic and Social Indicators*. Tunisia: Tunisian External Communication Agency, 2005, p 6.



versus almost a third of Tunisians living below the poverty line in 1960. In addition, more than nine households out of ten nationwide had access to drinking water and electricity. 84% of households in rural areas had access to drinking water, and 94% to electricity in 2003, against one out of five households in 1984.<sup>2</sup>

The rate of vaccination among children increased to more than 95% in 2001 against 70% in 1984. In fact, one of the most important priorities of the Tunisian authorities is to reduce maternal and neonatal mortality. As a consequence, we notice a reduction of 50% of the number of children dying from malnutrition in 2003 compared to 1990.<sup>3</sup>

Prior to independence in 1956, in this nation, many children had no schooling and could not read at all. Education in Tunisia was only available to a privileged minority, which represented 14% of the total population. Most were not educated except the elite; now, the situation is different and education is given an extremely high priority. After independence, there was a shift to seeing children as a strategic target of social investment, based on the provision of universal social benefits. The state encouraged not only education in general but also promoted girls' education and equality with boys in this domain.

Tunisia is placing great value on education and training. Progress in schooling has been striking. Today, Tunisia spends nearly 7% of its GDP on education. The child's right to education is guaranteed by Act number 91-65 established on July 29, 1991. Administrative measures concerning the educational system were established to ensure the exercise of this right. They set up various levels of legal penalties which can be used against any parent who attempts to prevent a son or daughter from attending school. In addition, it obliges the state to guarantee an education to all persons of school age.

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<sup>2</sup> *Ibid.* p 7.

<sup>3</sup> *Ibid.* p 8.

Education in Tunisia is free and accessible to everyone. Schooling is compulsory between the ages of six and sixteen. This principle was introduced in 1989 by an Educational Reform. As a result, one Tunisian out of four is currently enrolled in school or in a vocational training centre. In accordance with national statistics, estimated by the Ministry of Education, the percentage of six-year old children in full-time education rose from 85% in 1975 to 99% in 2004. The school enrolment rate is 95% for children aged six to fourteen.

Moreover, recent reforms in the educational system have attracted an even larger number of children and especially of girls. Basic education for both boys and girls has been compulsory since 1991. Indeed, Tunisia has invested not only in its children but also in equality in education. In fact, the other area of interest in Tunisian policy is the strengthening of the place of the girl. Indeed, there is an emphasis on the universal schooling of girls and the development of mothers and child healthcare programmes. The result is the increase in the rate of six-year old girls schooling, which is 99%, that is equal to that of boys.

We remark a rise in the rate of female students in secondary and higher education that rose from 19.4% of the total in 1966 to 53% of the total in 2005. In addition, in 2005, the ratio of female students reached 53% in secondary education and 57% in higher education.

The number of higher education students grew significantly and reached 334,000 in 2004 including 3,000 students in private education, against 11,000 in 1970. This reveals the significant improvement in the percentage of young people in full-time university education, which stood at 33.3% in 2004 against 2.1% in 1966.<sup>4</sup>

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<sup>4</sup> All the statistics mentioned in this page and in the previous one are withdrawn from Tunisia News. "Children's Rights in Tunisia". Vol. 644. (Jan 2006), pp 13-14.



In addition, the Tunisian Government has reinforced the social and integral protection of adopted children and those without family support. It has extended the national network of public libraries for children and facilitated the life of disadvantaged children. For instance, in 2005, Tunisia created 110 sports associations for 3,000 handicapped children.<sup>5</sup>

Tunisia has taken other important steps to reinforce the rights of children by promulgating a series of legal texts and instituting a number of procedures. The intention was to put into practice the commitments made by ratifying international instruments and treaties.

In July 1993, the government amended its Personal Statute Code by introducing joint parental authority and adopting the divorce procedure to serve the best interest of the child in conjunction with the divorce procedure. The other improvement was the promotion of children's legal protection by enacting a Code for the protection of the child.

On the occasion of the National Children's Day, on January 11, 1994, the Tunisian legislature strengthened the position of the child by preparing a draft Code for the Protection of the Child (CPE) aiming at ensuring the socialization of children. The Code was adopted by the Parliament in November 1995, and aims in particular at confirming the child's place in the family, and thereby ensuring his/her equilibrium, survival and development. It is part of an overall, harmonious vision of the rights of the child.

This document is one of Tunisia's greatest achievements regarding children. It is the first complete Tunisian legal frame, and the main legislation supporting and protecting Tunisian children in general and those in need of special protection in particular. It intends to provide the child in danger with different aspects of social and legal protection. It was also established to lay down a certain number of rules to

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<sup>5</sup> Tunisia News. "Children's Rights in Tunisia". Vol. 644. (Jan 2006), pp 13-14.

protect children, particularly disabled ones<sup>6</sup>, from any physical or moral danger threatening them. It aims at ensuring them a life of freedom which contributes to their development as responsible adults. The Code's purpose is to confirm the supremacy of the concern for children by guaranteeing their rights. With its special character, it began contributing enormously in improving the living conditions of Tunisian children and women as soon as it was established in 1995.

The Code contains articles which are in conformity with the provisions of the United Nations Convention on the Rights of the Child. Some of them guarantee children's rights to an identity at birth and to the respect of their privacy. Others give the child the right to health and a healthy environment and favorable living conditions. Furthermore, the Code promotes the right to education and educational, social and cultural activities that favor the development of children's mental, physical and emotional faculties. The other rights set forth in the Code are free expression of opinions and protection from all forms of exploitation, violence, physical and sexual attack, and from abandonment and negligence (Articles 7, 19 and 34).

Article 1 of this Code aims at firmly anchoring the child's national identity and his feeling of belonging to a civilization. According to Article 2

"This Code guarantees the right to enjoy the various social, educational and health preventive measures and other arrangements and procedures aimed at protecting him/her from any kind of violence, harm, physical, mental or sexual attack or abandonment or negligence that give rise to mistreatment or exploitation".<sup>7</sup>

Article 3 defines the child. In coherence with the UNCRC, eighteen is the maximum age for majority in conformity with

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<sup>6</sup> The Child Protection Code: Article 7.

<sup>7</sup> The Child Protection Code: Article 2.



the fundamental idea that children who are under that age have not yet reached a sufficient psychological maturity which brings them to the adult's status. It says:

"A child is, for the effect of the present Code, every human being under eighteen years old and who has not attained his/her majority by special provisions".<sup>8</sup>

The second principle in this article is the establishment of the minimum age for entry into the labor force in all sectors of activity regulated by the Labor Code, whether they are industrial, commercial or agricultural. It prohibits economic exploitation of children.

It was on this basis that the state progressively integrated social norms through the promulgation of the Code of Work of 1966. Since then, Tunisia had accelerated its ratification of a series of International Labor Organization Conventions. So far fifty six Labor Conventions have been ratified by the Government of Tunisia, including the seven Conventions related to fundamental human rights.

Tunisia's ratification of the ILO Convention on the Minimum Age for Admission to Employment, in July 1995, enforced its choice of sixteen years old as a minimum age for both full-time and part-time work. This age corresponds to the end of compulsory schooling. According to Article fifty eight of the New Labor Code, employment by its nature or by the conditions in which it is carried out "is dangerous for the life, health or the morality of the persons engaged therein".<sup>9</sup> This emphasizes the idea of protecting children from labor exploitation. The minimum age for employment is sixteen years old, whereas the minimum age for hazardous or manual labor is eighteen years old. Furthermore, the minimum age for light work in the non-industrial and agricultural sectors is thirteen years.

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<sup>8</sup> *Ibid.* Article 3.

<sup>9</sup> The New Labor Code: Article 58.



Under the Labor Code, children may work as apprentices or through vocational training programmes at age fourteen. In addition, children less than sixteen years of age may work in family-run businesses as long as the work does not interfere with school, pose a threat to the child's health, exceed two hours per day, or exceed seven hours per day when combined with time spent in school. Workers between the ages of fourteen and eighteen must have twelve hours of rest per day. Children between the ages of fourteen and sixteen in non-agricultural sectors may work no more than two hours per day.

Article 5 stipulates that every child has the right, from birth, to have an identity, which includes the first name, the family name, the birth date and nationality. Article 6 prevents children's separation from their parents and gives the delinquent child the right to special treatment.

In addition to all these rights, the Code prohibits the involvement of children in armed conflicts and their exploitation in organized criminality. Indeed, the document forbids the participation of children less than eighteen years old in wars and armed conflict.

Special groups of Tunisian children, such as the abandoned, parentless, those born outside wedlock, the disabled and delinquency-menaced, profit from specific programmes which aim at helping them to enjoy an effective social reinsertion. Although protection is every child's fundamental right, these groups of children are more in need than others for the intervention of legal and social procedures to protect them against whatever may endanger their health or their physical or psychological safety.

The Code, in Article 7, confirms the right of mentally or physically handicapped children to special protection and medical care and to a degree of education and training. These prerogatives are supposed to strengthen their self-sufficiency and facilitate their active participation in social life. For example, on May 11, 1994, the Ministries of Education and Scientific Research established an Agreement that aimed at



creating specialized centers for education and qualification of the handicapped, and established tools to organize and manage these centers. In addition, disabled children were provided with the right to pursue their schooling under normal conditions in specialized institutions, in accordance with the terms of the Agreement.

As already mentioned, the other area of interest of the Tunisian policy was to strengthen the status of the girl. This is clearly declared in the Code. The concept of children's rights is applicable to all children without distinction and girls have the right to enjoy equal opportunities. The National Programme of Action for the Family reinforces non-discrimination in education and in social life, and guarantees gender equality in the right to education, health and employment.

The Tunisian law also protects the girl child against all forms of abuses. For instance, Article 5 of the Code sets the minimum age for marriage for girls, which was formerly fifteen years old, at seventeen, and gives them the right to consent to marriage. According to the Tunisian Constitution,

“Men less than twenty years of age and women less than twenty years of age cannot enter into a marriage contract. Below this age, marriage cannot be contracted unless there is a special authorization granted by a judge”.<sup>10</sup>

In October 2006, the President of the Tunisian Republic enacted an amendment and established age eighteen as the minimum age for marriage for both girls and boys.

A Personal Status Code was adopted shortly after independence in 1956 which, among other things, gave women

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<sup>10</sup> Act No. 93-74 of July 1993 amended certain Articles of the Tunisian Constitution and the Personal Status Code, where the main concept enshrines the reinforcement of the family in general and the child in particular.

full legal status and outlawed polygamy. Tunisia fostered partnerships between women and men in the management of family affairs and of children, as well as in the areas of employment, social security and other fields related to civil and economic relations.

Furthermore, the government required parents to send girls to school, and today more than 50% of university students are women. The Tunisian Constitution guarantees partnership and equality between spouses not only through banning polygamy, but also through creating institutions of judicial divorce and consolidating the rights of women in charge of children's custody. Some of these features of the Tunisian policy distinguish it from other Muslim countries; in fact, this state is known for its progressive struggle to emancipate women.

One notices that Tunisia looks like a modern country that follows in one way or another the European model. Indeed, since gaining its independence from France, Tunisian officials have been working to develop a system that is responsive to the needs of a rapidly developing and modern country, while also emphasizing the need to develop a distinct national and regional identity. In fact, the Tunisian Constitution's originality lies in modernizing its religion and at the same time orienting the public education system towards teaching younger generations, including boys and girls, the values of tolerance, peace and moderation inherent in Islam.

The Code also protects children who are accused of legal offences and guarantees them special treatment which respects their dignity. Tunisian law grants young people in conflict with the law the right to special treatment regarding both the administration of justice and penalties imposed. Youngsters who have problems with the law are given the right to be treated in a way that protects their dignity and their person. This is possible thanks to the reorganization of specialized children's jurisdictions and the creation of a children's court in 1995.



The reorganization of juvenile courts was achieved by appointing specifically qualified magistrates, also called minors' judges, responsible for cases relating to children. These specialized judges are particularly trained to serve children's needs and rights.

The promulgation in 1995 of the Children's Welfare Code was followed by the creation of the duties of the juvenile court judge and commissioner for children's welfare. The role of family judges is to decide whether the child should, for instance, be kept in his family environment, assisted within the family as necessary, placed in an outside home or institution, or be subjected to medical or psychological examinations. When holding proceedings concerning a child, the family judge is supposed to conduct hearings both with the child and his parents and make a decision that corresponds to the child's best interest.

The Code provides that juvenile delinquents have to be heard in a juvenile court in the presence of a juvenile judge and two assistants who are fully familiar with the available evidence. The judge has to substantiate his/her decision if it runs counter to the advice given by those assistants. Juvenile courts are specialized courts that recognize and focus on offences; minor offences and crimes committed by children aged thirteen to eighteen. The Youth Court consists of a president, two advisory judges and experts on children. One or more examining magistrates and one or more prosecuting attorneys specializing in child affairs are assigned to each of the existing higher-level courts. The creation of children's courts enables each child to show his/her capacities to take decisions and to have the right to participate in society.

The minimum age for being prosecuted is thirteen years old. The child who is under that age is not liable to prosecution. Article sixty eight of the Child Protection Code states that a child under thirteen years of age is considered irrefutably to be unable to have infringed the Criminal Code; this presumption becomes refutable for children aged from thirteen to fifteen

years old. Children between thirteen and fifteen who have committed an infraction or a minor offence or a crime are not submitted to the penal jurisdictions of common law. All crimes except homicide can be minimized to the level of minor offences so as to attenuate the punishment.

The appointment of a Child Protection Officer, also called the Deputy for Childhood Protection, is one specific mechanism that was instituted to monitor and address the difficulties that children may face. The Deputy, or the Delegate, is ranked as a "Judicial Police Officer" similar to a social supervisor. S/he is the special person who determines the measures which are adequate to the child's situation. Although the Delegates are appointed by the Ministry, they are not civil servants. They have special investigative powers and have the prerogative to summon the child's parents. They work in cooperation with municipal and regional authorities, judges, law enforcement personnel and civil society.

The mission of the Child Rights Observatory is to take preventive action when a child's health or physical and moral integrity are in danger. Officers may take measures to eliminate the source of the threat or temporarily place the child with a foster family or social institution. They collaborate with all other facilities, institutions, and cultural, legal, educational, health and social bodies that deal with children. Any person, doctors, relatives, teachers or social assistants, who notice the existence of a dangerous situation, should inform the Delegate who has the responsibility, under Article 35 of the Code, to take the appropriate protective measures.

Other legislative measures fortify the Tunisian approach in the area of promotion and protection of the rights of the child. Children with specific needs, such as those who are disabled and orphans, also have the benefit of major care, and several laws and measures have been made in this field. This was particularly revealed through the Act of October 28, 1998 relating to the granting of a patronymic family name to children of unknown parentage or those abandoned. Moreover,



in January 2002, a law was adopted under which a child born of a marriage between a Tunisian woman and a foreign man could be granted Tunisian nationality even though the parents separate.

Furthermore, Tunisia established a 1997-2001 programme of cooperation, the National Action Plan for the Survival, Protection and Development of children. This Plan permitted the annual assessment that constituted an important measuring device allowing regular follow-up of the goals targeted in the area of children. The pillars of this work were the promotion of child rights, innovation, a demand for quality in health and educational services, and a struggle against all forms of exclusion. The programme aimed to ensure genuine equality in access to education and health, and to offer to all Tunisian children and women their rights.

The other noticeable event established for the benefit of the Tunisian child was the creation of a parliament for children and a judge for family affairs in 2002. The child Parliament is a forum for dialogue. Children can organize themselves within a space for dialogue in order to express their opinions on rights issues and to practise the exercise of responsibility. They there cultivate their sense of civics and promote their child rights culture. Children's Parliament demonstrates how youngsters, when given the opportunity and an informed choice, can make a valuable contribution to society. The age of members is limited to children aged from twelve to sixteen years. The total number of members is equal to the number of adult members of the parliament.

The creation of the children's parliament as a place for dialogue enables children to be responsible and allows them to express their views over their rights. The purpose is to spread the culture of participation and to educate and train youngsters to make them citizens capable of fully assuming their responsibilities in all duties and at all levels. The parliament organizes periodic meetings that discuss policies, plans and programmes concerned with childhood.

They provide the necessary facilities and resources to carry out comprehensive national surveys concerning children's conditions. It is essential that children participate in the formulation of the questions of the survey and that their vision is clearly represented. The parliament creates situations that allow children to achieve this objective; it also develops mechanisms, such as conducting surveys and answering questionnaires that enable them to complain against abuse. There are no specific mechanisms for protecting children who have been abused except prosecuting the person responsible for the abuse. The abused child has the right to be heard and defended and judges reserve to abusive people the hardest punishment.

The Tunisian society protects its children by enacting rules and plans. One recent noticeable event is the Tenth Plan of Development 2002-2006 which was devoted especially to women, the elderly and handicapped people and children. The purpose was also to increase literacy, decrease unemployment and promote the status of children and young people within both the family and the society. The Government's policy aimed to protect children through enforcement of relevant laws and to create jobs for adults so that more children could attend school.

The promises, commitments and so achievements made by the government are stipulated in laws which provide mechanisms to protect children. However, the ratification of human rights instruments is also a major procedure and initiative since the State Party becomes committed to all the rights set forth in the ratified instrument. Moreover, the promotion of the rights of the child represents a long-term undertaking. Looking at the legal aspect, the republic of Tunisia is party to a large number of international conventions promoting human rights. International treaties bind ratifying countries to principles that they are obligated to honor.

At the international level, Tunisia ratified the Charter on the Rights and Welfare of the African Child, which is



the first regional Charter of its kind. The purpose of such a regional Convention was to strengthen the position of African children and their rights. As indicated in the UN website, this instrument was prepared by the Organization of the African Unity (OAU) in 1988. Then, a strong input came from the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN), which is an African NGO. In July 1990, it was approved by the OAU Assembly and also by the Committee of Ministers. Later, a draft Charter on the Rights and Welfare of the African Child was circulated among all OAU member States. It contains a Preamble, articles on rights and responsibilities and others establishing a Committee on the Rights of the Child and dealing with administrative dispositions.

Most of the provisions are similar to the UN Convention. For instance, Article 4 of the Charter, as Article 3 of the CRC, provides that "In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration".<sup>11</sup>

Nevertheless, several additional articles relate specifically to Africa. Indeed, this document is based on the exceptional economic and social conditions in Africa today. Promoting children's rights is considered as a positive development in Africa. It focuses on the notion of access to health care, which is a priority in Africa. There is also a specific article condemning traditional practices such as female mutilation. This issue is specific to the African world. However, it has never been the custom in Tunisia to use such a practice.

The other important international instrument specific to children's rights that Tunisia ratified, on January 29, 1991, is the UNCRC. This was the starting point for a moderate and progressive course based on giving a fundamental impulse for Tunisia to all the programmes established in favor of childhood. It was also the initiation for organized strategies

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<sup>11</sup> The Charter on the Rights and Welfare of the African Child: Article 4.

and plans. In harmony with the principles and rules of the Convention, Tunisian policy ensures a better commitment of national laws to the principles set forth in this international document.

Tunisia also ratified the two Protocols added to the CRC by Law 2002-42 in 2002. This Law authorized the enactment of the Protocols on child trafficking, child prostitution and child pornography, and on children in armed conflict. By ratifying the Convention and its protocols, governments state their intention to put this commitment into practice. States Parties are obliged to amend and create laws and policies and to fully implement the instrument. They should consider all actions taken to verify if they respect their commitments to children's rights.

The Committee on the Rights of the Child urges governments to use the Convention as a guide in policy-making and implementation. It further obliges States Parties to take particular measures and develop special policies and programmes for children in order to contribute to the creation of a higher political priority for children. It can also make suggestions and recommendations about the steps to take to ensure the protection of the rights stipulated in the CRC. It then reviews and comments on the Reports submitted by States Parties.

Article 4 of the CRC asserts that by ratifying the treaty, states commit to undertake all appropriate legislative, administrative and other measures for the implementation of the rights that are recognized in the Convention. All States Parties have an obligation, regardless of resource constraints, such as in the code of countries with limited natural resources, to ensure at least some minimal essential level of each right, to plan strategies and programmes for the eventual achievement of all their obligations under the CRC, and to monitor both the fulfillment and the non-fulfillment of these obligations over time.

Furthermore, there was particular attention given to



health and nutrition of girls and to pregnant or breast-feeding women. The other focus was on the access of all couples to information and services related to avoiding early, frequent or late pregnancies.

Additionally, the absolute poverty rate was reduced from 13% in 1980 to 6% in 1995. In this way, Tunisia is ranked among the group of countries having most reduced their monetary poverty. As far as the adult illiteracy rate is concerned, it fell at least by half, taking into account the rate in 1990 with a focus on female literacy. Thanks to all these combined efforts, Tunisia has achieved great performances in terms of fighting to promote children's rights.

### 3. The Critical Issues

To evaluate the status of the child, each state has to submit Reports to the United Nations Committee on the Rights of the Child. These Reports are provided in accordance with Article 44 of the Convention. They give an account of the progress recorded, of difficulties encountered and the challenges that states have sought to overcome in order to ensure the well-being of children and the effective enjoyment of their rights. Each government has to submit Reports to the Committee within two years of ratification, and every five years thereafter, specifying the steps taken to change national laws and formulate policies and actions.

The Committee is a group of eighteen adults from different countries who are experts on children's rights. Its function is to provide an international mechanism for monitoring progress on the implementation of the Convention. Reports include meaningful and feasible recommendations for legal reform. They are presented to the Committee, which uses them to analyze how well a country is fulfilling its international commitments with regard to children. Indeed, it examines the government's record on implementing children's human rights.

The Committee demonstrates a willingness to criticize governments and takes a robust approach to breaches of the principles of the CRC. It usually appoints one or two of its members to act as Country "Rapporteurs". These responsible persons make a particular study of the government's Report and any NGO submissions, and draws up a list of questions and suggestions to put to the concerned government. The aim of submitting such a Report, is to analyze national laws in terms of the international commitments that a government has made.

As far as Tunisia is concerned, the Committee welcomed the submission of the Reports on time, in 1996, 1999 and 2002. According to its members, it contains comprehensive information concerning the legal framework within which the Convention is implemented and the other measures adopted since the ratification of the CRC by Tunisia.

It noted the series of new laws adopted regarding children born out of wedlock and the joint responsibility on the part of spouses. It also encouraged other measures that ensure maintenance following divorce, and protect children deprived of a family environment.

However, the Committee noted that the Tunisian system of collecting data relevant for the monitoring of the implementation of the Convention needs to be improved and extended. The written Report should be well-documented with statistical data and adequate explanations. The gap was that insufficient data regarding certain critical issues were noticed by the board. For instance, there was no indication from the Ministry of Public Health of statistical data concerning the number of consultations and hospital days relating to those aged between zero and fifteen years old. In addition, it was not possible to assess the amount of the budget allocated to health and medical services offered to children and its distribution at the various local, regional and central levels. According to the last Tunisian Report on the implementation of the CRC in 2002, the State of Tunisia was required to provide



data, statistics and additional information, by age and sex, concerning health care, children with disabilities, children victims of physical or mental abuse and state allocations paid as subsidies.

The board urged the State Party to take all legislative measures to prohibit in the most effective possible way all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in the family, in schools and in institutions. It also recommended the state to take all necessary measures to effectively prevent and combat child labour.

As already mentioned, Tunisia ratified in 1995 the ILO Convention 138, concerning the Minimum Age for Admission to Employment, and in 2000 the ILO Convention 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Moreover, it abolished compulsory labour in 1989, and its law prohibited forced bonded child labour. However, a serious number of exploited children were noticed. The percentage of child workers of the total number of children aged between ten and fourteen for Tunisia between 1980-1991 was 2.7% for boys and 4% for girls.<sup>12</sup>

Inspectors of the Ministry of Social Affairs and Solidarity examined the records of employees to verify that employers comply with the minimum age law. There were no reports of sanctions against employers. Nonetheless, observers expressed concern that child labor continues to exist, disguised as apprenticeship, particularly in the handicraft industry. Moreover, young children often performed agricultural work in rural areas and worked as vendors in urban areas, primarily during the summer vacation from school. For instance UNICEF estimated that 2.1 percent of children aged five to fifteen years in Tunisia were working in 2000.

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<sup>12</sup> UNICEF Website at [www.unicef.org](http://www.unicef.org).

Many children are forced to beg or work in conditions contrary to the law. For example, 50,000 teenage girls, who come from the poorest regions, are placed by their families as household domestics<sup>13</sup> in order to collect their wages. Even though in July 1965 a law related to domestic servitude was created to regulate working conditions for domestic servants and limit their minimum age to fourteen years old, these girls are overexploited by families and by their fathers who make them work even at nine years old. There are no recent reliable statistics on the extent of this phenomenon; however, an independent lawyer who conducted a study of the practice in 2000 concluded that hiring of underage girls as household domestics has declined with increased government enforcement of school attendance and minimum work age laws.

Even though Article 19 of the Code states "that it is forbidden to exploit a child through the various forms of organized crime, including instilling fanaticism and hate, and inciting the child to committing acts of violence and terror",<sup>14</sup> acts of violence are still a common practice in traditional Tunisian education. According to the 2002 Report, it is considered normal in traditional Tunisian culture to inflict corporal punishment on children when they disobey. 64% of parents consider that beating their children is good for their education.

The Committee urged the State Party to take all legislative measures to prohibit in the most effective possible way all forms of physical and mental violence against children in the family. It asked the government to conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address this issue.

It is also at school that children mostly suffer corporal punishment, which is considered as a method of education. This traditional tolerance of violence inflicted on children

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<sup>13</sup> *Ibid.*

<sup>14</sup> The Child Protection Code: Article 19.



violates Article 19 of the CRC, which requires children to be protected from "all forms of physical or mental violence".<sup>15</sup> It also clearly infringes Article 28 (2) of the Convention which declares that "school discipline shall be administered in a manner consistent with the child's human dignity".<sup>16</sup> Many participants mentioned corporal and moral punishment, such as insults inflicted by teachers, as means of enforcing order in the classroom. The Committee was concerned with the infliction of such punishment, not only in the home but also in schools and penal institutions. It urged plans to promote awareness of the problem and foster a culture of non-violence.

Furthermore, the Committee recommended that a system should be put in place to have teachers punished for violent acts against children, and to find solutions to prevent violent acts among students. It suggested the creation of a participatory Committee in charge of controlling school violence within each school.

While the Ministry of Education has banned the use of all forms of corporal punishment in schools, chapter 313 of the Criminal Code permits certain tolerable forms of corporal punishment if inflicted by persons authorized to do so. However, the Committee noted that 'tolerable' forms of corporal punishment are allowed in Tunisia and that it is very difficult to set limits on what is acceptable.

As a consequence, after the establishment of the Code for the Protection of the Child, the Tunisian Government authorized a criminal procedure if a medical certificate indicates that the child is subjected to physical harm. Furthermore, anyone inflicting harmful corporal punishment is liable to receive a prison sentence of up to twenty years.

The Tunisian Constitution declares that Islam is the official state religion, 99% of Tunisians are Muslims; in fact, in this country, Islam is a way of life which regulates the personal

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<sup>15</sup> The CRC: Article 19.

<sup>16</sup> The CRC: Article 28 (2).

and spiritual as well as the physical and social aspects of everyday life. The idea of human dignity is very strong in this religion, founded on the idea that humans are the "emissaries" of God who have a mission and a responsibility on Earth. The Koran also affirms the idea of equality; it improved the condition of women compared with what it was before the Koran was written. For instance, it forbids parents to kill their children, especially unwanted females, who previously had been buried by their fathers. It also advocates their well-being by prohibiting adoptive parents from naming their adopted children and urging them to retain their father's name. In a number of places in this holy Book it is mentioned that children and wealth are the ornaments of life.

Despite the non-sexist policy in this country, which promotes equal opportunities and participation in society for women, the girl child issue is still a problem in Tunisia. Girls are victims of domestic violence, sexual abuse and exploitation. In parallel with the efforts made by the government, legal discrimination against girl children and women continues to exist in certain areas, such as property and inheritance law, which are governed by the Shariàa, the Islamic Law, and by cultural beliefs. For example, the Personal Statute Code provides that according to the rules of inheritance, the boy receives a share that is twice that of the girl's. However, the government has made serious efforts to advance the rights of women by allowing people greater choice in matters of inheritance. For instance, it encourages the possibility of joint ownership of property in marriage contracts and persuades couples to make this choice. In addition, some families avoid the effects of Shariàa on inheritance by executing sales contracts between parents and children to ensure that sons and daughters receive equal shares of property.

Moreover, the Committee criticized the legislative discrepancy between the age for completion of mandatory education, which is sixteen, and the minimum age, which is also sixteen, for admission to employment, as it is considered



as a way of encouraging adolescents to drop out of the school system.

Finally, the Committee suggested that the state enhances efforts to close gaps in the enjoyment of rights between different regions, and between urban and rural communities. It urged Tunisia to reinforce its efforts to allocate appropriate resources and adopt better policies and programmes to improve and protect the health situation, particularly in the rural regions that contain the highest mortality indicators. The Tunisian population is around 9.6 million people, of whom 63% are urban dwellers and 37% rural. Children aged fifteen or less make up just less than 30% of the total population and the poverty rate is just under 6%.<sup>17</sup>

In 1992, a Plan was formulated to address the issue of persisting regional and urban/rural disparities in the availability and quality of maternal and child health care services. However, these disadvantaged zones do not benefit from equal opportunities. For instance, the supply of electricity, water and other amenities are not equal to those provided in the urban zones, despite the government's policy to reduce inequalities and improve the living conditions of their inhabitants. The situation of children in these areas needs improvement and the enormous gap must be narrowed.

However, if we compare the situation of the child with another Mediterranean country such as Libya, we notice that Tunisian children are more privileged in terms of rights. Actually, Libya is really very unstable. Indeed, after the revolution against the Libyan regime the bombings destroyed more than 15 schools and many others were closed. Consequently, many children are deprived of their right to education. Moreover, the revolution had serious repercussions on children's health. The country lacks medicine for pregnant women and their babies. In addition, many children are subjected to psychological

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<sup>17</sup> The Committee on the Rights of the Child. Implementation of the CRC: List of issues, 2002, p 10.

trauma after witnessing terrible events such as the loss of a family member, their separation from their parents especially for refugees at the country's borders. What is more shocking is that rape victims are discouraged from reporting the crimes because they themselves could end up being prosecuted and held in a social re-education center. Libyan children no longer live in security since the revolution, their life is threatened and their rights are infringed. The situation is still unsteady and the country is vulnerable because of the bad effects of the revolution.

#### 4. Conclusion

This paper has explored the conditions of the child in Tunisia and evaluated the extent of respect of the codes of children's rights in this society. It is sure that this country has promoted the human rights of girls and boys but there are some inequalities that hamper some Tunisian children from enjoying their full rights.

There are of course several critical issues that Tunisia and other countries witness but what is of crucial importance is that this government takes children's rights seriously. The main goal is not to achieve perfection but to put forth maximum efforts to promote the culture of children's rights. This is the first step towards progress. Even if the role of each government is fundamental, not all of them respect the basic rules of the protection of children's human rights. Moreover, the situation of the country affects really the respect of people's rights. We can, for sure, mention the instability that Tunisia has lived since its revolution. Children no longer live in a cultural homogeneity as the country itself is unstable. After nearly one year, the new government is still unable to solve the problem of unemployment and poverty. New religious extremist beliefs are spreading and poisoning the life of youngsters. This new Islamic culture represents a danger for future generations.



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