

**TUNISIAN REPUBLIC**



**CONSOLIDATED PERIODIC REPORT OF TUNISIA  
UNDER THE TERMS OF ARTICLE 62 OF THE AFRICAN  
CHARTER ON HUMAN AND PEOPLES RIGHTS**

**(1995-2006)**

Tunisia became a member of the African Charter on Human and Peoples' Rights in accordance with the Law n° 82-64 of the 6<sup>th</sup> August 1982.

Its third Periodic Report, in application of the African Charter on Human and Peoples' Rights, had been presented and examined by the African Commission on Human and Peoples' Rights along with the second Report at its 18th Ordinary Session, in October 1995. The African Commission on Human and Peoples' Rights had formulated proposals which had been favourably received and taken into account by Tunisia.

**The present document contains the Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Periodic Reports of Tunisia** which should have been presented in conformity with the Note Verbale of the African Commission on Human and Peoples' Rights of the 30th March 1995. The latter Note had indicated that several Periodic Reports which are outstanding from Member States to the African Charter on Human and Peoples' Rights can be combined in a single Report.

One can usefully refer to the basic documents which constitute the first part of the Reports from Member States as well as to Tunisia's preceding Report which had been presented in application to the Charter.

Tunisia is pleased to maintain the dialogue with the African Commission on Human and Peoples' Rights and to discuss the points raised in the concluding observations recently formulated by the Commission.

## List of Abbreviations

<b>ATCT</b>	Tunisian Technical Cooperation Agency
<b>ATM</b>	Tunisian Mothers' Association
<b>ATFD</b>	Tunisian Association of Women Democrats
<b>CDR</b>	Titles Code
<b>CEDAW</b>	Convention on the Elimination of all forms of Discrimination Against Women
<b>CICR</b>	International Committee of the Red Cross
<b>CNUDCI</b>	United Nations Commission on International Commercial Law
<b>COC</b>	Obligations and Contracts Code
<b>CP</b>	Criminal Code
<b>CPE</b>	Child Protection Code
<b>CPP</b>	Criminal Procedure Code
<b>CSP</b>	Personal Status Code
<b>FMS</b>	World Solidarity Fund
<b>FSN</b>	National Solidarity Fund
<b>FUNAP</b>	United Nations Fund for Population Activities
<b>LTDH</b>	Tunisian Human Rights League
<b>NEPAD</b>	New Partnership for Africa's Development
<b>NTIC</b>	New Information and Communication Technology
<b>OIT</b>	International Labour Organization
<b>ONFP</b>	National Family and Population Bureau
<b>OMD</b>	Millennium Development Objectives
<b>OUA</b>	Organization of African Unity
<b>PNEA</b>	National Adult Education Programme
<b>UA</b>	African Union
<b>UNFT</b>	National Tunisian Women's Organization

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- Article 3:** Equality before the law and equal protection of the law
- Article 4:** The Right to the inviolability of the human being
- Article 5:** The Right to the respect of the dignity of the individual, prohibition of slavery, of human trafficking and of torture
- Article 6:** The Right to the liberty and security of the individual
- Article 7:** The Right to a fair hearing
- Article 8:** The Freedom of conscience and of religion
- Article 9:** The Right to information and the freedom of Expression and of Conscience
- Article 10:** The Right of Association
- Article 11:** The Right of Assembly
- Article 12:** The Freedom of movement and of residence and the protection of foreigners
- Article 13:** Participation in public affairs
- Article 14:** The Right to property
- Article 15:** The Right to work and to equal pay
- Article 16:** The Right to good health
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- Article 18:** Protection of the family, of women, of the child, of the elderly and physically disabled persons
- Article 19:** Equality of peoples
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## **General Introduction**

1. The present Report gives an account of the principal legislative and practical measures adopted by Tunisia during the period 1995-2006 to strengthen the implementation of the African Charter on Human and Peoples' Rights. The Tunisian Government is pleased with this opportunity which enables it to outline its global and integrated Human Rights approach.

2. Using as basis the national reformist cultural heritage to enrich the rights of the individual and the definition of his rights and making reference to the international human rights instruments, President Zine El Abidine Ben Ali has consistently initiated a vision of Human Rights which takes into account the dialectic link existing between the protection and promotion of these rights in their entirety, complementarity and interdependence.

3. This global approach to Human Rights stems from the conviction that there can be no effective democracy without human development, nor can there be development without democracy, the one being a corollary of the other. This notion of the globality, indivisibility and complementarity of human rights is inscribed in the Constitution of the Tunisian Republic as had been modified by the Constitutional Law n° 2002-51 of 1st June 2002, bringing substantial reform to the fundamental law of the State.

4. This dialectic, without excluding the functional specificities existing between the various human rights categories involves, in the context of the period covered by the present Report (1995-2006), the preparation and the putting into practice of social democracy by means of national programmes in the sectors of education, training, health, shelter, employment, the family and of political democracy through the consolidation of the right to participation, of the strengthening of civil society and the Rule of Law. This approach generates an impetus and a dynamism for the promotion of civil, political, economic, social and cultural rights.

5. The dispassionate and progressive approach adopted by Tunisia in the area of protection and promotion of human rights takes its impetus from the political conviction that fundamental reforms constitute a process whose aim is to vitalize the bases of a progressive political life offering the maximum of possibilities for participation to the different actors of an organized political life and of a society which is just, well-stable and interdependent.

6. The development of the democratic process has required the progressive entrenchment of political pluralism in the mentalities and behaviour and in the institutions and components of civil society. This dynamism stems from the choice of a national and sovereign policy aimed at enabling the Tunisians to benefit daily from the advantages of a local, responsible and transparent democracy, and to collectively lay the foundations of a system of good governance based both on equality, on the ethics of responsibility, and on the independence and primacy of the law.

7. The Rule of Law, a fundamental concept in the construction of modernity, is crystallized in the Tunisian context by the equality of all before the law and

through the constitutional proclamation of the State's commitment to respect and ensure respect for legality.

8. Tunisia consistently supports associative activities by guaranteeing, in particular, the provision of the best of conditions for the activities of Tunisian, foreign, regional and international NGOs based on its territory. All the legal Organizations established in Tunisia carry out their activities without let or hindrance. This direct presence of civil society allows the initiation of a certain type of management of public affairs which maintains a stable democratic society in which militancy cannot contravene the rules of the democratic game as defined by the law in force.

9. The progress registered in this respect during the period 1995-2005, is testimony of the important developments observed in the conditions of pluralist democratic practice within the framework of the rule of law and of the concretization of a generalized pace of development conducive to the guarantee of decent living conditions for the citizenry.

10. Tunisia, while rejecting the pre-established models in the area of politics, pursues its own efforts in guaranteeing to its citizens the full exercise of the rights provided for by the African Charter on Human and Peoples' Rights. Towards this end, a series of laws were enacted and a set of mechanisms, instruments and practical measures were put in place from 1995 aimed notably at consolidating the rule of law and the political institutions, at the strengthening of intellectual and political pluralism, the protection and promotion of human rights and the consolidation of economic, social and cultural rights.

### **I- Consolidation of the Rule of Law and the Political Institutions**

11. The Constitutional reforms (including notably those of 1997, 1998 and 2002) have all contributed to the acceleration of the democratic process. The objective is to consolidate the Rule of Law, to enhance the exercise of democracy, to reinforce pluralism in the various fields of political participation, to strengthen human rights and to broaden the area of individual and collective liberties. It is in this manner that the Constitutional law n° 2002-51 of 1st June 2002 amending certain provisions of the Constitution consolidated the bases of the rule of law and of the institutions, enriched the normative arsenal through the values of solidarity, mutual assistance and tolerance, through the institution of legal control guaranteeing the respect for fundamental liberties and through the introduction of guarantees for the protection of personal data.

In effect, this Constitutional amendment which affected almost half of the Articles of the Constitution, introduced new provisions, including notably:

- a) The solemn affirmation, in the body of the Constitution, that the Tunisian Republic has the principles of the Rule of Law and of Pluralism, as basis;
- b) The reference, in the body of the Constitution, to the modalities of the election of President of the Republic through the organization of a second round and through the determination of an age limit at the time of presentation of candidatures;
- c) The creation of a Chamber of Councillors to strengthen the legislative powers through bicameralism intended to enhance pluralist participation and representation;

d) The consolidation of the powers of the Constitution Council, having become the constitutional elections arbiter.

This significant reform to the Constitution allowed both the strengthening of the fundamental principles on which the Republican system is built (the fundamental rights of the individual, the principles of the pluralism of Political Parties, the principles relative to Personal Status ...) and the qualitative development of the rules of the democratic game.

**12.** In parallel to the reforms to the legislative and executive powers, an in-depth reform of the powers of the judiciary had been undertaken strengthening the independence of the judiciary, bringing it closer to the people, strengthening the equality of all citizens before the law and the effectiveness of the legal guarantees.

## **II- Strengthening of Intellectual and Political Pluralism**

**13.** Tunisia pursues its efforts in putting in place the appropriate mechanisms for the construction of a pluralist democratic system. Towards this end, a series of laws had been promulgated from 1995, including notably:

- Organic Law n° 95-68 of 24<sup>th</sup> July 1995 amending and completing the Districts' Organic law aimed at strengthening local democracy and regional participation;
- Constitutional Law n° 95-90 of 6th November 1995 on the Constitutional Council made possible the insertion of the organization of the Constitutional Council in the text of the Constitution and the expansion of its authority so as to make it the supreme arbiter of pluralist elections;
- Law n° 97-48 of 21<sup>st</sup> July 1997, relative to the public financing of Political Parties. This law sanctions partisan politics, consolidates the role of Parties in political life, reinforces the measures already put in place by the Electoral Code pertaining to the financing of the electoral campaigns for candidates to the office of President of the Republic, to the National Assembly and to the Municipal Councils;
- Constitutional law n° 99-52 of 30<sup>th</sup> June 1999, establishing dispensatory provisions to the 3<sup>rd</sup> paragraph of Article 40 of the Constitution. This situational law strengthened the pluralism guaranteeing the representation of the Political Parties in the presidential election of 1999, by allowing the leaders of the opposition parties (Chairperson or Secretary General) to present their candidature to the highest office, in case the conditions of the presentation of candidature, as provided for by the Article of the Constitution mentioned above, cannot be fulfilled. However, the candidate, on the date of submission of his candidature, must have been in office for at least five consecutive years and his party should have one member or more in the National Assembly;
- Constitutional law n° 2003-34 of 13th May 2003, establishing dispensatory provisions to paragraph 3 of Article 40 of the Constitution, specified that the candidature is not limited to only the leader of the party, as was the case in 1999, but it is up to each of the five Political Parties, represented in the National Assembly, to propose one of the members of its executive body as candidate for the presidential elections.

**14.** The putting in place of the legal framework of the intellectual and political pluralism constitutes a backdrop of public affairs in Tunisia. Law n° 59-154 of 7<sup>th</sup> November 1959 on the organization of Associations had been amended by the Laws of 2<sup>nd</sup> August 1988 and 2<sup>nd</sup> April 1992 making it more liberal and

progressive. A system of simple declaration replaced the system of acquisition of prior authorization. Likewise, appropriate classification of the Associations on the basis of their objectives and activities had been carried out in order to give a strong impetus to the women's, scientific and development oriented Associations. In tandem to this, a law n° 88-32 of 3rd May 1988 relative to the organization of Political Parties had been promulgated so as to permit the founding of Political Parties on condition that certain fundamental values guiding all political activities are respected. In effect, Article 2 stipulates that « the political party acts within the framework of the Constitution and of the law:

a) It should, in carrying out its activities, respect and defend notably:

- the arab-muslim identity;
- human rights as determined by the Constitution and the International Conventions ratified by Tunisia;
- the assets of the nation and notably the Republic form of Government and its foundations, the principle of popular sovereignty as arranged by the Constitution and the principles governing Personal Status.

b) It should moreover:

- ban violence in all its forms as well as fanaticism, racism and all other forms of discrimination;
- abstain from all activity liable to be prejudicial to national security, public law and order and to the rights and liberties of others».

Article 3 adds that « a political party cannot base its fundamental principles, activities and programmes on religion, a language, a race, sex or a region ».

**15.** The existence of nine new recognized Political Parties reflects the political will to consolidate the pluralist democratic process and the efficiency of the legal mechanisms in place. The legal authorization accorded in March 2006 to the « Green Party for Progress » confirms the idea that the pluralist democratic process has become an irreversible national choice. This process allows all the legally constituted political bodies which are so inclined, to form a more dialectic conception of this diversity. The ideological debate in a context of consensual democracy is the only means of appealing to the intelligence of the citizens and to drawing maximum profit from the diversity of approaches and plurality of ideas.

**16.** The Associations contribute significantly to the promotion of intellectual and cultural life. The Political Parties work for the « training of citizens for the purpose of organizing their participation in political activities » and for representation in the various elected structures. In this manner, participative democracy becomes more dynamic and develops an ideological debate within public affairs itself based on tolerance and respect for one another and where the diversity of views and the ideological debate are not only guaranteed by the rule of law, but seen by all as a source of national wealth for global and multidimensional development.

**17.** The multiparty system is concretized notably in the make up of the Municipal Councils and the collection of structures and representative constitutional institutions (National Assembly, Chamber of Councillors, Economic and Social Council, Regional Councils), as was shown by the plurality of the candidatures for the presidential and legislative elections of 1999 as well as those of 2004.

**18.** Other measures aimed at strengthening the bases of a consensual democracy had also been implemented during the period under consideration. In this regard, Tunisia focused on achieving national reconciliation, in its broadest

sense, and promoted the building of a climate of confidence and tranquillity between its citizens and the Government. The objective of this undertaking is to allow each citizen to contribute, of his own free will, to the development effort and to the construction of a democratic society based on the promotion of human rights, tolerance and mutual respect.

**19.** Organic law n° 2002-97 of 25<sup>th</sup> November 2002 sanctioning the permanent revision of the electoral lists was introduced to strengthen the right to participation, the transparency of the elections and the re-stimulation of the pluralist democratic process.

Thus, special attention had been given to the strengthening of the credibility of the electoral list and to the transparency of the electoral operations with the aim of facilitating the exercise of their civic rights for all voters under appropriate conditions and to allow the opposition to bring its contribution to the enrichment of the political activities and to the promotion of the pluralist democratic process. In this connection, and in order to increase the financial support to the Political Parties and guarantee them the best means of action, it had been decided, under the terms of the law n° 2006-7 of 15<sup>th</sup> February 2006, amending the law n° 97-48 of 21<sup>st</sup> July 1997, relative to the funding of Political Parties by the State, to increase the subvention accorded by the State to Political Parties, which has from henceforth risen to 135 thousand dinars per annum.

**20.** It is to be noted that other reforms have also promoted the increase in the number of initiatives aimed at consolidating local democracy. The strengthening of decentralization and devolution as well as the transfer of new prerogatives to the Governors and the municipalities has resulted in the development of municipal activities and the extension of the responsibilities of the regional councils.

Thanks to these reforms, the municipal elections which took place on the 28<sup>th</sup> May 2000 and on the 8<sup>th</sup> May 2005, facilitated the reinforcement of the local democratic process.

### **III- Respect for the Freedom of Opinion and of Expression**

**21.** Article 8 of the Constitution of the Tunisian Republic proclaims that « the freedom of opinion, of expression, of the press, of publication, of assembly and of association are guaranteed and exercised under the conditions defined by the law ». The freedom of conscience, of writing, of publishing, that of the press are fundamental elements of civil and political rights. Democracy, which is supposed to be a power exercised by all, cannot develop without the full respect for these liberties. The consolidation of this right and the strengthening of this liberty remain an issue which concerns all citizens, all the nation's resources. It is a matter of ensuring that the information sector reflects the specificities of Tunisian society, as well as its concerns and aspirations.

**22.** The information and communication sector has since 1995 registered significant institutional and legislative achievements destined to promote the performance and contents of the audiovisual and written means of information and to strengthen the process of intellectual and political pluralism. The promotion of the information sector is a consubstantial fact in the promotion of civil and political rights. Numerous reforms had been undertaken to enable this sector

accomplish its mission in the best of conditions. Amendments to the Press Code had been introduced three times with a view to enabling journalists assume their role in total liberty and to enjoy a conducive climate for the exercise of their activities. The freedom of informing, of exercising the profession of journalist and of assuming the function of public scout involves duties and responsibilities and cannot fail to be subjected to certain formalities and conditions stipulated in the Press Code and which constitute a necessary guarantee within a democratic society for the protection of the reputation or the rights of others, to preclude the disclosure of confidential information and the violation of the dignity of the human being.

**23.** To assist the recognized Political Parties in guaranteeing the publication of their newsletters regularly and to better portray their points of view, an annual allocation as subvention for their newspapers was granted by the law n° 99-27 of 29<sup>th</sup> March 1999, completing the law n° 97-48 of the 21<sup>st</sup> July 1997 relative to the funding by the State of the activities of Political Parties.

**24.** The repeal of the provision on legal copyrighting effected by organic law n° 2006-1 of 9<sup>th</sup> January 2006, amending the Press Code, constituted a new far-reaching measure in the process of consolidation of the freedom of expression, of information and of edition in Tunisia. The most important, after the repeal of the legal copyrighting procedure, is to see newspapers becoming a space for dialogue, for exchange and discussion of the problems which concern the future of the country, the defence of its achievements and which are moving towards other achievements, particularly where the Tunisian elite has been able to show its rejection of obscurantist tendencies and of all forms of extremism.

**25.** The opening of an audiovisual space to the private sector impacted in a major manner on the enrichment, the plurality and diversity of information. Thus, for the purpose of promoting pluralism, two radio stations and an extra TV channel were created respectively in 2003 and 2005. The commencement of broadcasts from the cultural Radio in May 2006 are also aimed at promoting the presence of all the expressions of Tunisian culture within the communication and broadcasting facilities, allowing the deployment of creation capacities, the creation of spaces for dialogue between intellectuals and artists and contributing, by the same token, to the dissemination of scientific and technological culture as well as the culture of human rights, of the rights of women, of the child, of tolerance and of openness.

**26.** The opposition parties have their publications, likewise the trade unions and the other components of civil society. Seen as an unchanging choice and a continuous process, the consolidation of the freedom of expression and of information is aimed at strengthening the role of the media in launching the pluralist democratic process, in stimulating democracy through free and responsible debate, in consolidating the participation of the Political Parties in the pluralist democratic process, in the unremitting dissemination of the civic spirit through media programmes.

**27.** With a wealth of human potential and conscious of the challenges of the New Information and Communication Technology (NICT), Tunisia is totally committed to the building of a society of knowledge at the national level and has contributed, at the regional and international levels, to the reduction of the digital divide

between the rich countries and the poor nations, between the populations of the North and those of the South. It is for this reason that Tunisia took the initiative of calling for the convening, in 1998 of the World Summit on Information Society sponsored by the United Nations and organized under its auspices.

**28.** On the 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> November 2005, the meeting of the second phase of the World Summit on Information Society took place in Tunis. This meeting culminated in two important documents entitled: « The Tunis Commitment » and « The Tunis Diary ». The implications of these two documents are that much more vital as the control of the information highways affects the nucleus of civil and political rights: public information, freedom of expression, the secrets of private life and the protection of personal data, individual liberties. They can constitute a powerful vector of the right to human development just as they can be tools for segregation and domination, of hegemony and hindrance to the sovereignty of less endowed States.

#### **IV- Consolidation of Civil and Political Rights**

**29.** The measures and laws consolidating the mechanisms of man's civil and political rights have been succeeding each other at a growing pace since 1995.

**30.** Tunisia has ratified most of the international human rights instruments. Although the international instruments, under the terms of Article 32 of the Constitution, are at a higher level to the national laws and take effect immediately on their official publication, Tunisia has harmonised its national legislation with the international standards of the protection of human rights.

**31.** Tunisia has ratified notably the International Convention on Economic, Social and Cultural Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the prevention and repression of the crimes of genocide, the Convention on the infeasibility of war crimes and crimes against humanity, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child. Tunisia has also ratified the Convention against Torture and other penalties or cruel, inhuman or degrading treatment, without any reservations. It has made declarations on the basis of the Articles 21 and 22 of this Convention.

**32.** Within the framework of the consolidation of human rights, important laws had been promulgated, including notably:

- The law n° 95-9 of 23<sup>rd</sup> January 1995, repealing rehabilitation labour and that of civil service reinforcing the humanist policy which had already initiated the repeal of forced labour;
- The law n° 95-92 of 9<sup>th</sup> November 1995, relative to the Child Protection Code aimed at inculcating in the citizen, from an early age, the values of liberty, justice, tolerance, solidarity, openness, of participation in public affairs;
- Organic law n° 98-77 of 2<sup>nd</sup> November 1998, amending the law n° 75-40 of 14<sup>th</sup> May 1975 relative to Passports and Travel Documents sanctioning the freedom of movement by granting the judiciary the right to examine all disputes between the Public Service and the Public Servant pertaining to his right to leave Tunisian territory and his right to return to it;

- Law n° 99-89 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Criminal Code, relative to the institution of community labour in substitution to a prison sentence so as to enhance the humanization of the system of criminal punishment;
- Law n° 99-90 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Criminal Procedure Code and introducing extra guarantees for private individuals temporarily deprived of their freedom such as the reduction of the duration of police custody, informing the families of arrested persons, the explanation of the reasons for arrest and the legal grounds, the right to a medical examination, the maintenance of arrest registers under the custody of the Public Prosecutor;
- Law n° 2000-43 of 17th April 2000, amending and completing certain Articles of the Criminal Procedure Code and instituting the principle of two tier proceedings in criminal matters so as to guarantee a fair hearing;
- Law n° 2000-77 of 31st July 2000, amending and completing certain provisions of the Criminal Procedure Code for the purpose of creating the office of sentences execution Judge so as to establish judicial control on the conditions of imprisonment and the execution of detention sentences;
- Law n° 2001-52 of 14<sup>th</sup> May 2001, relative to the organization of prisons is the first of its kind in prison history for regulating the respective rights and responsibilities of the detainee and those of the prison administration and granting the sole disciplinary Council, in which the detainees are represented, the powers to impose disciplinary sanctions against offending individuals;
- Law n° 2002-93 of 29<sup>th</sup> October 2002, completing the Criminal Procedure Code relative to the settlement of disputes through mediation in criminal matters by providing alternatives to criminal suits for the purpose of consolidating the spirit of harmony between the citizens and of facilitating the amicable settlement of disputes.

**33.** The consolidation of human rights is not limited to the promulgation of laws alone. It requires sensitization action to change the mentalities and behaviour of the population in order to promote the emergence of a conducive environment for the development of human rights. This option entails both the institutionalization of human rights education and through the dissemination of a culture of human rights both in the basic schools and in the secondary and higher education establishments as well as in the specialized institutions responsible for the training of State agents (Superior Institute of the Magistracy, National School of Administration, National Security School, Superior Institution for Prison Administration). Likewise, the teaching which popularizes human rights has become an essential component of the educational system. Furthermore, all the citizens benefit from programmes directed towards the promotion of the culture of human rights through the use of information means (newspapers, audiovisual, multimedia), seminars, cultural and artistic manifestations and other activities of civil society.

**34.** The numerous achievements registered in the field of protection and promotion of human rights during the period covered by the present Report are evidence of a firm and irreversible commitment with a strong awareness that the system still requires to be perfected. Among the recent initiatives taken by the State which fall within the framework of the cooperation with the international organizations operating in the field of

human rights, there is need to quote in particular, the Agreement concluded in April 2005 between the Tunisian Authorities and the International Committee of the Red Cross (ICRC) authorizing the latter to pay visits to all the penitentiary units and the custody cells, to take note of the conditions of detention, to audition the detainees that they chose without the presence of the representative of the Department concerned and to present their observations and suggestions to the competent authorities.

The cooperation with the ICRC is also present in the training programmes destined for the Magistrates, for the members of the Public Prosecutor's Department and for the officers of the prison Services as well as for the trainers from the Ministry of Education and Training.

It is in this same context of cooperation that the creation of a National Commission of International Humanitarian Law is placed.

## **V- Guarantee and consolidation of Economic, Social and Cultural rights**

**35.** The guarantee of the economic, social and cultural human rights through the gradual integration of the concerns and environmental actions within the development effort at both the sectorial and territorial levels on the one hand, and the realization, by means of adequate resources, of a more equitable distribution of the fruits of economic growth on the other, constitute an unremitting objective of all the sectorial and regional strategies of economic and social development.

**36.** Tunisia has carved itself out a path, opting for a global human development strategy based on the quest for a balance between the economic, social and political dimensions. Multiple measures of restructuring and liberalization of the economy had thus been undertaken during the period covered by this Report for the purpose of promoting a strong income generating economic growth, and the implementation of daring and fair social policies in order to ensure an equitable re-distribution of the dividends of growth at the national level.

**37.** Close to 80% of the national budget is allocated to socio-economic and cultural rights, namely education, health, housing, food, social security, professional training, employment and cultural activities. Tunisia is, in effect, a country where 80% of the population constitutes part of the middle class, 80% of Tunisian families own their housing, more than 99% of the children attend school, where the rate of poverty is reduced to less than 4%, where salary increases had been effected throughout the last 15 years, where economic growth is higher than 5% and where the per capita income has increased: it was 952 Dinars in 1986, 2,444 Dinars in 1998, and 3,555 Dinars in 2004.

**38.** Tunisia has been listed in the Human Development Reports *of the United Nations Development Programme* (UNDP) among the group of countries which guarantee a harmonious human development for their citizens, taking into account both the quantitative and qualitative criteria, namely, education, employment, social security, health, shelter and food on the one hand, and liberty and democracy in all its aspects, on the other. And it is through social democracy, through the conquest of new rights, through the promotion of solidarity that Tunisia is laying the foundations of a world of human fulfilment, that of justice, of

respect for the environment, of the combat against all forms of inequality, and the creation of employment and training opportunities.

### **The Right of the Human Being to Education and Professional Training**

**39.** The right of Man to education and professional training is guaranteed by the Law n° 91-65 of 29<sup>th</sup> July 1991 relative to the Educational system which stipulates that « the State guarantees the right to free education to all those who are of school going age ». Likewise, the career Law n° 2002-80 of 23<sup>rd</sup> July 2002, relative to education and school teaching constitutes a new legislative framework of the Tunisian educational system which is aimed at sanctioning the principles of «gratis», of «obligation» and of equal opportunities.

### **The Right to Employment and to Equal Pay**

**40.** The Labour Code, promulgated by Law n° 66-27 of 30<sup>th</sup> April 1966 and amended several times, is aimed at guaranteeing satisfactory working conditions, notably the right to a salary, to weekly time off and to paid leave.

**41.** In a Tunisia which has placed dignity and responsibility for its citizens at the heart of its ethical and political code, employment is therefore to be considered as a fundamental value for human development. With such an outlook the human being is considered as wealth which should be ceaselessly valorized.

**42.** Tunisia has provided the means for a realistic policy of integration thanks to the creation of a decentralized national Public Service for integration in employment and training. It is thanks to employment that each individual can find a status, a social use and dignity.

**43.** Thus, the promotion of employment delineates the perspective of a social democracy which repels all the external and internal constraints to the development of personalities. The promotion of employment also gives a broad and practical meaning to the integration paradigm: civic integration allowing the participation in the management of one's place of work and residence, economic integration which makes one a stakeholder of interaction, social and cultural integration which means that one maintains relational links and that one has access to a common symbolic heritage. It is for this reason that the responsibility of all those men and women who reject resignation is directly bound by the noble ambition of employment promotion.

### **The Right to Good Health**

**44.** Article 1 of the Law n° 91-63 of 29<sup>th</sup> July 1991 relative to health arrangements guarantees the right to good health which is considered in Tunisia as a fundamental right of the human being. Other legislative measures were introduced to guarantee the equality of health care for the sick and this in concretization of their right to health care under the best possible conditions.

**45.** In Tunisia, the hospitals do not refuse to treat ill persons who are considered « insolvent ». In conformity with the regulations of the protection and social security system nobody can be deprived of the right to health care. Each individual enjoys the benefits offered by science today to prevent and combat

illnesses. Free health care is effective for children and for all individuals whose paucity of income may constitute an obstacle for accessing health care.

### **The Right to Solidarity**

46. Since the significant reform of the 1<sup>st</sup> June 2002, solidarity has from henceforth become a constitutional value. Article 5 (paragraph 3) of the Tunisian fundamental law stipulates that « the State and society are striving to firmly implant the values of solidarity, mutual assistance and tolerance among individuals, groups and generations ».

47. The creation of the National Solidarity Fund (NSF) in 1992, of the Tunisian Solidarity Bank (TSB) in 1997 and of the National Fund for Employment (NFE) in 1999 enabled a large number of families and destitute Tunisian citizens, who are excluded from social interaction, to regain their dignity and become subjects of history. Interdependent citizenship takes its place within a global and developing perspective, and gives each one the opportunity to find a mode of effective participation, a citizenship within the society. It brings out a right to democracy, to political participation.

48. Effective solidarity is not humiliating assistantship. It requires that society gives to each individual the means of deciding one's life, of mastering one's future, of gaining access to education, to stable and qualified employment, to culture, to efficient social security, to shelter, to a decent retirement. The objective of the NSF, of the TSB and of the NFE is to make the respect for human rights a reality for everybody in our country; that everything be done to allow all to live in dignity. It is the responsibility of the State and of society towards all the citizens.

49. In May 2006, Tunisia enjoyed considerable international recognition through its election by 172 votes to the new Human Rights Council. This election is testimony of the respect that the international community bears for Tunisia, a country well known for its achievements in the area of women's emancipation who have become individuals with full citizenship and equal partners of the men, for its sanctioning of human rights in a political context marked by the dominance of the Rule of Law.

## **ARTICLE 2**

### **To guarantee the Rights recognized by the Charter**

50. Under the terms of Article 2 of the African Charter on Human and Peoples' Rights, « every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind ».

#### **I- Abolition of all forms of Discrimination**

51. Tunisia, by becoming a member of the African Charter on Human and Peoples' Rights, under the terms of the Law n° 82-64 of 6<sup>th</sup> August 1982, re-affirmed its commitment to the promotion and protection of Human Rights in their global, interdependent and complementary dimension.

## **A) From the Legal Perspective**

### **a) The Constitution**

**52.** Tunisia's commitment, under the terms of Article 2 of the Charter, finds its political and legal expression in the Constitution. In effect, the fundamental human rights are recognised and guaranteed by the Constitution, for all with no distinction whatsoever and with no reference to race, colour, sex, language, religion, to any political opinion or other, national or social origin, to fortune or to birth. Thus, Article 5 of the Constitution as amended by Constitutional law n° 2002-51 of 1<sup>st</sup> June 2002 stipulates that « the Tunisian Republic guarantees the fundamental freedoms and human rights in their universal, global, complementary and interdependent meaning ». Article 6 adds that « all citizens have the same rights and responsibilities. They are all equal before the law ».

**53.** Furthermore, Article 5 of the Constitution, amended on the 1<sup>st</sup> June 2002 guarantees the inviolability of the human person, the freedom of conscience and the free practice of religion. Article 8 of the Constitution enunciates that « the freedom of opinion, of expression, of the press, of publication, of assembly and of association are guaranteed and practiced under the conditions defined by the law ». Article 9 (new) stipulates that « the inviolability of the household, the secret of correspondence and the protection of personal information are guaranteed, except in exceptional cases as provided for by the law ».

**54.** Article 12 (new) of the Constitution amended on the 1<sup>st</sup> June 2002, relative to the presumption of the innocence of any defendant, expresses that « custody is subjected to probation, and an individual can only be placed in remand on the orders of the Court. It is prohibited to put anybody in custody or in arbitrary detention. Any defendant is presumed innocent until proven guilty following the application of a procedure which offers him the guarantees necessary for his defense ».

**55.** Moreover, Article 13 (new) of the Constitution, relative to the personalization of the sentence and to the non-retroactivity of criminal law, enunciates that « the sentence is personal and can only be pronounced by virtue of a law preceding a punishable act, except in case of milder wording ». It is further indicated that « any individual having lost his freedom is to be treated humanely, with respect for his dignity, in conformity with the conditions established by law ».

**56.** The right to property is guaranteed by Article 14 of the Constitution. Article 17 of the Constitution deals with the ban on extradition of political refugees. Concerning the protection of the national territorial integrity, this is governed by Article 15 (new) of the Constitution.

The new Articles 72 and 74 of the Constitution have extended the authority of the Constitutional Council. Pertaining to Article 75 (new) of the Constitution, it underscores the compulsory nature of the rulings made by this body in electoral matters.

## **b) The Legislation**

**57.** Legislative, judicial and administrative guarantees had been provided for to preserve the principle of non-discrimination. Along the same lines, organic law n° 88-32 of the 3<sup>rd</sup> May 1988, on the organization of Political Parties stipulates in its Article 2 that « the political party acts within the framework of the Constitution and of the law », that it « should within its activities, respect and defend human rights in particular as determined by the Constitution and the international conventions ratified by Tunisia » and that it « should moreover ban violence in all its forms as well as fanaticism, racism and all other forms of discrimination ».

**58.** Organic law n° 93-85 of 2<sup>nd</sup> August 1993, amending the Press Code punishes the various acts of discrimination. Thus, Article 44 (new) enunciates that « any person who directly either prompts hatred between the races, or the religions, or the populations, or the propagation of opinions founded on racial segregation or religious extremism, ...or incites the population to break the laws of the country, shall be punished by imprisonment ranging from two months to three years and with a fine ranging from 1,000 to 2,000 Dinars ».

Likewise, Article 52 bis of the Penal Code introduced by the Law n° 93-112 of the 22<sup>nd</sup> November 1993, completing the Penal Code, considers the acts of incitement to hatred or to racial or religious fanaticism whatever the methods used, as acts of terrorism.

## **B) From the practical perspective**

**59.** Tunisia adheres firmly to the objectives and principles of the United Nations as expressed in the international and regional instruments, in particular those which relate to non-discrimination for reasons based on race, colour, ancestry, or to national or ethnic origin. This commitment had been confirmed through the ratification by Tunisia of the International Convention on the Elimination of all forms of racial discrimination on the 12<sup>th</sup> January 1967 and of the African Charter on Human and Peoples' Rights on the 6<sup>th</sup> August 1982.

**60.** Tunisia has always constituted a crossroads of civilizations. It is her greatest wealth, and this empirical and historical data simply assumes that the problem of racial discrimination does not exist in Tunisia.

## **II- The integration of the principles of the Charter in the national judicial system**

**61.** Article 1 of the Charter commits the States to putting in place, in keeping with their constitutional procedures and with the provisions of the Charter, measures aimed at giving effect to the rights recognized by the Charter.

**62.** In effect, it is the law which allows the implementation of these rights and provides them with the procedures destined to ensure their respect. In this respect, Tunisia has progressively put in place procedures aimed at giving full effect to human rights, whether they are provided for by the Constitution or by the African Charter on Human and Peoples' Rights or indeed by the different human rights instruments ratified by Tunisia.

## **A) The Constitutional Reforms**

**63.** Numerous Constitutional reforms were undertaken during the period covered by this Report including in particular:

- Constitutional Law n° 95-90 of the 6th November 1995, relative to the Constitutional Council and the inclusion of the arrangements pertaining to the Constitutional Council in the body of the Constitution and extending its prerogatives and authority for the purpose of confirming the primacy of the Constitution and the Rule of Law;
- Constitutional Law n° 97-65 of the 27<sup>th</sup> October 1997, amending and completing certain Articles of the Constitution. These amendments relate to the extension of the domain of the referendum in sanctioning the sovereignty of the population and on the demarcation of areas which fall under the competence of the legislative authority and those which fall under the statutory power. They also relate to the introduction of the provisions governing the Political Parties so as to consolidate the democratic process, the reduction of the minimum age of candidacy to the National Assembly;
- Constitutional Law n° 2002-51 of 1st June 2002, amending certain provisions of the Constitution introduced constitutional rules relating to the rights and freedoms of individuals and aimed at strengthening, promoting and enriching them.

## **B) The Legislative Reforms**

**64.** Laws guaranteeing the protection of and respect for human rights had also been promulgated, including notably:

- Law n° 95-9 of 23<sup>rd</sup> January 1995, on the repeal of re-educational work and civil service in order to sanction the freedom of the individual in employment;
- Organic Law n° 95-68 of 24th July 1995, amending and completing the Organic Districts Law with a view to encouraging the commitment of the citizenry and strengthen democracy at the local level.
- Law n° 95-92 of the 9<sup>th</sup> November 1995, relative to the publication of the Child Protection Code aimed at guaranteeing for the child his right to development and to inculcate the values of liberty, justice, tolerance, solidarity, openness and participation in public affairs in the citizen from a very early age;
- Decree n° 96-1134 of the 17<sup>th</sup> June 1996, creating the special status of the delegates' corps to child protection and the areas of its intervention and methods of action with the social services and bodies concerned;
- Law n° 95-62 of the 10th July 1995, on the ratification of the International Labour Convention n° 138 pertaining to the minimum age for admission to employment and prohibiting the economic exploitation of children;
- Law n° 97-48 of the 21<sup>st</sup> July 1997 relative to the granting of public funds to Political Parties aimed at sanctioning political pluralism and the consolidation of the role of these Political Parties in the organization of national political activities;
- Organic law n° 98-77 of the 2<sup>nd</sup> November 1998, amending the law n° 75-40 of the 14th May 1975, relative to Passports and travel documents was passed to sanction the freedom of movement by granting the judicial authority the right to preside over all disputes between the administrative authorities and the public servant pertaining to his right to leave Tunisian territory and his right to return to it;
- Law n° 99-89 of the 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Criminal Code and instituting the sentence of community labour in substitution to the sentence of imprisonment, also repealed the compulsory

labour in the prisons and added provisions relating to the definition of the crime of « torture »;

- Law n° 99-90 of the 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Criminal Procedure Code, introducing extra guarantees for private individuals temporarily deprived of their freedom such as the reduction of the duration of custody, informing the families of the arrested persons, the explanation of the reasons for the arrest and the legal grounds, the right to a medical examination, the keeping of the arrest registers under the control of the Public Prosecutor;

- Law n° 2000-53 of 22<sup>nd</sup> May 2000, amending and completing certain Articles of the Child Protection Code aimed at strengthening child protection and guaranteeing the child the right to survival, to protection and to development;

- Law n° 2001-52 of 14<sup>th</sup> May 2001, relative to the organization of the prisons is the first of its kind in prison history to regulate the respective rights and responsibilities of the detainee and of the prison administration and granting the sole disciplinary council, in which the detainees are represented, the power to impose disciplinary punishment against the offending persons. The provisions of this new law are in conformity with the relevant international agreements;

- Law n° 2002-92 of 29<sup>th</sup> October 2002, amending and completing the Criminal Procedure Code for the purpose of reinforcing the prerogatives of the Judge responsible for the application of sentences by giving him the possibility to rule on the release on parole for certain categories of convicted persons and to ensure the execution of the sentence of community labour;

- Law n° 2002-93 of 29<sup>th</sup> October 2002, completing the Criminal Procedure Code relative to the institution of the settlement of disputes through mediation, instituting the system of reconciliation in criminal matters which consists in granting the Public Prosecutor, in the case of certain offenses and misdemeanors, the power to carry out a reconciliation of the parties, with their agreement, which guarantees the rights of the party victim of the damages and thereby put an end to the criminal proceedings;

- Law n° 2002-94 of 29<sup>th</sup> October 2002, relative to the compensation of individuals who have been placed on remand or convicted and whose innocence had been proven, aimed at the establishment of the principle of the State's responsibility in the prejudice caused through the application of justice;

- Organic Law n° 2004-63 of 27<sup>th</sup> July 2004, on the protection of personal information, aimed at reinforcing the protection and promotion of human rights and of guaranteeing the balance between the increasing use of modern methods of communication and the protection of information relative to individuals' private life.

**65.** Furthermore, there is need to emphasize that the Tunisian judicial system is developing convergent mechanisms to guarantee the freedoms recognised by the International Agreement on Civil and Political Rights against all forms of violation. The criminal jurisdiction reposes on the rule of the territoriality of laws. The Tunisian criminal law applies to the entire Tunisian territory. The legislator considers that if there is violation of public law and order, it is society itself which deals with the matter through public action executed by the public Ministry. Towards this end, Article 1 of the Criminal Procedure Code stipulates that « any offense calls for the instituting of a public lawsuit with the objective of applying penalties and if prejudice has been caused, a civil suit is instituted in reparation of this prejudice ».

### **III- Guarantees of necessary and equitable remedies**

**66.** In order to guarantee effective remedies for all citizens against any kind of offense, the Tunisian court system is based on a set of principles including notably the equality of all citizens before the public justice system with no discrimination whatsoever. Furthermore, the free provision of justice had been strengthened by the suppression of the enrollment tax payable by institutions to the courts of the judicial system as well as all similar provisions relative to the right of defense provided for by Article 75 of the law of 7th September 1998 establishing the exercise of the profession of legal counsels.

#### **A) Jurisdictional Remedies**

##### **a) The Courts of Common Law**

**67.** The legislator has ceaselessly developed the possibilities of jurisdictional remedies. Pertaining to matters of compensation in favour of torture victims, the Criminal Procedure Code has, in its Article 1, proclaimed the principle according to which all offenses give rise to a public lawsuit with the objective of applying penalties and to a civil suit in compensation for any prejudice that may have been caused. The party that may have suffered an act of torture can initiate the lawsuit under its own responsibility. Nonetheless, it can also initiate a civil suit at the same time as that of the public lawsuit or independently before a civil court. The civil suit belongs to all those who have personally suffered damages caused directly by a breach of the law (Article 7 of the Criminal Procedure Code).

**68.** Should an individual wish to sue, his submission will be considered justified. The refusal to render justice, under whatever pretext, is considered as an offense of denial of justice (Article 108 of the Penal Code).

**69.** In order to sanction the right of the individual to go to court and to enable him to exercise this right, the free provision of justice had been strengthened by the removal of the right of enrolment with the law courts under the terms of the law n° 94-56 of 16<sup>th</sup> May 1994, establishing dispensation of the acts of arbitration from the formality of registration.

**70.** In the same vein, the office of controller Judge had been created in all of the Magistrates' Courts. Towards this end, a Magistrate from the Public Prosecutor's office is entrusted with the responsibility of providing the citizen with the necessary information notably with regard to procedures.

**71.** Also to be noted is the promulgation of the law n° 2002-52 of 3<sup>rd</sup> June 2002, relative to the provision of legal assistance. A specialised Committee rules on the requests relating thereto. Its chair is assured by the Public Prosecutor's Department within each Magistrates' Court, assisted by a representative of the Bar Association and an official from the finance Department of the Public Service. This Committee grants, should the need arise, priority to the victims of abuse and ill treatment and can help them benefit from assistance which covers all procedural costs, including lawyers' fees.

**72.** In order to guarantee the rights of the triables on the need for rapid consideration of their cases and in the context of the restructuring of the Magistrate's Court and the lightening of its procedures, law n° 93-114 of 22<sup>nd</sup> November 1993 amending and completing certain Articles of the Criminal Procedure Code created the office of unique Judge responsible for examining certain cases which, generally, do not require discussion or exchanges of opinion between the Magistrates. These offenses, considered as formal and liable to be solved without difficulty, consist of offenses relating to the issuing of bad cheques, of constructing without authorization as well as economic offenses relating to competition and to price fixing.

**73.** Furthermore, and in the context of improving the administration of justice, several other measures had been taken. They are notably:

- Law n° 2000-43 of 17<sup>th</sup> April 2000, amending and completing certain Articles of the Criminal Procedure Code and instituting the principle of two tier proceedings in criminal matters for the triables aged more than 18 aimed at the enhanced reaffirmation of the rights of the defense in conformity with the International Convention on Civil and Political Rights;

- Law n° 2000-77 of 31<sup>st</sup> July 2000, amending and completing certain provisions of the Criminal Procedure Code with a view to creating the office of sentences application Judge with a view to controlling the conditions of their application within the prison units and to pay visits to the prison, to enable certain prisoners enjoy bail, to meet the prisoners and learn about the discipline register;

- Law n° 2001-52 of 14<sup>th</sup> May 2001, relative to the organization of the prisons, replacing the Decree n° 88-1876 of 4<sup>th</sup> November 1988 on the special regulation of the prisons, was introduced to consolidate the guarantees of protection of the rights of detainees in accordance with international standards, by meticulously regulating their rights and responsibilities (medical check-up, hygiene, reading, protection of family links...) on which subject these detainees are properly informed so as to protect their dignity and physical integrity and to protect them from all abuse.

This law also provides for the preparation of the detainees for life after prison by allowing them to engage in paid employment, the benefits of which would be given to them as of right. Furthermore, this law gives the detainees the opportunity to undergo a rehabilitation programme consisting of two training sessions at the end of which they are given diplomas. Thus, once out of prison, the detainees can obtain work which would enable them to take care of their needs and avoid falling back into delinquency. Under the terms of this new law, the women prisoners, the pregnant and breastfeeding will benefit from medical, social and psychological assistance. In all cases, the penalty executing Judge is compelled to inform the Judge of the family about the cases of women accompanied by children.

- Organic Law n° 2005-81 of 4<sup>th</sup> August 2005, amending and completing law n° 67-29 of 14<sup>th</sup> July 1967, relative to the organization of the judiciary, to the Supreme Council of the Magistracy and to the status of the judicial authorities, amended the composition of the Supreme Council of the Magistracy by increasing the number of Magistrates, elected by the legislative body according to the ranks, from 6 to 8 representatives and by reducing the number of appointed magistrates. This law also strengthened, in its Article 60 (new), the disciplinary guarantees by granting the possibility of appeal against the pronounced

disciplinary ruling, before an Appeals Commission emanating from the Supreme Council of the Magistracy.

Concerning the disciplinary punishment applicable by the Disciplinary Council, it should be noted that Article 52 (new) removed the punishment of degradation from this array of sanctions and reduced the period of suspension from work from three years to nine months.

**74.** The jurisdiction relating to work had been modified so as to allow the more rapid, effective settlement of disputes which are liable to arise between the worker and the Company, within a work contract, considering the importance of settling these disputes and their impact on social peace and on the success of the development effort. In this context, the procedures for submission of appeals to the Council of the elected industrial tribunal had been lightened in order to facilitate the exercise of the right of appeal before these Councils. Thus, the Councils of the elected industrial tribunals had been re-organized and new Councils had been created in the head office of each Magistrates' Court.

**75.** Moreover, the jurisdiction in the area of employment had been amended by the law n° 94-28 of 21<sup>st</sup> February 1994, establishing the system of compensation for damages resulting from accidents at work and illness acquired in the workplace. Furthermore, the local Judge's role of arbitrator had been strengthened under the terms of the law n° 94-59 of 23<sup>rd</sup> May 1994 amending and completing certain Articles of the Civil and Commercial Procedure Code. Under the terms of this law, the local Judge who could rule in the first instance for up to 3,000 Dinars only in lawsuits for payments on personal effects or property had his competence broadened to include lawsuits for payments amounting to 7,000 Dinars. This amendment reflects the will of the legislator to bring justice to the people considering that the local courts are established in all the districts (Sub-Prefectures).

**76.** Moreover, the new law compels the Magistrate to make attempts at reconciliation between the two parties before making a ruling. In this way, the local Judge has a social and humanitarian role which allows him to contribute effectively to the establishment of social peace and to the sanctioning of a spirit of tolerance and harmony between the triables through judicial reconciliation.

### **b) The Administrative Tribunal**

**77.** Law n° 72-40 of the 1<sup>st</sup> June 1972 relative to the Administrative Tribunal stipulates, in its Article 3, that this body is competent to rule on proceedings for annulment against the actions of the administrative authorities. Article 5 of this same law stipulates that these appeals are aimed at guaranteeing, in conformity with the laws, the regulations in force and with the general principles of law, the respect for the law by the executive authorities. Besides, the civil responsibility of the State can be committed, even where it acts as a public authority, if its representatives, officials or servants have caused material or moral damage to another. The injured party can demand compensation from the State for the damage caused him (Article 84 of the Obligations and Contracts Code), this notwithstanding the direct responsibility of these officials towards the injured parties.

78. A Code of international arbitration had been promulgated on the 26<sup>th</sup> April 1993 and it entered into force on the 27<sup>th</sup> October of the same year for the purpose of sanctioning the principle of reconciliation as a method of settling conflicts. This law, largely inspired by the model law of the United Nations Commission on International Commercial Law (UNCITL) constitutes, for the practitioners, a particularly liberal law.

## **B) Administrative Appeals**

79. **The Supreme Council on Human Rights and Fundamental Freedoms** is an autonomous body one third of which is composed of representatives of Ministerial Departments and the other two thirds of independent persons. It can receive complaints and grievances from private individuals or non-governmental organizations, and can investigate claims of human rights violations, and submit proposals aimed at improving the law and the practice. It publishes an annual Report on its activities and a national Report on the human rights situation in the country.

80. **The Administrative Ombudsman** has the role of receiving individual requests from citizens and from non-governmental organizations pertaining to the administrative problems encountered by the civil servants within the Public Service or against other officials; it is also empowered to submit proposals to the President of the Republic.

81. **The Citizen Supervisor** whose mission is to:

- Fulfil the will of the legislator in promoting good relations between the Administration and the citizens and in establishing new bases for relations which already exist between them;
- Contribute, directly or indirectly, to the quest for appropriate solutions to overcome certain administrative difficulties.

82. **The Citizens' Relations Bureaux** which are responsible at the central and regional levels for:

- Assisting the citizen in overcoming the difficulties he may encounter in his dealings with the administrative authorities and helping him obtain administrative benefits in the context of the legislation and regulations in force;
- Receiving the citizens, receiving their requests and, in collaboration with the Departments concerned, setting up preliminary inquiries with regard to these requests so as to find appropriate solutions;
- Informing the citizens on the administrative procedures and formalities pertaining to the granting of various benefits and this, directly through correspondence or by telephone.

83. **The General Human Rights Coordinator**, based in the Ministry of Justice and Human Rights, whose role is to manage the various issues relating to human rights in collaboration with the Human Rights Divisions in the Ministries concerned, notably that of Justice and Human Rights, of the Interior and Local Development, and Foreign Affairs, constitutes an important body which reinforces the effective protection of human rights.

**84. The submission for an ex gratia settlement** can also be very effective. It is the administrative means allowing the seizure of the supervisory administrative authority which is hierarchically superior such as the heads of administration (Minister, Governor....), and this before submitting a complaint or instituting a lawsuit against an administrative body before the competent legal authority.

**85. The application of judgments:** Difficulties have arisen at the level of the application of the judgments. The Chairperson of the Supreme Human Rights and Fundamental Freedoms Council seized the President of the Republic to that effect. The Head of State immediately gave instructions for the setting up of a Committee chaired by the Secretary General of the Government to ensure the monitoring of the application of judgments and to find appropriate solutions for each case. This Committee is currently solving the problems of application submitted to it, either through seizure of the administration concerned, or through the granting of fair compensation if the application proves impossible due to unavoidable circumstances.

### **ARTICLE 3**

#### **Equality before the law and equal protection of the law**

**86.** Article 3 of the Charter stipulates that « every individual shall be equal before the law » (paragraph 1) and that they « shall be entitled to equal protection of the law » (paragraph 2).

**87.** Article 6 of the Constitution of the Republic of Tunisia sanctions this principle by enunciating that « all citizens have the same rights and the same responsibilities. They are equal before the law ». The ambition of this egalitarian vision of all the citizens before the law is to guarantee, without any discrimination, the security of the individuals living on its territory against all violations and to punish the perpetrator of any aggression.

**88.** Several legislative measures had been taken to guarantee equality before the law and the equal protection of the law including notably:

- Law n° 2000-43 of 17<sup>th</sup> April 2000, amending and completing certain Articles of the Criminal Procedure Code and instituting the principle of two tier proceedings in criminal cases. This law strengthens the rights of those brought to justice and improves the proceedings of criminal justice;
- Law n° 2000-77 of 31<sup>st</sup> July 2000, amending and completing certain provisions of the Criminal Procedure Code creating the office of penalty application Judge so as to establish judicial control on the conditions of imprisonment and on the execution of sentences of imprisonment, of reinforcing the guarantees given to those convicted and to sanction the humanitarian aspects of State policy;
- Law n° 2001-51 of 3<sup>rd</sup> May 2001, relative to the senior officials and agents of the prison institutions and rehabilitation, was introduced to complete the provisions of transfer of supervision on the prison institutions and their Departments to the Ministry of Justice and Human Rights, thereby promoting the reinforcement of individual liberties and extending the judicial supervision to the operation of application of penalties;
- Law n° 2002-52 of 3<sup>rd</sup> June 2002, relative to the granting of legal assistance, extended the benefits of this assistance in order to consolidate the right of the poor citizen to go to court;

- Law n° 2002-94 of 29<sup>th</sup> October 2002, relative to the compensation of individuals who have been placed on remand or been convicted and whose innocence had been proven, institutes the principle of payment by the State of appropriate compensation to any individual who has undergone custody and whose guilt had not been established, and the payment of compensation to any individual condemned to imprisonment then declared innocent by the legal authorities after review of his case.

**89.** Equality before the law means that every individual should be protected by the law and in case of injury can bring the matter to court and has a right to equal treatment before the courts. Study of the law reports of the past twelve years shows a constant application of the Articles 101 to 106 of the Tunisian Criminal Code suppressing the abusive acts committed by a trustee of the public authority against private individuals.

**90.** In effect, the concern for a transparent and independent justice system resulted in, among other things, reforms creating the office of a penalty application Judge so as to monitor the conditions of execution of the judgments, as well as the institution of the rule of two tier proceedings in criminal matters. The latter provision allows the ruling on criminal cases in the first instance then on appeal, whilst maintaining the system of two tier proceedings (examining Judge and Criminal Division of Appeals Court), which contributes to the strengthening of the criminal justice Courts.

**91.** Furthermore, Tunisian legislation provides for both disciplinary and legal sanctions against public servants who, in the exercise of their duties, violate the physical integrity of the human being.

In this respect, it is worthy to cite in particular, law n° 99-89 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Penal Code, and which provides, in its Article 101 bis, for severe penalties going up to eight years imprisonment for any public servant or officer of similar category who subjects, in the exercise of or during the exercise of their duties an individual to torture.

**92.** Very recent data shows that for the period between 2000 to June 2005, 104 Police Officers had been brought to justice and convicted with penalties of up to 10 years in jail. Disciplinary measures had also been taken against several officers responsible for applying the laws. The Ministry of the Interior had, in effect, brought several officers before the Council of Honour, among whom more than twenty had been dismissed for acts of violence and abuse of authority.

**93.** Among the measures taken to strengthen the protection of human rights and to block the « culture of impunity », figure in particular the adoption of a Code of Conduct for the officials responsible for applying the law, training on human rights issues for their benefit, the monitoring of the conditions of detention and the manner in which the detainees are treated in the police stations, legal assistance or any other assistance which is appropriate for the detainees.

## **ARTICLE 4**

### **The Right to the Inviolability of the Human Being**

**94.** Article 4 of the Charter stipulates that « the human being is inviolable », that « every human being shall be entitled to respect for his life and the integrity of his person » and that « no one may be arbitrarily deprived of this right ».

**95.** Article 5 of the Tunisian Constitution sanctions the inviolability of the human being and his protection against all violations to life. Likewise, Tunisian law protects the right to life by means of criminal sanctions provided for by the Criminal Code, against all those who commit an offense against human life.

**96.** The Tunisian State has continuously extended the field of application of Article 4 of the Charter relative to the right to life, with the objective of protecting human life in all cases and in all situations where there is a threat to physical integrity.

This protection becomes a priority in the case where the age or the physical condition of the person concerned does not permit him to defend himself against the aggression to which he may be subjected. Towards this end, the legislator has reserved a special Code for the Child. Likewise, he has made provision in the Penal Code special provisions governing the issue of the physically disabled, the elderly and vulnerable persons.

#### **I- The protection of the life of the Child**

**97.** The Child Protection Code was promulgated by law n° 95-92 of 9<sup>th</sup> November 1995, relative to the publication of the Child Protection Code with the objective of guaranteeing for the child the requisite conditions for the integral development of its potential and to provide the child with multidimensional protection.

**98.** The protection of the right of the Child to life rests on the measures guaranteeing the survival and development of the child the onus for which lies first and foremost on the parents. Thus, in case of disability or negligence on the part of the latter, the legislator has made provision for several protection mechanisms for the benefit of the child, in particular the institution of a body of « Delegates for Childhood protection » responsible for interceding with the families or with any other person in charge of the child so as to prevent any form of violation or abuse which may threaten the security and the development of the child (Articles 28 and the following of the Child Protection Code).

**99.** Article 30 of the Child Protection Code stipulates that « the delegate responsible for childhood protection is given a mission of preventive intervention in all cases where the health or physical or moral integrity of the child is threatened or exposed to a danger emanating from the milieu in which he lives, or to activities or acts which he accomplishes or due to varied ill treatment that he may have suffered... ».

Article 46 of the same Code stipulates that « in cases of imminent danger, the childhood protection delegate can take the initiative of removing the child away from the danger area even to the point of using the public forces of law and order, and of putting the child in a safe place under his own responsibility while respecting the inviolability of residential households ».

**100.** It is important to point out that the protection of the right to life is a legal obligation provided for by Article 31 of the Child Protection Code which compels all adults to alert the childhood protection delegate in a case where a child is living in a particularly difficult situation likely to be detrimental to his physical health.

Likewise, it should be pointed out that Tunisia has included in its legal provisions the two optional protocols to the Convention on the Rights of the Child, the first of which relates to the involvement of children in armed conflicts and the second pertains to child trafficking, child prostitution and pornography using children.

## **II- The penalization of the abandonment of children and of the disabled**

**101.** The promulgation of the Code on Child protection had been accompanied by the review of certain provisions of the Penal Code relative to violations against individuals, and this by the law n° 95-93 of 9<sup>th</sup> November 1995, amending and completing some Articles of the Penal Code.

**102.** Indeed, the new Article 212 of the Penal Code penalizes «he who exposes or allows the exposure of, neglects or allows the neglect with the intention of abandoning, of a child or a disabled person quite unable to protect himself, in a place full of people », by inflicting on him a sentence of three years of imprisonment and a fine of two hundred Dinars.

The sentence shall be doubled if the child is exposed or neglected in a place which is not inhabited by people.

Article 213 (new) of the same Code adds that « the perpetrator of the abandonment shall be punished with life imprisonment should the child or the disabled person die following this abandonment ».

**103.** The guarantee of the health services and social security for physically disabled persons is considered as a « national responsibility » by Article 3 of the orientation law n° 2005-83 of 15<sup>th</sup> August 2005, relative to the promotion and protection of disabled persons.

## **III- The protection of the life of the Elderly**

**104.** Law n° 94-114 of 31<sup>st</sup> October 1994 relative to the protection of elderly persons, established private institutions for the assistance and protection of the elderly, the use of which can only take place in case of need or in the absence of an alternative. The elderly cannot be admitted or kept in these institutions without their consent. Their admission is done following their request or on that of their legal representatives or by the public authorities.

**105.** Furthermore, Article 2 of the above mentioned law stipulates that the protection of the life of the elderly requires:

- The protection of their health.
- The encouragement of studies and research on the individual and collective aspects of the ageing process and the means liable to guarantee the protection and well being of the elderly.

#### **IV- The protection of the life of physically disabled persons**

**106.** According to Article 3 of the orientation law n° 2005-83 of the 15<sup>th</sup> August 2005, relative to the promotion and the protection of the physically disabled, the guarantee of health services and social benefits for the physically disabled is considered as a « national responsibility ».

**107.** In this context, the State has carried out:

- The reinforcement of the health structures in the areas of diagnosis and early screening of illnesses likely to give rise to a disability with the increase of medical examinations during the antenatal phase,
- The organization of public opinion sensitization campaigns relating to the importance of the pre-nuptial medical certificate,
- The early provision of care for disabled children by means of socio-educational structures specialized in functional reeducation and rehabilitation matters,

#### **V- The protection of the life of the mentally ill**

**108.** Law n° 92-83 of 3<sup>rd</sup> August 1992, relative to mental health and to the conditions of hospitalization for mental disorders requires that the hospitalization be done with respect for individual liberties and under conditions guaranteeing human dignity.

**109.** A person affected by mental disorders cannot be hospitalized without his consent except where it is impossible to obtain an informed consent or if the state of mental health of the person concerned requires urgent care or threatens his security or the security of others. The restriction of his freedom is strictly limited to the measures required by his state of health and his treatment.

The person concerned should be informed, in any case, immediately on his admission or, as soon as his state permits it, of his legal situation and of all his rights. He can communicate with the public health medical inspectors or with the legal authorities, send out or receive personal mail, contact the members of his family or contact the regional mental health committee responsible for examining the situation of hospitalized persons while maintaining respect for individual freedoms and human dignity.

#### **VI- The protection of human life through legislation relating to accidents at work and to profession related illnesses and legislation relating to health matters**

**110.** Law n° 94-28 of 21<sup>st</sup> February 1994, establishing the system of compensation for damages resulting from accidents at work and profession related illnesses, as well as law n° 95-56 of 28<sup>th</sup> June 1995, instituting a special system of compensation for damages resulting from accidents at work and profession related illnesses in the public sector, provides for measures protective of human life.

As an example, Article 85 of the law of 21<sup>st</sup> February 1994 stipulates that « the employer is duty bound to take all the appropriate preventive measures which are required by the nature of his activity ».

**111.** Moreover, the guarantee of the fundamental rights of the human being and of the security of patients constitutes a fundamental principle in the provision of health benefits. In this context, Article 5 of the law n° 91-63 of 29<sup>th</sup> July 1991 relative to health organization stipulates that « the public and private health structures and institutions should function under conditions which guarantee:

- 1- the fundamental rights of the human being and the security of the patients who seek their services;
- 2- respect for the rules of hygiene... ».

In effect all the health activities are carried out under the strict conditions of respect for the physical and moral integrity of the patient.

**112.** Thus, the special preventive, curative or educative instructions and measures, relating to each of the transmissible diseases provided for in the context of the law n° 92-71 of 27<sup>th</sup> July 1992, cannot be prejudicial to the fundamental rights and liberties of the persons to whom they refer (Article 4).

**113.** The physical integrity of the human being is also protected and guaranteed in conformity with the provisions of Article 1 of the law n° 91-22 of 25<sup>th</sup> March 1991 relative to the removal and transplanting of human organs.

**114.** Furthermore, the Tunisian legislation provides that reproductive medicine should be practiced within the context of guaranteeing the dignity of the human being and protecting his physical integrity. Article 1 of the law n° 2001-93 of 7<sup>th</sup> August 2001, relative to reproductive medicine stipulates that « reproductive medicine is subjected to the provisions of the present law in the context of the guarantee of the dignity of the human being and of the protection of his physical integrity ».

According to the meaning of the present law, reproductive medicine extends to all the medical acts entering within the context of medical assistance to procreation and aimed at combating infertility.

Moreover, law n° 2001-93 of 7<sup>th</sup> August 2001 has prohibited genetic manipulation, cloning, the trade in foetuses and human embryos.

Thus, this law controls the activating of life in the process of medically assisted procreation in function with the bioethical rules so as to guarantee conformity with human rights.

## **VII- The protection of human life through the amendment of certain Articles of the Penal Code**

**115.** Article 207 of the Penal Code stipulates that « murder committed by the husband against the wife or the accomplice at the moment he surprises them in the act of committing adultery shall be punished by 5 years of imprisonment ».

This Article used to grant the betrayed husband mitigating circumstances considering the gravity of his wife's behaviour. But the legislator intervened to replace this Article by law n° 93-72 of 12<sup>th</sup> July 1993, amending and completing certain Articles of the Penal Code with the objective of guaranteeing the right of the human being to life by denying the betrayed husband this privilege at the point of criminalization.

**116.** Within the context of the protection of human life, Tunisia hosted in October 1995, an international scientific seminar on « the death penalty in international law and in international legislations ». On this occasion, the « Secretary General of the International Federation of Citizens and Parliamentarians for the abolition of the death penalty » expressed his strong gratitude to the Tunisian Government for the organization of this seminar at which numerous researchers, international experts, parliamentarians and representatives of non-governmental organizations participated.

**117.** In the same vein, the Report of the United Nations Secretary General (E/CN.4/2006/83) on the deliberations of the 62<sup>nd</sup> Session of the Human Rights Commission, considers Tunisia as a country which is « de facto abolitionist » considering that the last execution of a judgment relating to the death penalty dates back to 9<sup>th</sup> October 1991. Therefore, it should be recalled that this Report defines a country which has not recorded any execution for at least 10 years as being « de facto abolitionist »

## **ARTICLE 5**

### **The Right to respect for Dignity, the prohibition of Slavery, of Slave Trade and Torture**

**118.** Article 5 of the Charter stipulates that « every individual shall have the right to the respect of the dignity inherent in a human being » and that « all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, physical or moral torture, and cruel, inhuman or degrading punishment and treatment shall be prohibited ».

**119.** All the phenomena of economic, sexual and criminal exploitation which can be considered as new forms of slavery such as forced prostitution, forced labour, forced displacement, compulsory participation in armed conflicts or any other form of enslavement, are strictly prohibited and non-existent in Tunisia.

**120.** If the Constitution of the Republic of Tunisia has not mentioned special provisions concerning slavery and related practices, and has only underscored in its preamble the attachment of the constituents « to human values which constitute the common heritage of peoples who attach much value to the dignity of man, to justice and to liberty and who work for peace, progress and the free cooperation of nations », it is because Tunisia has been among the first States to have prohibited slavery. Tunisia, in effect, instituted the prohibition of slavery since the 19<sup>th</sup> century and this was done under the terms of the Decree of 23<sup>rd</sup> January 1846 which provided for criminal sanctions against any individual who reduced another to slavery.

**121.** In 1966 Tunisia adhered to the Convention on Slavery signed on the 25<sup>th</sup> September 1926 and amended by the Protocol of 7<sup>th</sup> December 1953 and to the Additional Convention of 7<sup>th</sup> September 1956 on the abolition of slavery, of the slave trade and related institutions and practices (law n° 66-32 of 3<sup>rd</sup> May 1966). Tunisia also ratified the International Labour Convention n° 29 pertaining to forced or compulsory labour of 10<sup>th</sup> June 1930, in 1962 (law n° 62-51 of 23<sup>rd</sup> November 1962) and the International Labour Convention n° 105 pertaining to the

abolition of forced labour in 1958. The membership to and ratification of these Conventions confirmed the removal of slavery in Tunisia.

**122.** Tunisia ratified the « Convention against Torture and other cruel, inhuman or degrading punishment or treatment » without reservations. It published the declaration relating to the recognition of the competence of the Commission against Torture in application of the Articles 21 and 22 of this Convention. Finally it has accomplished all the required procedures for its entry into force and has updated its legislation in order to harmonize it with this instrument.

**123.** For this purpose, the Penal Code had been amended by the law n° 99-89 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Penal Code in particular by providing a new Article (101 bis) which defines torture in conformity with the provisions of the « Convention against Torture and other cruel, inhuman or degrading punishment or treatment ».

**124.** Pursuing the new directives of the policy on criminality, the State got down to a major humanization exercise of prison sentences with the objective of preserving the dignity of the convicted persons.

In this context, it promulgated law n° 95-9 of 23<sup>rd</sup> January 1995, repealing the rehabilitation and civil service labour which were the additional sentences restricting the freedom of employment and which were additional to a prison sentence. This decision is indicative of the concern of the State to promote human rights, public liberties and the freedom of the individual in employment.

**125.** Decree n° 95-2423 of 11<sup>th</sup> December 1995, establishing the rules of procedure for the centres of rehabilitation of child delinquents instituted systems alternative to intra-mural imprisonment which consists in putting the child delinquents in the open or semi-open re-education centres which are compatible with the social milieu.

## **ARTICLE 6**

### **The Right to the Liberty and the Security of the Individual**

**126.** Article 6 of the Charter stipulates that « every individual shall have the right to liberty and to the security of his person », that « no one may be deprived of his freedom except for reasons and conditions previously laid down by law » and that « no one may be arbitrarily arrested or detained ».

**127.** Tunisia guarantees the security of the people living on its territory, without any discrimination, against all violations and punishes the perpetrator of any act of aggression. It is mainly the Criminal Procedure Code which regulates the arrest and detention of individuals charged with criminal offense. Thus, in conformity with the principle of the territoriality of the criminal law, the guarantees relative to custody, to remand and to imprisonment, provided for under Tunisian legislation, are applicable to all without any discrimination whatsoever.

#### **I- Protection against Arbitrary Arrest**

**128.** The legislative measures taken during the period 1995-2005, in the area of protection against arbitrary arrest are numerous, including in particular:

- Law n° 93-114 of 22<sup>nd</sup> November 1993 amending and completing certain Articles of the Criminal Procedure Code, aimed at strengthening the rights of detainees.

- Law n° 99-90 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Penal Code aimed at promoting the guarantees of police custody. It should be pointed out here that the maximum duration for police custody and for remand is established by the law.

With regard to police custody, the maximum duration has been three days since 1999, and can only be extended once, for an equal period. It therefore lasts, at most, six days.

Concerning remand, the duration varies depending on whether it is a crime or an offense that has been committed.

Concerning crimes, the duration is a maximum of six months and can be extended twice, for four months each time. Thus, its maximum duration is fourteen months.

With regard to offenses, it has been fixed since 1993 at six months with a possibility of extension only once for a period of three months, so that it totals nine months altogether.

According to the provisions of this law, the judicial police officer is compelled to inform the person in custody of the procedure adopted in his regard, the reason for it and its duration while reading out the guarantees reserved for him by law, namely the possibility of benefitting from a medical check up during the period in police custody. Likewise, the judicial police officer is compelled to inform one of the relatives, descendants, brothers, sisters or spouse of the detainee, depending on his choice, about the measures taken in his regard.

The detainee or one of the above-mentioned persons can ask that he be given a medical check up during the custody period or at the end of it.

**129.** The report drafted by the judicial police officer should mention the following details:

- The information on the detainee pertaining to the measures taken in his regard and on his agreement;
- The reading of what is guaranteed to the detainee by the law;
- The notification or lack of notification of the family of the detainee;
- If the medical check up had been requested by the detainee or by one of the members of his family;
- Indication of the day, the hour of the beginning and the end of the police custody and those of the interrogation;
- The signature of the judicial police officer and that of the detainee;
- Mention of the possible refusal by the detainee to sign the report and indication of the reason for this refusal.

**130.** The judicial police officers should, in the police custody posts, keep a special register serial marked and signed by the Public Prosecutor or his Deputy and must contain the following details:

- The identity of the detainee;
- The day and the hour of the beginning of the police custody;
- The notification of the family of the detainee concerning the measure taken in his regard;

- If the request for the medical check up had been made either by the detainee or by one of his relatives, descendants, brothers, sisters or spouse.

**131.** In order to give greater guarantee to the police custody, the Tunisian Constitution had been amended by the Constitutional law n° 2002-51 of 1<sup>st</sup> June 2002; it stipulates in Article 12 that « the police custody is subjected to judicial control and remand can only be imposed under court order. It is prohibited to place any person in police custody or in arbitrary detention ».

## **II- Protection against Arbitrary Detention**

**132.** Among the legislative measures taken during the period covered by this Report, in the area of protection against arbitrary detention, can be cited, in particular:

- The institution of the penalty of community labour in substitution for the penalty of imprisonment and the adoption of the provisions relative to the international definition of the crime of « torture » and this, by virtue of the law n° 99-89 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Penal Code. The term torture refers to any act through which acute, physical or mental pain or suffering is deliberately inflicted on an individual with the objective particularly of getting from him or from a third party information or a confession, to punish him for an act he or a third party has committed or is suspected of having committed, of intimidating him or putting pressure on him or where the acute pain or suffering is inflicted for any other motive based on any form of discrimination whatsoever (Article 101 bis of the Penal Code).

This definition of Torture in the Penal Code corresponds to the definition given by the United Nations Convention against Torture and other cruel, inhuman or degrading punishment or treatment.

**133.** The repeal of compulsory labour in the prisons by guaranteeing the dignity of the individual and by harmonizing the system of penalties with the principles of human rights and this, under the terms of the law n° 99-89 of 2<sup>nd</sup> August 1999, amending and completing certain provisions of the Penal Code.

**134.** The institution of the office of penalty application Judge by the law n° 2000-77 of 31<sup>st</sup> July 2000 amending and completing certain Articles of the Criminal Procedure Code and strengthening the prerogatives of this Judge by the law n° 2002-92 of 29<sup>th</sup> October 2002.

**135.** The establishment of the system of two tier proceedings (or two degree proceedings) under the terms of the law n° 2000-43 of 17<sup>th</sup> April 2000, amending and completing certain Articles of the Criminal Procedure Code and instituting the principle of two tier proceedings in criminal matters.

**136.** In application of this law, Article 83 of the Child Protection Code had been amended and Article 103 of the same Code had been completed.

This amendment rests on the following principles:

- Upholding of the institution of Children's Judge, in conformity with the provisions of the Child Protection Code;
- Upholding of the leading role entrusted by the same Code to the Children's Judge;

- Harmonization of this law with the spirit and the letter of the United Nations Convention on the Rights of the Child which recommends the relaxing of the criminal justice relative to child delinquents.

**137.** Among the measures introduced by the Child Protection Code promulgated by the law n° 95-92 of 9<sup>th</sup> November 1995, relative to the publication of the Child Protection Code can be cited:

- The institution of a presumption of indisputable innocence on the basis of which the child, aged less than 13, could not have broken the penal law (Article 68);

- The prohibition of placing a child aged less than 15 and accused of having committed an infringement or an offense, in remand. Remand is only conceivable if it appears indispensable or if it is impossible to take other measures (Article 94 of the C.P.C.).

**138.** The transfer of supervision on the prison institutions and their administration from the Ministry of the Interior to the Ministry of Justice and Human Rights under the terms of the law n° 2001-51 of 3<sup>rd</sup> May 2001 relative to the prison officers and to re-education.

**139.** The promulgation of the law n° 2001-52 of 14<sup>th</sup> May 2001, on the organization of the prisons, is in keeping with the meaning of a more rational organization of the conditions of detention in the prison establishments and the guarantee of the rights of detainees, in order to facilitate their re-integration into society. The provisions of this new law which repeals the Decree n° 88-1876 of 4<sup>th</sup> November 1988 are in conformity with the relevant international conventions. This new law consolidates the guarantees for the protection of the rights of detainees, by regulating their rights and responsibilities with precision (medical check up, hygiene, reading, preservation of family links...) on which subject they are informed in order to guarantee their dignity and physical integrity and to preclude all abuse. This law also provides for the preparation of the detainees for post prison life, by allowing them to engage in remunerated employment the proceeds from which would be paid to them as of right, in conformity with the provisions of the International Convention on Civil and Political Rights, and the monitoring of a rehabilitation programme consisting of two training sessions, crowned by the delivery of certificates, giving them the opportunity of learning a profession which would enable them, once free, to take care of their needs and to avoid falling back into delinquency.

By virtue of this new law, the pregnant and breastfeeding mothers will benefit from medical, social and even psychological care. In any case, the penalty application Judge must inform the family Judge about the cases of women accompanied by their children that have to be monitored by him.

**140.** The establishment of the principle of the responsibility of the State in the damages caused by the application of justice and this through the promulgation of the law n° 2002-94 of 29<sup>th</sup> October 2002 relative to the compensation of the individuals who have been subjected to provisional detention or to a conviction and whose innocence had been proven.

## **ARTICLE 7**

### **The Right to a fair hearing**

**141.** Article 7 of the Charter proclaims that « every individual shall have the right to have his cause heard » and that this « right includes the right to appeal to the competent national organs against acts violating his fundamental rights as recognized and guaranteed by the conventions, laws, regulations and customs in force, the right to be presumed innocent, the right to defence, the right to be tried within a reasonable time by an impartial court ».

The measures and initiatives establishing the reform of the Tunisian judicial system are in harmony with the spirit and the letter of the provisions of this Article.

#### **I- The Presumption of Innocence**

**142.** The principle of the presumption of innocence is sanctioned by Article 12 of the Constitution which stipulates that « any detainee is presumed innocent until proven guilty following a procedure which offers him the guarantees indispensable for his defence ».

**143.** On its side, the Supreme Council of the Magistracy on the 31<sup>st</sup> July 1996 adopted a series of dejudicialization measures in the settlement of certain conflicts such as family disputes, in a spirit of tolerance, or disputes unlikely to cause major disturbance in the society or those which may cause insignificant damages. Reconciliation or mediation calls for the granting of pardon by the Judge and precludes, as much as possible, the launching of criminal proceedings in substitution for civil compensation. These measures have the effect of limiting pointless proceedings, so long as guilt is not established. Pertaining to the offenses for which the established penalties are of short duration, the Council recommends the granting of preference to punishment by suspended sentence, rather than enforceable punishment.

#### **II- The guarantees for the person accused of criminal offense**

**144.** Informing the accused person of the nature and grounds of the accusation is proclaimed by the law n° 94-80 of 4<sup>th</sup> July 1994, creating organization of the profession of interpreters under oath, who also revert to the free assistance of professional interpreters under oath for all communications intended for the information and defence of foreign persons brought before the Public Prosecutor's Department or the courts of common law, but also specialists for the deaf-mute.

**145.** The right of defence of detainees had also been strengthened by Decree n° 94-2127 of 10<sup>th</sup> October 1994 instituting the compensation for requisition granted to trainee lawyers automatically appointed in criminal cases.

**146.** The same advantages are proclaimed in Decree n° 94-2196 of 24<sup>th</sup> October 1994, amending Decree n° 79-751 of 21<sup>st</sup> August 1979 instituting the elected industrial tribunals in the headquarters of the Magistrates' Courts, in order to consolidate the right of the worker to go to Court. Besides, the deadlines for seizure of the Judge of the industrial tribunal and pronouncement of the judgment are repealed in view of the vital and human nature of social conflicts.

It is in fact in this regard that the legislator consolidates the acceleration of the judicial phase of the settlement of conflicts. The Supreme Council of the Magistracy underscores the precedence of settling conflicts in which the accused is under arrest and offenses which justify short term imprisonment sentences.

**147.** Furthermore, the legislator, more and more, uses the reconciliation procedure to ensure the rapidity and efficiency of the judicial apparatus. Reconciliation has become the rule in family conflicts (alimony, divorce...), disputes submitted to the local courts whose amount does not surpass 7,000 Dinars (law n° 94-59 of 23<sup>rd</sup> May 1994, amending and completing certain Articles of the Civil and Commercial Procedure Code) and the commercial disputes (law n° 95-34 of 17<sup>th</sup> April 1995 establishing the office of Companies' Judge who is compelled to intervene in the procedures of amicable and judicial settlements). For the purpose of ensuring the rapidity and efficiency of the justice system, the office of single Judge had been established to deal with offenses of issuing of bad cheques, and of constructing without authorization.

### **III- The principle of two tier proceedings**

**148.** Law n° 96-38 of 3<sup>rd</sup> June 1996, relative to the distribution of competencies between the judicial courts and to the creation of a Council for competence conflicts, and the law n° 96-39 of 3<sup>rd</sup> June 1996, modifying the law n° 72-40 of 1<sup>st</sup> June 1972 relative to the administrative Court, consolidate the rights of defense by instituting the right to recourse to two-tier proceedings with the administrative Court. These two laws also sanction the bringing closer of the citizen's administrative justice through the organization of periodic sessions in the regions and the gradual putting in place of regional Branches of the Administrative Tribunal but especially through the setting up of an Arbitration and Appeals Council between the administrative magistracy and the judicial magistracy.

**149.** In order to better strengthen the rights of defence, the rule of the two-tier proceedings in criminal matters had been sanctioned for the first time in Tunisia, by virtue of the law n° 2000-43 of 17<sup>th</sup> April 2000, establishing the rule of two-tier proceedings in criminal matters. This law which conforms to the Charters and International Agreements ratified by the Republic of Tunisia, is based on the following principles:

- Institution of the system of two- tier proceedings at the level of criminal justice;
- Upholding the system of two-ier investigation;
- Upholding the composition of five magistrates in the penal chambers.

### **IV- The prohibition of double conviction for the same offence**

**150.** Law n° 93-114 of 22<sup>nd</sup> November 1993, amending and completing certain Articles of the Criminal Procedure Code added Article 132 (bis) which fully sanctions this principle. This Article indicates that « no acquitted person can be brought again to justice for the same offense and this, even if it is qualified differently ».

### **V- The protection of Minors during criminal proceedings**

**151.** Law n° 93-73 of 12<sup>th</sup> July 1993, modifying certain Articles of the Criminal Procedure Code adopted different alternative measures which were reviewed in

1995 by the Child Protection Code pertaining to the proceedings instituted against a child delinquent aged 13 to 18 years who is subjected to mitigating criminal responsibility.

**152.** In this context, specialised social workers are posted alongside children's Judges. These workers are given the responsibility of participating in the search for solutions to the cases of child delinquents so as to help towards their reintegration.

A pilot Minors' Observation Centre, responsible for observing the behaviour of child delinquents before bringing them before the competent courts, had been created in 1993. The child delinquents are no longer brought before the common law criminal courts but rather before the special children's courts.

The children's Judge has to consult two specialists of Minors' affairs after having given instructions for a medico-psycho-social investigation of the Minor's personality. He can then make a ruling by choosing among the measures of protection, of assistance, of monitoring, of education or of placement in a public or private professional and medico-pedagogical educational institution.

The arresting of a child delinquent is exceptional. It should be proportional to the gravity of the act committed and to the degree of awareness of the perpetrated act. The arrest is only made in Minors' placement centre.

**153.** In order to better protect the Child, the law n° 93-73 of 12<sup>th</sup> July 1993, amending certain Articles of the Criminal Procedure Code established:

- A single Judge for Minors in the area of contraventions who can only impose preventive measures which do not at all constitute imprisonment;
- The release on parole for Minors which constitutes a substitutive measure to the measures of imprisonment in order to ensure the re-adaptation and the rehabilitation of the Minor to social life.

**154.** The right to a fair trial is an inalienable right inscribed in Tunisian legislation in accordance with the international standards intended to guarantee the fairness of the proceedings. This right is one of the foundations of the State and the perennial nature of the values on which it is based.

**155.** The Tunisian judicial make up reposes on a set of principles including, in particular, the equality of all citizens before the public service of justice without any discrimination whatsoever.

## **ARTICLE 8**

### **The Freedom of Conscience and of Religion**

**156.** Article 8 of the Charter predicates that « the freedom of conscience, the profession and the free practice of religion shall be guaranteed » and that « subject to law and order, no one may be submitted to measures restricting the exercise of these freedoms ». In Tunisia, the freedom of conscience and of religion is guaranteed by the Tunisian Constitution which stipulates, in its Article 5, that « the Tunisian Republic guarantees the inviolability of the human being and the freedom of conscience, and protects the free exercise of religion, on condition that it does not disturb public Law and Order ».

**157.** The freedom of conscience and of judgment in Tunisia is built on the basis of the promotion of *Ijtihad* and of the culture of difference. There is no choice but to

accept that the defense of the freedom of conscience by the Tunisian reformist thinkers unfurled since the 19<sup>th</sup> century in the sense conferred on it in the human rights paradigm.

**158.** In Tunisia, Islam is the religion of the State. However, in conformity with the provisions of the Tunisian Constitution, the State has the responsibility of protecting the freedom of conscience and the other religions. The freedom of conscience and of religion is first and foremost, the right for each individual to live, to bear, to assume his philosophical idea, his political opinion, his belief, all this in the respect for others and in the context of the rule of law.

**159.** The religion of the great majority of Tunisians is Islam. This fact does not constitute any constraint for non-muslims. In effect, the Constitution guarantees the free exercise of other religions. Thus non-muslim Tunisian citizens live in symbiosis with the rest of the population. It is the case of the Jewish Community and the Christian Community which enjoy all their rights.

**160.** Pertaining to the law n° 58-78 of 11<sup>th</sup> July 1958 on the system of Israeli religion, it guarantees to the Tunisian Jews the freedom of conscience, the practice of their religion and the use of their language.

**161.** The Christians, who are mostly Western women living in Tunisia and who have acquired Tunisian nationality through their marriage with Tunisians, practice their religion freely in the Churches which exist on the national territory and which are managed freely and independently. The practicing Christians in Tunisia, all persuasions combined, have 14 Churches with a reception capacity which is quite sufficient for the practice of their religion. The Church is represented by a prelate appointed by the Holy See.

**162.** The Tunisian State remains watchful of all phenomena and activity which may appear to be discriminatory. In this regard, Tunisian law has defined a set of provisions for declaration as « punishable offenses », the incitement to racial hatred and all acts of intolerance or of race related violence.

**163.** Thus, under the terms of the organic law n° 93-85 of 2<sup>nd</sup> August 1993, amending the Press Code, Article 44 (new) stipulates that it is punishable by imprisonment ranging from two months to three years and with a fine of 1,000 to 2,000 Dinars, whoever may have directly, either instigated hatred between races, religions, or populations, or incited the propagation of opinions based on racial segregation or religious extremism....

**164.** Article 53 of the same Code adds that « slander, committed... against a group of people not designated by this Article, but who belong through their origin to a race or a given religion, shall be punished by imprisonment ranging from one month to one year and with a fine ranging from 120 to 1,200 Dinars, if the intention is to incite hatred between the citizens or the populations ».

**165.** In this same context of the combat against all forms of religious discrimination, penal provisions are provided for against all those who hinder or disturb the exercise of a religion. The Penal Code stipulates in its Article 165 « whoever hinders the exercise of a religion or of religious ceremonies or disturbs them shall be punished by six months of imprisonment and a fine, without

prejudice to stronger sentences which may have been incurred for affronts, assault and battery or threats ».

**166.** Furthermore, the State guarantees the inviolability of the places of worship of all the denominations. Towards this end, Article 161 of the Penal Code stipulates that « whosoever destroys, knocks down, damages, defaces or tarnishes the buildings, monuments, symbols or objects belonging to or used by the religions shall be punished by imprisonment of one year and fined ».

**167.** The defense of the freedom of conscience and of religion constitutes an essential objective of the educational and cultural choices conceived in function with the promotion of the culture of difference understood as being a set of values, of attitudes, behaviour and modes of life based on the reciprocal acceptance of differences.

**168.** Thus, the culture of difference is one of the principal objectives of the Tunisian educational system. It consists in « preparing the youth for a life which has no place for any form of discrimination or segregation based on gender, social origin, race or religion », « to give the pupils the right to the edification of their personalities and to help them gain maturity by themselves, so that they are brought up in the values of tolerance and of moderation ».

**169.** In this context, the promotion of religious culture in schools takes on a civilized and progressive aspect, in that its aim is to train the pupils to make independent judgments and to enable them « internalize the values of tolerance and respect for others as a condition of the development of the individual ».

**170.** Human Rights education is inscribed in all the educational programmes and explicitly in the load-bearing disciplines of this education, by virtue of their specificity, such as civic education without forgetting languages and literature.

**171.** The Ministry of Education and Training is vigilant with regard to all manifestations of discrimination and intolerance.

Wrongly presented as being conform to allusive Koranic dictates, the wearing of the Hijab has become, with the rise in fundamentalism, the symbol and rallying expression of this movement. To wear it means that one is « a Muslim Sister » just like the beard is for the « Muslim Brother ». Its presence in the schools is contradictory to the principles of the educational system and the values it defends: openness, tolerance and rejection of all forms of discrimination, without forgetting the political neutrality of the school.

Circular 108 of the Ministry of Education and Sciences requires the pupils, out of respect for school rules, to dress decently.

Furthermore, the wearing of the Hijab, which remains a minority practice in Tunisia, is advocated by fanatical fundamentalists. It is totally foreign to the dress traditions of Tunisia.

**172.** Finally, the writings of « Chaire Ben Ali for the Dialogue of Civilizations and Religions » ceaselessly prove that religions and civilizations can and should contribute to the establishment of the ethical, philosophical and political bases of co-existence and cooperation between peoples.

## **ARTICLE 9**

### **The Right to Information and to the Freedom of Expression**

**173.** Article 9 of the Charter stipulates that « every individual shall have the right to information » (paragraph 1) and that « every individual shall have the right to express and disseminate his opinions within the law » (paragraph 2). The freedom of expression, of information and self-information is fully guaranteed in Tunisia, in the laws and in daily life. Article 8 of the Tunisian Constitution guarantees not only the individual expression of opinions, but also their dissemination by all the means of communication for the purpose of informing others.

#### **I- Guarantees to the freedom of self-information and of information**

**174.** The right to information has great importance due to the vital role that information plays in sanctioning the diversity of opinions and the freedom of expression guaranteed by the Constitution.

**175.** The Telecommunications Code promulgated by virtue of the law n° 2001-1 of 15<sup>th</sup> January 2001 on the organization of the Communications Sector and the related services and networks, greatly contributed to the sanctioning of the right of the citizen to information and this by establishing the rights and responsibilities of the users of the communications services and by defining the legal guarantees granted to all the parties concerned. This Code is based on a series of principles including in particular:

- The solemn affirmation of the right of the citizen to enjoy communication services, to be guaranteed their confidentiality as well as the putting in place of mechanisms enabling him to exercise this right;
- The putting in place of legal guarantees permitting the guarantee of all types of high quality and affordable communication services, throughout the national territory;
- Guaranteeing equal access to communication services for all citizens.

**176.** The Tunisian State has pursued the concretization of the right of the citizen to communication, a right established by Article 3 of the Telecommunications Code in particular, by:

- offering the citizen the opportunity to chose the service provider, in the area of communication, thanks to the establishment of the principle of plurality of service providers for all communication services, like the mobile digital telephone (GSM) service providers;
- guaranteeing equality of access to communication services for all citizens and this by guaranteeing these services under the same conditions throughout the national territory and at moderate tariffs which are affordable by all sectors of the society;
- bringing the communication services closer to the citizens thanks to new commercial agencies opened in all the regions of the country and the connection of several services;
- extending the connection of the internet network to all the University institutions, the scientific research structures, the high schools and colleges;
- continuing to offer computers at reasonable prices which are affordable for all the citizens, notably for citizens with low incomes.

**177.** It is in recognition of Tunisia's efforts in the field of information and communication technology that it had been chosen by the United Nations General Assembly to host the second phase of the World Summit on Information Society from 16 to 18 November 2005.

**178.** This beginning of the 21<sup>st</sup> century is seeing the increasing need for information, of access to knowledge, to the new opportunities open to communication. It is, at once, the outcome of each person's aspiration to broaden his competences, his capacities of intervention and a major requirement of economic and social development. This dual dimension of the need for information defined the focus of the deliberations of the second phase of the World Summit on Information Society, which took place on the 16, 17 and 18 November 2005 in Tunis and which culminated in two documents titled: the « Tunis Commitment » and the « Tunis Diary ». The challenge posed by the « Tunis Commitment » and the « Tunis Diary » being greater than their objective is to identify the mechanisms and means making possible the reduction of the digital divide and committing the international community to the quest for appropriate solutions in this regard.

**179.** The Tunis Summit is, in effect, the first intergovernmental meeting to have emphasized the evidence that the Internet is from henceforth a crucial infrastructure for the entire world. « We recognize that all the Governments need to play a role and hold equal responsibility in the international governance of the Internet as well as in the maintenance of the stability, security and continuity of this network », stipulates paragraph 64 of the « Tunis Diary for Information Society ».

**180.** The « Tunis Commitment », a document based on the Universal Declaration of Human Rights, ultimately took a clear position on the freedom of expression by recognizing that it was « essential for the freedom of information and promotes development ». The Tunis Summit on Information Society ended with the commitment to reduce the digital gap between the North and the South. With regard to the merits, the UN undertook to connect all the villages to the Internet before the year 2015. Only one billion inhabitants of the planet currently have access to the Internet.

**181.** Undoubtedly, the « Tunis Commitment » and the « Tunis Diary » constitute real progress in the promotion of civil and political rights at the level of the African countries. In a world which is becoming more and more globalized, where communication has become a strategic raw material and where the economy of the nonmaterial is exploding, communication networks play a fundamental role. Considering the extraordinary potential that can be generated by the NTIC, in improving the economic, social and cultural well-being of the populations in an economy of digitalized knowledge, it is imperative that the entire world have access to these technologies on the pain of seeing the creation of « cyber-ghettos » whose existence would be not only ethically reprehensible but also an obstacle to the development of all peoples. All these considerations give the road map defined at the Tunis Summit its consistency to reduce the digital divide.

**182.** The Internet network, which can be a formidable tool of freedom and an inexhaustible vector of modernity and universality, can, with its media power, become a tool for the propagation of fascist and fundamentalist thinking and for

diffusion of pornographic pictures. In effect, the pornographic pictures and the extremist and fascist ideas carried by the Internet network are becoming increasingly dangerous elements for democratic and pluralist culture and for public ethics. It is therefore becoming essential to put the Internet network in the centre of a public and civic battle in order to control its content and its circulation so as to protect the freedom of self-information and information. Pluralism presupposes, among other things, the civic ownership of the challenges of information provided by the Internet network. In a complex world with accelerating changes and real dangers, the access to the Internet network poses a real cultural challenge.

**183.** Nonetheless, the right to self-information does not mean the absence of all rules, of permissiveness and violation of the accepted standards of behaviour. Indeed, the culture of the Net can in no way become an Islamist mode of fabricating the realm of fancy of the youth in Tunisia. In any case Tunisian law prohibits the incitement to hatred and all forms of incitement to commit terrorist acts. In fact, the incitement to commit crimes or acts of religious or ethnic fanaticism is considered by the law as itself being an act of terrorism.

By virtue of the law n° 93-112 of 22nd November 1993, completing the Penal Code (Article 52 bis), the Tunisian legislator considered the acts of incitement to hatred, to racial and religious fanaticism as terrorist offenses and has made provision for the severe punishment of their perpetrators.

## **II- Guarantees to the Freedom of Opinion and of Expression**

**184.** During the period covered by this Report, different measures had been taken by Tunisia to ensure the wider implementation of the freedom of opinion and of expression and to promote pluralism in the media. Thus, amendments had been made in the Press Code, notably in 1993, 2001 and 2006 to enable the journalists assume their role in total freedom and to enjoy a conducive climate for the exercise of their activities.

**185.** In this context, the promulgation of the organic law n° 2001-43 of 3<sup>rd</sup> May 2001, amending the Press Code, was introduced to lighten the procedures in force relating notably to:

- The suppression of the offense of libel towards the Public Order, stipulated in Article 51 of the Press Code, due to the lack of clarity of this notion and of the multiple possible interpretations which could result in abuse;
- The amendment of paragraph 2 of Article 8 relative to the legal submission of literary works so as to avoid the centralization of submissions to the Ministry of the Interior;
- The amendment of paragraph 2 of Article 73 of the Code and this, by reducing the maximum length of the suspension of the publication of a Daily newspaper, likely to be decided by the court, from six to three months;
- The removal of imprisonment sentences from Articles of a repressive nature of the Press Code (Articles 35, 36, 37, 38, 39, 45, 61 and 62) so that this Code remains one that organizes freedom and not a Code that suppresses the freedom of the Press;
- The amendment of Article 15 bis of the Code through the increase in the number of journalists holding the professional card and holders of university

diplomas employed full time in the drafting of each publication. On the basis of this amendment, the number of journalists has increased from one third to one half of the permanent editorial team;

- The amendment of paragraph 2 of Article 19 of the Code relative to the offense of « figurehead » to the owner or to the sponsor of a publication, and this through the suppression of the penalty of imprisonment and the maintenance and increase of the fine. The same was done for Article 23 relative to the offense of acceptance of money or of any other benefit for the purpose of distorting a public announcement.

**186.** In the same vein, the promulgation of the organic law n° 2006-1 of 9<sup>th</sup> January 2006, modifying the Press Code constituted a new large scale measure in the process of consolidating the freedom of expression, of information and of edition. In effect, Article 3 (new) of this law stipulates that « the following national press publications are also not to be subjected to the legal submission requirements:

- the Daily Papers and the Periodicals,
- the Periodic Journals ».

**187.** This legislative measure is aimed at lightening the legal procedures governing the freedom of the Press so as to increase the liberalization of the information sector and to transform it into a space for dialogue, for exchanges and for discussion on the topics and issues relating to the country's future and to the protection of its achievements. This measure involves and mobilizes all those who work in the domain of the press, of information and of communication in order to help develop the media landscape, strengthen the freedom of expression and of opinion and reinforce intellectual and political pluralism.

**188.** In order to give the Directors of the Periodicals the necessary time to put together the conditions guaranteeing the success of their project on appropriate material and organizational bases, the validity period of the declaration's acknowledgement of receipt had been extended from six months to a year as defined in Article 14 of the Press Code. Besides, the definition of foreign works had been reviewed in order to achieve greater exposure to the outside. (Article 24).

**189.** By the same token, with the objective of strengthening the role of the Supreme Communications Council, Decree n° 2002-999 of 2<sup>nd</sup> May 2002, completing the Decree n° 89-238 of 30<sup>th</sup> January 1989 which created the Supreme Communications Council had been promulgated. New roles had been given to it:

- the function of Observatory for the information sector by professionals, intellectuals and representatives of civil society and Political Parties;
- the collection of all national and international data relating to the development of the sector;
- the drafting of the synthesis reports evaluating the innovations realised in this domain;
- the publication of information bulletins contributing to the effort of propagating a culture of the freedom of expression.

**190.** The opposition Political Parties and the representatives of civil society have been members of the said Council since December 2005 in order to contribute to

the pluralist brainstorming on the quality of the written press, of the Radio and the Television and on the appropriate means of developing the national media landscape.

**191.** Numerous initiatives had been taken in the press, information and communication sectors to enrich and diversify the media landscape and to strengthen the measures for enhancing protection of the freedom of opinion and of expression and to reduce the digital divide in the information and communication society. Can be cited in particular:

### **The Newspapers**

**192.** The number of national publications and periodicals continue to increase: close to 250 national publications and about 950 foreign newspapers and magazines are distributed in Tunisia. The number of journalists is currently 973 as against 639 journalists in 1990, of whom 35% are women and 53% are university graduates. Apart from the 70 foreign correspondents who exercise their profession, 137 new publications of various horizons have appeared since 1993 up to the end of 2005.

**193.** The Opposition Parties have their own publications: « I-Tariq Al-Jadid » (medium of the Ettajdid Movement), « Al-Mawkif » (medium of the Progressive Democratic Party), « El-Wehdha » (medium of the Peoples' United Party), « El-Oufouk » (medium of the Liberal Social Party), « El-Watan » (medium of the Unionist Democratic Union), « Mouatinoun » (medium of the Democratic Forum for Employment and Freedoms) contribute to the animation of the national intellectual and political life.

**194.** To sanction this option and to offer the newspapers of the Opposition Parties the best conditions for contributing to the enrichment of the national media landscape, subventions had been granted to the newspapers of the Opposition Parties to cover part of their costs for purchasing of paper and part of their printing costs under the terms of the law n° 97-48 of the 21<sup>st</sup> July 1997 relative to the public financing of Political Parties, of the Decree n° 98-479 of 19<sup>th</sup> February 1998, establishing the forms and modalities of distributing the allowances allocated to the Political Parties and the Decree n° 2001-1496 of 22<sup>nd</sup> June 2001, fixing the amount and the modalities of allocation of the annual subvention of support to the newspapers of the Political Parties. Law n° 2006-7 of the 15<sup>th</sup> February 2006, amending the law n° 97-48 of the 21<sup>st</sup> July 1997, relative to the public funding of the Political Parties increased this subvention and the annual amount for each party had been fixed at one hundred and thirty five thousand Dinars (135,000 Dinars).

**195.** The promotion of information and the improvement of its message constitute a collective responsibility which is incumbent on all the Parties, to establish new traditions of objectivity and innovation in the analysis of the topics, on the one hand, and to get used to accepting criticism and opposing opinions on the other. Newspapers like « Echaâb » (weekly medium of the Tunisian General Labour Union), « Realities » (Independent Weekly), « The Time » (Independent Daily), « The Observer » (Independent Weekly), « Akhbar-El-Joumhouria » (Independent Weekly), « The Maghrebin Economist » (bimonthly) publish audacious Articles, report on information relating to non-governmental

organizations like the LTDH as well as other socio-professional Associations and Opposition Parties and constitute a real vector of intellectual and political pluralism.

### **The Audio-visual Landscape**

**196.** The audio-visual landscape is enriched by the launching of private radio stations « Mosaïque FM » and « Jawhara FM », of the cultural Radio as well as the entry into service of the first private television channel « Hannibal TV ». Apart from the national television and radio programmes, five regional radio stations cover the various regions of the country. Special radio and television channels are operated for the young listeners such as « Canal 21 » and « Radio of the youth ».

**197.** All these audiovisual mediums deal with the different concerns of the Tunisians and ceaselessly show a certain audacity in tackling supposedly taboo subjects such as juvenile delinquency, construction workers, Aids, Divorce, Employment, etc. The Parliamentary debates are broadcast direct on television. Televised reports re-broadcast directly the opinions of the representatives of the Opposition and of civil society.

**198.** During the presidential and legislative elections of 1999 and 2004, air time reserved by the radio and television was allocated, under judicial control, to all the candidates, whatever their affiliation, so that each candidate could present his programmes to the voters through the audio-visual media with neither distinction nor discrimination and so that the voter could express his position with full conviction and with full knowledge of the facts.

**199.** Nonetheless, the freedom of opinion and of expression should not at all hinder the dissemination of the values of tolerance. With this in mind, the Tunisian penal law in effect punishes all calls to fanaticism, to religious and racial hatred and the perpetration of terrorist acts. In effect, the law n° 2003-75 of 10<sup>th</sup> December 2003, relative to the support of international efforts in combatting terrorism and the repression of money laundering, stipulated in its Article 6, that « acts of incitement to hatred or to racial or religious fanaticism, whatever the means used, are subjected to the same system as that of offenses qualified as terrorist ».

**200.** Likewise, Article 44 of the Press Code, as amended by the organic law n° 93-85 of 2<sup>nd</sup> August 1993, stipulates that « shall be punished by imprisonment ranging from two months to three years and a fine of 1,000 to 2,000 Dinars whosoever, by the same means mentioned in Article 42, may have directly either incited hatred between races, or religions, or populations, or the propagation of opinions based on racial segregation or religious fundamentalism, or provoked the perpetration of the offenses outlined in Article 48 of the present Code, or incited the population to break the laws of the country».

**201.** Similarly, in accordance with the principles aimed at the elimination of racial discrimination proclaimed in the International Agreements to which Tunisia has acceded, Article 44 of the Press Code as amended by organic law n° 93-85 of 2<sup>nd</sup> August 1993, had extended the punishment indicated for the perpetrators of

incitement to hatred among the races, to all those who may have propagated opinions based on racial segregation and religious fundamentalism.

**202.** Article 57 has, in addition, instituted the condition of establishing the truth of libellous fact issued against public authorities, physical or moral persons. This measure reinforces the objectivity of the profession of the press through the application of the ethical rules of the profession in order to protect the fundamental rights of all public or private persons. That constitutes a manifestation of the balance that the Tunisian legislator wishes to establish between human rights and the moral and legal responsibility of the information activists.

## **ARTICLE 10**

### **The Freedom of Association**

**203.** Article 10 of the Charter stipulates that « every individual shall have the right to freely associate with others, provided that he abides by the law » The freedom of founding Associations, Political Parties included, and becoming a member thereof is considered in Tunisia as a fundamental condition for the exercise of the civil and political rights recognized for individuals and groups.

#### **I- Protection of the Freedom of Association**

**204.** The freedom of forming Associations and Political Parties is exercised in conformity with the provisions of the Tunisian Constitution and of the law in force.

**205.** Organic law n° 88-90 of the 2<sup>nd</sup> August 1988 amending the law n° 59-154 of 7<sup>th</sup> November relative to Associations, simplified the procedures for the constitution of these Associations. It substituted the system of declaration for a system of prior authorization and considered that the Association is legally constituted after a time limit of 3 months from the date of presentation of the declaration to the competent authorities.

**206.** Organic law n° 92-25 of the 2<sup>nd</sup> April 1992 completing the law n° 59-154 of the 7<sup>th</sup> November 1959 relative to the Associations is aimed at extending the exercise of democracy and to ensure the participation of the greatest number of citizens possible in associative activities. It also endeavours to ensure the neutrality of the Associations of a general nature, with respect to political action, to enable them carry out their functions far from all the stray impulses of political exploitation.

**207.** The above mentioned amendment put an end to certain discriminatory practices by guaranteeing the right to each individual, whose request for membership to an Association had been dismissed, to institute legal proceedings if he is convinced that he is the object of unjustified discrimination on the part of the Association concerned. In effect, the law makes provision prohibiting the rejection by general Associations of a request for membership from an individual who subscribes to their principles and decisions, except where he is dispossessed of his political and civil rights, or if he has activities and practices which are antinomic with the objectives of the Association. Thus, the first Article of the organic law n° 92-25 of the 2<sup>nd</sup> April 1992 completing the law n° 59-154 of

the 7<sup>th</sup> November 1959 relative to the Associations stipulates that « the Associations of a general nature cannot reject the membership of any individual who is committed to its principles and decisions, except where the individual does not enjoy his civic and political rights, or if he is engaged in activities and practices which are incompatible with the objectives of the Association ».

In case of dispute on the subject of membership, the applicant can seize the Magistrate's Court in the area where the Association has its headquarters.

**208.** To guarantee the independence of the Associations and to protect them from partisan political quarrels, the law prohibits the plurality of central responsibility within a political party and the leadership within organizations of a general nature.

In this regard, Article 2 of the law n° 92-25 on Associations stipulates that « those who assume roles or responsibilities in the central leadership organs of Political Parties cannot be leaders of an Association of a general nature ». These provisions are applicable to the Steering Committee of the above indicated Associations, as well as to the sections, branches or subsidiary organizations or secondary groups.

**209.** A centre of information, training, study and documentation on the Associations (IFEDA) had been created under the terms of the Decree n° 2000-688 of 5<sup>th</sup> April 2000, establishing its administrative and financial arrangements and the modalities of its operations. This Centre has the status of a public institution placed under the administrative supervision of the Prime Minister. The creation of this Centre has the objective of helping the Associations carry out their mission, of improving their output, based on the principle that associative action is the fundamental pillar of civil society.

**210.** The number of Associations which in 1995 were 6,237, increased considerably to reach 8,913 in 2005. They are distributed as follows:

- The Womens' Associations: 20
- The Sports Associations: 1150
- The Scientific Associations: 478
- The Cultural and Artistic Associations: 5740
- The Good Will, Aid and Social Associations: 411
- The Development Associations: 502
- The Friendly Associations: 520
- The Associations of a General Nature: 92

**211.** This impulsion of the associative fabric in terms of interdependent civil society is the sanctioning of a sense of citizenship as a social value and an illustration of the will for self-construction which distinguishes any modern society mindful of assuming its own development.

The historical perspective of civil society clearly allows the moving from the pompous exercise of the incantation of eternal values to modest but multiple tasks, of the inscription of real life requirements of social morals in the functioning of society. In this respect, the Tunisian State has continuously encouraged the culture of citizenship and civic and associative practice which the dynamics of pluralist democracy require.

**212.** The aim of civic action and of communal living within the context of associative work is not to provide ready made answers, but rather an active

citizenship in which the citizens are able to recognize each other and be stakeholders. This means that they can immediately establish the link between this active citizenship and the process of tackling their daily problems as they experience them, as they imagine them, as they formulate them, be it in the area of employment, training, social protection, the future of the youth, democracy within society, the opening of Tunisia to the world, etc...

**213.** The 8,913 Associations constitute a school of participative democracy allowing the citizens to come out with perspectives for the future and an approach which can also give shape to the re-articulation of the relationship between the State and civil society. This movement is accompanied by transfers of enhanced competences towards the local and the district levels so as to realise, each time, the most coherent level of subsidiarity.

## **II- The Organization of Political Parties**

**214.** Organic law n° 88-32 of 3<sup>rd</sup> May 1988 establishing the organization of the Political Parties compels these Parties to respect and defend human rights as determined by the Constitution and the International Conventions ratified by Tunisia.

**215.** There are nine Political Parties in Tunisia today. They are:

- The Constitutional Democratic Alliance (RCD), created in 1920.
- The Ettajdid Movement (former Tunisian Communist Party the prohibition of which had been lifted on the 18th July 1981);
- The Movement of Socialist Democrats (MDS), operational since the 19<sup>th</sup> November 1983;
- The United Peoples' Party (PUP), in operation since the 19th November 1983;
- The Liberal Socialist Party (PSL), in operation since the 12th November 1988;
- The Progressive Democratic Party, in operation since the 12th September 1983;
- The Unionist Democratic Union (UDU), in operation since the 30th November 1988;
- The Employment and Liberties Democratic Forum (FDTL), in operation since the 25<sup>th</sup> October 2002;
- The Green Party for Progress, created on the 3<sup>rd</sup> March 2006.

**216.** According to the law in force, the task of these Political Parties consists in promoting a climate of pluralism based on mutual respect and on the respect for modernist values. Democracy is not only a matter of adjusting institutions, it is a spirit, morals, and a practice: the Political Parties which engage in the democratic process render these possible and develop them by enhancing the consolidation of the spirit of participation on which depends the emergence of a sense of responsibility without which there can be no democracy.

### **ARTICLE 11 The Right of Assembly**

**217.** Article 11 of the Charter stipulates that « every individual shall have the right to assemble freely with others ».

**218.** In Tunisia, the freedom of assembly is guaranteed by Article 8 of the Constitution. It is exercised under the conditions defined by the law. In this

respect, law n° 69-4 of 24<sup>th</sup> January 1969 relative to the regulation of public meetings, processions, march pasts, demonstrations and gathering of crowds, stipulates, in its Article 1, that public meetings are free. They can take place without authorization being sought beforehand. Nonetheless, there are certain formalities to be respected. In effect, a declaration should be made beforehand. Likewise, each assembly should have a bureau responsible for maintaining law and order and of preventing any breaches of the law. Thus, the Political Parties and Associations hold their meetings, organize their Congresses and coordinate their demonstrations within the framework of the law and in a legitimate manner.

**219.** The competent Authorities can prohibit by Decree, in conformity with the spirit of Article 11 of the Charter mentioned above, any meeting likely to disturb the security and public law and order. This Decree can be appealed against on the grounds of abuse of power before the administrative Tribunal.

**220.** In Tunisia, the exercise of the Right of Assembly, as stipulated in Article 11 of the Charter, can only be subjected to « the necessary restrictions decreed by the laws and regulations, notably in the interest of national security, the safety of others, health, moral or the rights and liberties of individuals ».

## **ARTICLE 12**

### **The Freedom of Movement and of Residence and the Protection of Foreigners**

**221.** Article 12 of the Charter stipulates that « every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law » (paragraph 1), that « every individual shall have the right to leave any country, including his own, and to return to his country » , that this « right may only be subject to restrictions » provided for by law (paragraph 2), that « every individual shall have the right, when persecuted, to seek and obtain asylum in other countries, in accordance with the law of those countries and international conventions » (paragraph 3), that « a foreigner legally admitted in the territory of a State Party to the present Charter may only be expelled from it by virtue of a decision taken in accordance with the law » (paragraph 4).

**222.** These proclaimed rights are sanctioned by the Tunisia Constitution whose Article 10 stipulates that « every citizen has the right to free movement within the territory, to leave it and to establish his residence within the limits provided for by law ». Article 11 adds that « no citizen can be banned from the national territory nor prevented from returning to it ».

**223.** The freedom of movement within the country is not subject to any formality. The only restrictions follow from the requirements of penal action (detention, administrative monitoring...).

**224.** Regarding the freedom of leaving the national territory and returning to it, it is regulated by law n° 75-40 of the 14<sup>th</sup> May 1975 relative to Passports and travel documents. Article 34 of this law stipulates that in order to leave Tunisian territory, the travellers are required to use the border posts reserved for this purpose. Article 1 requires that all Tunisian nationals, desiring to travel abroad, be equipped with a national travel document. There are two types of travel

documents: the Passports and the travel documents (Article 3). Every Tunisian national has the right to the issue, renewal and extension of a Passport subject to the restrictions determined by law (legal proceedings, minors or prohibited persons who cannot produce authorization from the legal representative except on a judicial ruling, or for reasons of public Order and security).

It is important to recall that law n° 75-40 of the 14<sup>th</sup> May 1975 relative to Passports and travel documents had been amended by the organic law n° 98 - 77 of 2<sup>nd</sup> November 1998. This law gives the judicial authority exclusive competence to withdraw an ordinary Passport whilst still valid depending on the cases and modalities provided for by law.

The provision relative to the restriction, issue or renewal of a Passport is not contradictory to the provisions of paragraph 2 of Article 12 of the Charter. It can be considered as being a measure for the protection, guarantee and respect of the said rights.

**225.** The condition of foreigners is governed by law n° 68-2 of 8<sup>th</sup> March 1968. The number of foreign nationals legally established in Tunisia is 46,402 of whom 22 are refugees.

Tunisia ratified the Protocol relative to the status of refugees which entered into force on the 4<sup>th</sup> October 1967 and the OAU Convention governing the aspects relative to the problems of refugees in Africa. Article 17 of the Constitution prohibits the extradition of political refugees. The refugees authorized to live in Tunisia can obtain a residential permit and a type «C» travel document (law n° 75-40 of 14<sup>th</sup> May 1975 relative to Passports and travel documents).

Regarding the possibility of employment, it has to be pointed out that the refugees enjoy a system favourable to them. In effect, the visa issued by the Ministry responsible for Employment is granted them immediately.

**226.** The freedom of movement of foreigners is limitless in Tunisia, but subject to the measures laid down by virtue of the law relating to expulsion. It is to be noted that from 2002 up to 2005 the expulsion had affected 1,282 foreigners residing in irregular status by virtue of the decisions made in accordance with the law.

The Decree from the Ministry of the Interior regarding the expulsion of foreigners considered as an administrative act can be subjected to a petition for annulment on the grounds of abuse of power before the administrative tribunal, which can in fact rule on the stay of execution of this Decree pending examination of the appeal on the merits.

It should be pointed out that the Minister of the Interior is the sole person empowered to sign the expulsion act. In this area, he cannot delegate this power, under pain of breaking the law.

**227.** For the purpose of guaranteeing the protection of individuals, of Tunisian citizens and foreigners, against all future trafficking of human beings, the new organic law n° 2004-6 of 3<sup>rd</sup> February 2004 has established heavy sanctions against those who may have informed, designed, facilitated, assisted or intervened or organized by some means or the other, even on a charitable basis, the illegal entry or exit of an individual from Tunisian territory by land, sea or air. These sanctions can range from three years of imprisonment and a fine of 8,000 Dinars to up to twenty years of imprisonment and a fine of 100,000 Dinars if death resulted from it.

**228.** It is to be pointed out that any foreigner involved or convicted in relation to human trafficking shall be, according to the said law, compulsorily expelled from Tunisian territory as soon as he has served his sentence and will be banned from entering Tunisian territory for ten years if the sentence pronounced relates to an offense, and for ever if the sentence relates to a crime.

**229.** Tunisian law allows the issue of travel documents to foreigners. The travel documents which can be issued to foreigners are laissez-passers category B, laissez-passers category C and laissez-passers category D.

The laissez-passer category B is established for the benefit of foreigners who need to leave Tunisian territory but do not have travel documents issued by the Authorities of their respective countries.

The laissez-passer category C is issued to foreigners who have refugee status in Tunisia and this in application of the Geneva Convention on the situation of refugees which entered into force on the 22nd April 1954 and which had been ratified by Tunisia on the 9th May 1969 (law n° 27-1969). The validity of this document is one to two years. It can only be renewed or its validity extended for refugees who reside with regular status in Tunisia.

The laissez-passer category D can be issued to foreigners who have the status of stateless persons in application of the conventions in force and notably those relative to the situation of stateless persons, which entered into force on the 6th June 1960 and were ratified by Tunisia in June 1955 (Decree of the 2<sup>nd</sup> June 1955). The competent Authorities can, at the time of request for issue or of renewal of a travel document of the categories B or C, refuse to issue or to extend the validity of such a document, should they feel that the movements of the person making the request are in violation of public law and order. The decisions of these authorities can be subjected to appeal for abuse of power before the administrative tribunal.

## **ARTICLE 13**

### **Participation in public affairs**

**230.** Article 13 of the Charter stipulates that « every citizen shall have the right to participate freely in the Government of his country, either directly, or through freely chosen representatives in accordance with the provisions of the law ».

**231.** The Constitution of the Tunisian Republic stipulates that « the sovereignty belongs to the Tunisian people who exercise it in conformity with the Constitution » (Article 3), and that « the people exercise legislative power through the intermediary of a representative Assembly known as the «Deputies' Chamber» and the « Councillors' Chamber » (Article 18).

### **I- Participative Democracy**

#### **A) Multiparty Democracy**

**232.** The internal anchorage point of the ideas of participation and pluralism can be found in both the « Historic Declaration of the 7<sup>th</sup> November 1987 » reaffirming that the « people is worthy of a developed and institutionalized political life, genuinely based on the multi party system and on the plurality of mass organizations » and in the law n° 88-32 of 3<sup>rd</sup> May 1988 relative to the organization of Political Parties. The establishment of pluralism thus becomes

one of the conditions of democracy and the Political Parties are entrusted with a fundamental mission in the development of civic spirit and the cristallization of choices and alternatives so as to guarantee the vitality of the political system.

**233.** Paragraph 2 of Article 5 of the Constitution, as amended by the Constitutional law n° 2002-51 of 1<sup>st</sup> June 2002 amending certain provisions of the Constitution, indicates that the Tunisian Republic has the principles of the rule of law and of pluralism as basis and reaffirms the right of all individuals to participate in public affairs. The notion of pluralism in this context designates the multiplicity of the trends of thought and the diversity of the political trends called upon to be stakeholders of a political life devoid of monopartyism. It signifies multipartyism and the plurality of popular organizations, of Associations and of the various components of civil society. All these groups represent spaces allowing the citizen to participate in public affairs and to contribute to the building of democracy within the framework of the rule of law.

**234.** Participative democracy, when all the actors of political and associative life accept the honest rules of the game, generates quality and competence and promotes the anchorage in modernity. All of civil society is concerned by this bet which requires audacity, dedication, but also moderation, responsibility, perspicuity and respect for others. Towards this end, several juridical and political measures had been taken to sanction pluralism and the participation in public affairs, at the level of the electoral system and of access to decision making positions.

## **B) Grassroots Democracy**

**235.** Within the context of the promotion of grassroots democracy, the organic law n° 2002-8 relative to the composition of the regional Council had been promulgated on the 28<sup>th</sup> January 2002. This law is aimed at enabling the Opposition Parties to be represented in the regional Councils by up to 20% of the total number of members of these bodies, on condition that these Parties have representatives in the local Councils of the region concerned.

**236.** It is within this same context of grassroots democracy that the attention accorded to community action belongs and which resulted in the start of the review of the districts' organic laws in order to consolidate the attributes of decentralization and this by looking critically at the human resources component of the local councils and by increasing their allocations.

## **C) Civil Society participation**

**237.** The Associations are considered an essential partner in the building of a free and responsible society where associative life constitutes the appropriate framework for the participation of citizens in public affairs. In a context marked by the consolidation of participative democracy, the associative fabric allows, in effect, the promotion of a climate of solidarity and better communal living.

**238.** The political choice in the matter of encouragement of civil society resulted both in the setting up of an appropriate institutional and regulatory framework and through the promotion of participative democracy. This option allowed the increasing of the number of Associations from 7,282 in 1999 to 8,913 in 2005.

These Associations are very active in the various domains and constitute indispensable partners of the public authorities in the economic, social and cultural development effort. They have become a school of citizenship and an indispensable asset in the construction of political and social modernism. Thus, participative democracy does not stop at the conceptual level. By opening up to the ideas and to the creativity of the citizens in order to involve them in the choices to be made, the associative movement acting within the framework of legality is at once a political capacity for mobilizing the citizens to help draw out future prospects and an approach which is also intended to give shape to a re-articulation of the relationships between the State and civil society.

The political ideal governing this aim – the new citizenship – presupposes more or less the idea that direct democracy is open to all the citizens who wish to participate in it. This direct presence of civil society therefore allows the initiation of a certain form of public management which maintains a stable system in which militancy cannot stifle the rights of individuals and break the rules of the game as defined by the rule of law.

**239.** It is in this same context of consolidating civil society action that lies the mission entrusted by the Head of State in November 2005, to the Chairperson of the Supreme Human Rights and Fundamental Liberties Commission, consisting of establishing contacts with the leaders of the Political Parties and other components of civil society and to be informed about their concerns, expectations and aspirations.

**240.** In the face of the changes generated by globalization and the attendant consequences, the protection of social achievements by the State implies the need for veritable dialogue for the reconstruction of a *Social and Citizen's Agreement*. This dialogue has greater chances of taking place in the world of civil society where there are Associations, Trade Unions, Craftsmen, the Professions, and where there are more chances of finding concrete and humanly acceptable solutions within the context of the dialectics of citizen action and better communal living. It is in this sense that the participation of civil society in public affairs contributes, in a decisive manner, to the rebuilding of the political domain, through another relationship between civil society and the State by making the civil and political rights more effective and concrete.

## **II- The Electoral System**

### **A) The Presidential Elections**

**241.** Constitutional law n° 99-52 of 30th June 1999, bearing dispensatory provisions in the third paragraph of Article 40 of the Constitution, sanctioned, for the first time, the pluralism of candidatures to the presidential elections of 1999. This law no longer requires that the candidate be presented by 30 elected persons as Article 40 of the Constitution previously stipulated. This law makes provision, exceptionally, for the first leader of a Political Party to be candidate, whether he is Chairman or Secretary General, on condition that on the day of submission of his candidature, he would have been exercising his duties for five consecutive years and that the Party has at least one representative in the National Assembly.

**242.** Constitutional law n° 2003-34 of 13<sup>th</sup> May 2003, bearing dispensatory provisions in the 3<sup>rd</sup> paragraph of Article 40 of the Constitution, specified that the candidature is not limited to only the first leader of the Party, as was the case in 1999, but it is up to each of the five Political Parties, represented in the National Assembly, to propose one of the members of its executive body as candidate for the presidential elections.

**243.** Furthermore, it is important to emphasize that the election of the President of the Republic in two rounds, instituted with the help of the constitutional reform of the 1<sup>st</sup> June 2002, constitutes a political achievement which reaffirms the need to better establish the sovereignty of the people.

**244.** During the presidential elections of 2004, President Ben Ali had three other candidates opposing him, namely, the Secretary General of the « United Peoples' Party », the Chairman of the « Liberalist Social Party » and a member of the political Bureau of the « Ettajdid Movement ».

**245.** By virtue of the constitutional law n° 99-52 of 30<sup>th</sup> June 1999, bearing dispensatory provisions in the 3<sup>rd</sup> paragraph of Article 40 of the Constitution, a similar competition took place during the presidential elections of 1999 with two candidates and sanctioned the pluralism of the candidatures for the first time. They were the Secretary General of the « Unionist Democratic Union » and the Secretary General of the « United Peoples' Party ».

**246.** The rate of participation in the presidential elections of 2004 was 91.52%. The rate of participation registered during the presidential elections which took place in October 1999 was 91.4%.

## **B) The Legislative Elections**

**247.** Organic law n° 93-118 of 27<sup>th</sup> December 1993, amending and completing the electoral Code, amended the voting system. This amendment, which was the subject of a major consultation with the representatives of the Political Parties and the other structures and organs of civil society, instituted the majority system with the introduction of proportional representation in order to guarantee the representation of the Opposition in the National Assembly. The amendments introduced in the electoral Code are also aimed at better reinforcing the democratic choices, at concretizing pluralism and at sanctioning the concept of justice and national harmony. Thus:

- the minimum age required for the submission of candidature for the legislative elections had been reduced from 25 to 23 years and this under the terms of the organic law n° 98-93 of 6<sup>th</sup> November 1998, amending and completing certain provisions of the electoral Code, which broadened the field of participation in political affairs;
- allowances are granted by the State to each candidate to the presidency of the Republic and to each list of candidates to the legislative elections, as contribution to the financing of the electoral campaign;
- the State budget bears the costs of preparing the electoral lists, their publication, their revision as well as the printing and distribution of ballot papers and voters' cards;
- the sponsorship for the candidatures to the legislative elections had been eliminated.

**248.** The new voting system adopted makes provision for the distribution of seats at two levels: at the level of the electoral constituencies and at the national level. The Opposition Parties were able, thanks to this system, to win for the first time, nineteen seats in the National Assembly in 1994. (Cf. Table on the increase of the number of seats of the Opposition in the National Assembly. Page 68).

**249.** All the amendments, listed above, offer increased guarantees to the credibility of the electoral process and allow the Opposition to add its contribution to the enrichment of political affairs and to the promotion of the pluralist democratic process. To these amendments should be added the relaxing of the conditions governing the allocation of the subvention granted to the candidates to the presidency of the Republic to allow them cover the costs of their electoral campaigns.

In this context, the promulgation of the organic law n° 2006-7 of the 15th February 2006, amending the law n° 97-48 of 21st July 1997, relative to the financing of the Political Parties, increased the subvention granted to all the Political Parties to enable them take care of their operational costs.

**250.** The amendment of Article 48 of the electoral Code, under the terms of the organic law n° 2000-32 of the 21<sup>st</sup> March 2000, amending certain provisions of the electoral Code, is aimed at guaranteeing the total transparency of the voting process. This amendment compels the voter to take all the ballot papers with him before entering the polling booth.

By the same token and with the objective of guaranteeing the transparency of the electoral process, organic law n° 2002-97 of the 25th November 2002, relative to the preparations for the system of permanent revision of the electoral lists, annulled the system of the annual revision of the electoral lists and established that of the permanent revision in order to facilitate the process of registration on these lists.

Thus, since the entry into force in early 2003, of the system of the permanent revision of the electoral lists, close to 1,500,000 citizens, not registered beforehand, had their names added to the electoral lists for the general elections of 2004-2005.

The rate of registered persons, among those who had reached voting age, increased to reach its peak in 2004, namely 82.56%. This rate was higher than that of 1999 (65.1%) and that of 1989 (62%). In 2004, the number of voters increased by more than a million, compared to 1999. The percentage of voters in 2004, among those who had reached the legal age in 2004, was 75.49%, whereas in 1999 and in 1994 it was only about 59%.

**251.** Furthermore, all disputes relative to registration or to removal from the Register are submitted for the consideration of the Revision Committee chaired by a Magistrate appointed by the Minister of Justice and Human Rights. The allocation of the chairmanship of this Committee to a Magistrate figures among the measures introduced by the 2003 amendment of the electoral Code. The same is true for the obligation to distribute the voters' cards five months before the elections. Similarly, the voter's card is given directly to the voter who acknowledges receipt of it by putting his signature in front of his name and surname.

For the voters who are legally registered on the electoral lists but have not obtained their voters' cards, a Committee has been set up and given the mission of examining these requests.

This amendment also provides for the relaxing of the conditions relative to the scrutineers as well as the reduction of the number of polling booths in the Districts with more than 7,000 voters so as to allow the Opposition Parties to accredit the Observers in these booths.

**252.** Likewise the 2003 amendment prohibited the members of the polling booth from wearing signs likely to indicate their political affiliation. This measure clearly illustrates the concern to promote the conditions of democratic exercise. In line with this will is registered the amendment compelling the voter to personally sign the electoral list proving the accomplishment of the voting operation.

**253.** The reform of the electoral Code brought about the organic law n° 2003-58 of the 4<sup>th</sup> August 2003, amending and completing the electoral Code, aims to confer on the electoral process extra transparency and to consolidate the achievements registered in the development of the pluralist democratic process. This reform amended 46 Articles and added an equivalent number to the Code. According to the provisions of this law, the voter is compelled, after having voted, to put his signature on the electoral list, the members of the polling booth are compelled to be neutral, the accreditation of the observers by the Political Parties is made easier, the vote by proxy is prohibited, dealing with the dispute about registration on the electoral lists is entrusted to the legal authority.

**254.** Thus, the amendments of the electoral Code place the greatest of responsibilities during the elections in the hands of the competing Parties, including the observation of the voting operations and the counting, and the lodging of complaints for any abuse. All this is done before a neutral administration, which provides the required services in the polling booths and in the counting centres. The Movement of Socialist Democrats, for instance, put in place 436 observers during the 2004 legislative elections, but did not submit any complaint.

**255.** Seven Parties participated in the 2004 legislative elections, with 168 electoral lists besides the seven independent lists. Each Party has its programme, its objectives, its orientations and its own political choices. They differ from each other on several points, but all agree on the principles of the Republican political system, namely the rejection of the theories defended by the obscurantist forces and the need to safeguard the achievements of modernism. The number of candidates for the seats of the National Assembly came close to a thousand, for 189 seats, namely more than 5 candidates per seat. These figures are far higher than those registered during the elections of 1999 and those of 1994.

The rate of participation registered during the legislative elections of 2004 was 91.45%. The rate of the legislative elections which took place in October 1999 was 91.4%.

**The following table shows the level of democratic electoral practice  
achieved by Tunisia since 1989**

<b>THE PARTIES</b>	<b>1989</b>	<b>1994</b>	<b>1999</b>	<b>2004</b>
	The votes / (The headquarters )			
<b>The Movement of Socialist Democrats (MDS)</b>	76,141	30,660 (10)	98,220 (13)	194,829 (14)
<b>The United Peoples' Party (PUP)</b>	11,082	8,391 (2)	52,054 (7)	132,179 (11)
<b>The Unionist Democratic Union (UDU)</b>	7,934	9,152 (3)	52,612 (7)	92,780 (7)
<b>The « Ettajdid » Movement</b>	7,789	11,299 (4)	32,220 (5)	43,268 (3)
<b>The Liberal Socialist Party (PSL)</b>	5,270	1,892	15,024 (2)	26,099 (2)
<b>The Progressive Democratic Party (PDP)</b>	4,071	1,749	5,835	10,217
<b>The Independent Parties</b>	289,445	1,061	3,738	1,093
<b>Total</b>	402,732	64,204	259,703	521,201
<b>(%)</b>	(19.8)	(2.3)	(8.4)	(12.41)
<b>(The headquarters)</b>		(19)	(34)	(37)
<b>The Constitutional Democratic Alliance</b>	1,634,603	2,768,667	283,1030	3,678,645
<b>(%)</b>	(80.48)	(97.73)	(91.59)	(87.59)
<b>(The headquarters)</b>	(141)	(144)	(148)	(152)
<b>The number of inhabitants</b>	7,909,545	8,815,400	945,0640	9,910,872
<b>The inhabitants having reached voting age</b>	4,077,253	4,804,500	5,203000	5,583,200
<b>% of inhabitants</b>	(51.5)	(54.5)	(55.1)	(56)
<b>The registered</b>	2,711,953	2,978,694	3,388,142	4,609,237
<b>(% having reached voting age )</b>	66.5	62	(65.1)	(82.56)
<b>The voters</b>	2,082,759	2,832,871	3,166,194	4,215,151
<b>(% of those registered)</b>	(76.46)	(95.47)	(91.51)	(91.45)
<b>(% having reached legal voting age )</b>	(51.1)	(59)	(63.34)	(75.49)

**256.** This statistical data allows the observation of a progressive increase of the number of voters that support the Opposition Parties. These Parties obtained more than 520 thousand votes during the 2004 legislative elections. In 1999, they had only obtained 260 thousand votes. In 1994, the number of votes they obtained was not more than 60 thousand. The process is also progressing in the sense that there is a greater presence of Opposition Parties in relation to the number of seats. The seats of the Opposition Parties in the National Assembly amounted, in 2004, to 37 out of a total of 189 against 34 in 1999. The Opposition Parties had had better representation during the local council elections with 268 seats. All these progressive trends can only strengthen the future of the Opposition Parties, not only within the Parliament, but also in the regions and in the consolidation of the right to participation in public affairs.

### **C) The Councillors' Chamber**

**257.** The fundamental amendment of the Constitution, by virtue of the constitutional law n° 2002-51 of 1<sup>st</sup> June 2002, created a second legislative Chamber, namely the Councillors' Chamber, and this following the example of the most ancient democracies which adopted the bicameral system. Whilst consolidating the general representation through the direct election of the representatives of the people, this amendment endeavours to guarantee a broader representation of the regions and of the various components of the society and this with the objective of enriching the legislative role and political affairs generally.

The participation of the citizens and their representatives in determining the objectives to be realised in the area of social, economic and cultural progress and the realization of these objectives becomes thus reinforced and broadened with the creation of the Councillors' Chamber.

The creation of the Councillors' Chamber which is understood to be legislative space additional to the Chamber of Deputies (National Assembly) allows all the socio-professional categories and the representatives of all the regions to express themselves and to indicate the expectations of their regions and of the society and to enrich the pluralist and participative democracy. Thus, this new Chamber contributes to strengthening the democratic control.

**258.** It is in this same context that organic law n° 2004-48 of 14 June 2004, relative to the organization of the work of the National Assembly and of the Councillors' Chamber and establishing the relations between the two Chambers had been promulgated to organize the functioning of the National Assembly and the Councillors' Chamber whilst establishing the relationship between these two Chambers.

The number of members of the Councillors' Chamber should not be more than two thirds of the members of the National Assembly. The Councillors' Chamber comprises representatives of the Governorates at the rate of one representative or two for each Governorate.

**259.** The seats are distributed equally between the sectors concerned. The Councillors' Chamber, being empowered to exercise a legislative role, expresses, in this regard, the concerns of all the regions, the various professional sectors and the different social categories.

## **D) The Local Council Elections**

**260.** The amendment of the electoral Code in 1998 strengthened the presence of the Opposition in the Municipal Councils and enabled it to obtain 243 seats during the 2005 elections. The Decree n° 2000-907 of 8<sup>th</sup> May 2000, relative to the exceptional review of the electoral lists aims to grant extra time to the voters who were not registered on these lists on time, thereby guaranteeing them the exercise of their electoral right.

**261.** During the municipal elections of the 25<sup>th</sup> May 2005, the number of candidates surpassed 5,000 whereas in 2000 the number of candidates had been 4,200. The Opposition made its entry for the first time, into the Municipal Councils during the municipal elections which took place in May 2000. They resulted in a wider representation of the Opposition Parties and of the independent lists in the Municipal Councils which resulted from it. The number of Municipal Councils belonging to these Parties or to the independent lists increased significantly since it increased from 6 seats during the municipal mandate of 1994 to 243 in 2005.

This orientation of the local democracy constitutes a section which is inseparable from the entire democratic edifice. It aims at broadening the field of participation in the national development effort for all the citizens. It is for this reason that the 4,366 municipal councillors take on during their mandate, the responsibility of making the City a place of conviviality, of modernism, of solidarity and of daily and permanent exercise of local democracy.

**262.** The participation to this exercise of local democracy in 2005 alongside the ruling Party, the four Opposition Political Parties and the list of independents, shows that politics, understood to be a management of the affairs of the City, arouses the interest of the Tunisians.

**263.** The rate of citizenship participation in these elections, the transparency and the neutrality of the administration which marked the voting process, the massive entry of women as councillors only became possible thanks to the establishment of institutional and cultural mechanisms, as well as the dissemination of a civic culture which promoted the increased involvement of the citizens and of civil society in the affairs of the City.

**264.** To provide greater guarantees of the transparency of the voting process, a « National Elections Observatory » had been created in 1999 whose mission was to monitor the course of the presidential and legislative elections from the time of submission of the candidatures up to the proclamation of the results. This body is at the disposal of all the citizens. It takes note of all the observations addressed to it and the claims from the citizens or from the political parties relative to the organization of the campaign and contacts the public service to correct the defaults or the shortcomings raised so as to better accomplish its mission for the realization of the transparency and the legality of the electoral process.

**265.** At the end of the elections, the Observatory produces a Report for the President of the Republic containing the notes of the observers and the proposals for the purpose of making the rectifications necessary for the improvement of the electoral system.

After the elections of 2004, the Report of the Elections Observatory had been published in the media and placed at the disposal of the general public. A national Observatory had been created during the municipal elections of the 2005. Its report had also been made public.

### **III- Access to the leadership positions**

#### **A) The Public Service**

**266.** All the citizens have the right to accede to public office. This principle finds its consistency in Article 6 of the Tunisian Constitution which stipulates that « all the citizens have the same responsibilities. They are equal before the law ». Besides, Article 11 on the General Statutes of the staff of the Public Service stipulates that « subject to the special provisions commissioned by the nature of the functions, and which can be taken in this respect, there is no distinction in terms of gender pertaining to the application of the present law ».

#### **B) Political Participation**

**267.** Participative democracy is translated into reality through the existence of several Political Parties which contribute to the enrichment of the national political life.

##### **a) The Constitutional Democratic Alliance (RCD): the Majority Parity**

Open to all the intellectual sensibilities of modernist allegiance, the RCD is, in terms of membership, the country's first political force. A Party of liberation and of construction of the nation State, the « RCD » is currently the sole partisan political force able to present candidates in all the constituencies of the country during the various national elections.

##### **b) The Opposition Parties: an active role in the pluralist process**

The role of the Political Parties legally recognized in the promotion of participative democracy continues to be confirmed. The minimal representation of 20% of the seats of the Deputies and the municipal and regional councillors is guaranteed to the Opposition Parties. The Opposition Parties participate more and more in political life, not only through their speeches and political programmes, but also by their Deputies and Municipal Councillors.

### **ARTICLE 14 The Right to Property**

**268.** Article 14 of the Charter stipulates that « the right to property shall be guaranteed » and that it « may only be encroached upon in the interest of the public need or in the general interest of the community and in accordance with the provisions of the appropriate laws »

**269.** In Tunisia every individual has the right to enjoy the ownership of the assets that he has legally acquired, to use them, to have them available and to bequeath them.

In this regard, Article 14 of the Constitution stipulates that « the right to property is guaranteed » and that it « is exercised within the limits provided for by the

law ». On the basis of Article 20 of the Real Rights Code of the 12th February 1965, no one can be deprived of his property, except for public use, and this in the cases and under the conditions provided for by the law and in return, in good time, for a fair compensation for its compulsory purchase.

**270.** By virtue of the provisions of the law n° 76-85 of 11<sup>th</sup> August 1976 on the expropriation for public use, the Public Service can, in exchange for fair compensation, resort to the expropriation of individuals for public benefit. The expropriation is done by Decree following numerous procedures intended to establish the public requirement and the need to resort to expropriation after exhaustion of the other means such as purchase or exchange.

**271.** The law guarantees individuals the possibility of bringing their case before the Administrative Tribunal against the Expropriation Decree if the latter is stained by any defect whatever. The competent court, bound by the provisions of the above mentioned law and by the expectations of the Parties, always tries to fix fair compensation for the expropriation and tries to make a fair estimate of the value of the expropriated property.

**272.** In the matter of property disputes, law n° 95-10 of 23<sup>rd</sup> January 1995 was promulgated amending and completing certain provisions of the Real Rights Code. This law comprises a certain number of rules aimed at simplifying the procedures to be followed before the property court.

**273.** During the period covered by this Report, the State continuously pursued its action on the protection of the right to property by improving the system of property registration and by better refining the arrangements relating to the registration of the right to property on the landownership register.

### **I- The registration of property**

**274.** The system of property registration allows the preservation of the property assets from all forms of appropriation and by protecting it from all risks of prescription and by preventing the appropriation through occupation of the premises for as long as necessary.

The registration of property is done through the property tribunal. The Tunisian legislator has made provision for the possibility of appealing against the rulings made by this tribunal in accordance with the principles of justice and equity, and in sanctioning the primacy of the right to property on the procedures likely to threaten the enjoyment of this right.

### **II - Arrangements relating to the registration of the right to property in the Property Register.**

**275.** Apart from the fact of entrusting the drafting of laws and agreements subjected to the registration on the Property Register exclusively to specialized institutions (Article 377 bis of the Real Rights Code), the arrangements relating to the registration of the right to property on the property register consists, notably, in the progressive application of the principle of the constitutive effect of the registration as outlined in the law n° 2000-91 of 31<sup>st</sup> October 2000 and in the delivery of the title deed as provided for by Article 364 of the Real Rights Code.

**276.** The promulgation of the law n° 2003-26 of 14<sup>th</sup> April 2003, amending and completing the law on expropriation for public use, provided a set of guarantees and rights for the victims of expropriation, including notably:

#### **A) The exceptional character of the action of expropriation**

**277.** The new law on expropriation establishes the exceptional character of the recourse to the Public Service regarding the practice of expropriation. The new paragraph of Article 1 of this law stipulates that « expropriation can only be carried out in an exceptional manner » and after having observed all the conciliatory measures outlined in the new Article 11.

**278.** One of the merits of this regulation is to limit the violations perpetrated by the law on the expropriation to the right to property. Similarly, this regulation authorizes the exercise of judicial control on the Public Service by submitting an appeal on the grounds of abuse of power. The new Article 11 has integrated the actions of reconciliation with the fundamental procedural forms, the violation of which may give rise, during judicial appeal proceedings, to the annulment of the expropriation Decree.

#### **B) Application of the rule of creative effect of the registration**

**279.** The application, in matters of expropriation, of the principle of creative effect of registration, has major importance for the stability of the transactions linked to landed property. The implementation of this principle is of a nature to unify the system which is applicable to buildings and registered rights. In effect, all that the interested parties have to do is to consult the data in the property register to verify the possessory and material situation of the building in relation to which they intend to make a transaction. Thus, the interested parties can avoid finding themselves, after the purchase and acquisition of the rights, faced with a Public Service opposition based on the fact that it had expropriated a part of the building which is the object of the transaction.

#### **C) Creation of the Inquiry and Reconciliation Commission**

**280.** Among the guarantees instituted for the benefit of the two parties involved in the expropriation activity figures the setting up of a Commission of Inquiry and Reconciliation. The objective for putting this structure in place is to provide the Public Service with the opportunity of intervening during the period preceding the promulgation of the expropriation decree, and this by endeavouring to conclude, with the rightful owners and the holders of rights relating to the building, in terms of a future expropriation, an agreement which may transform the expropriation operation into one of amicable sale. This approach tallies with the exceptional character of expropriation instituted by the new paragraph 1 of Article 1 of the law on expropriation.

#### **D) Broadening of the field for appeal for retrocession**

**281.** The field of the right of the victims of expropriation to obtain retrocession of the expropriated buildings has been broadened. In effect, it is the responsibility of the expropriation victims to obtain retrocession of the areas acquired by the Public Service. Article 3 of the law n° 2003-26 of 14<sup>th</sup> April 2003, amending and

completing the law on expropriation for public use, stipulates that « the buildings of which a part had been expropriated for public use shall be purchased in entirety if the owners so desire, through a formal declaration addressed by registered mail with acknowledgement of receipt to the party carrying out the expropriation, within a timeframe of thirty days from the date of reception of the documents as provided for by Article 13 (new) of the present law ».

### **E) Guarantee of the rights of the creditors and others owners of Real Rights**

**282.** The legislator chose to associate the creditors and the others owners of Real Rights whose rights had been published during all the stages of the expropriation activities. Thus, Article 11 of the Real Rights Code provides for the need to associate the creditors and the owners of Real Rights in the negotiations being carried out before the Inquiry and Reconciliation Commission on the value of the expropriated building, to guarantee the deposit of a sum of money for their benefit in order of priority of the proprietors, to summon them at the moment of instituting proceedings with regard to the evaluation of the compensation for the expropriation. Failing this summons, the court orders their systematic introduction.

### **F) Adoption of personal criteria to determine the compensation for expropriation**

**283.** Article 4 of the law n° 2003-26 of 14<sup>th</sup> April 2003, amending and completing the law on expropriation for public use, grants to the victim of expropriation a compensation for the expropriation whose value « is fixed on the basis of the appreciated value of the building according to its consistency and the effective usage to which it had been put on the date of publication of the expropriation decree and in relation to the prices in force on that date for comparable buildings located in the same zone ».

### **G) Allocation of competence in relation to expropriation to judicial justice**

**284.** Judicial justice is the guarantor for individual rights. The litigation which relates to the right to property, being an essentially individual right, comes under the jurisdiction of the civil courts. Towards this end, Article 30 (new) of the law on expropriation provides that « the lawsuits related to expropriation for public use, with the exception of appeals on grounds of abuse of power, come under the competence of the judiciary courts with their different levels... ». Territorial competence is that of the Magistrates' Court in the area where the expropriated buildings are located.

### **H) Facilitating payment to the victims of expropriation**

**285.** The legislator chose to combine the disputes relating to appropriation and compensation into a single case which the Public Service is empowered to introduce in order to determine the amount of the compensation for the expropriation and to obtain the appropriation of the expropriated building.

## **ARTICLE 15**

### **The Right to work and to equal salary**

**286.** Article 15 of the Charter stipulates that « every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work ».

**287.** In Tunisia, the right to work, under equitable and satisfactory conditions of work and with equal pay for equal work is a right which is legally protected and guaranteed by the State. The right to work is a social right – that is a right guaranteed by the society – fundamental because it is inscribed in the Tunisian Constitution whose preamble recognizes the State as a debtor of « the right to work » and of social protection for the benefit of each citizen.

**288.** Furthermore, Tunisia has ratified the International Labour Convention n° 122, on employment policy and which requires that States undertake to draw up and implement an active policy, as an essential objective, intended to encourage employment, in a context guaranteeing the production and freedom of choice.

**289.** President Zine El Abidine Ben Ali presided over the opening of the International Labour Conference in Geneva (1995) in testimony of the consideration for Tunisia's achievements in the areas of social development, of employment and the protection of human rights in their overall meaning, whether these rights are political, economic, social, cultural or environmental.

#### **I- Guaranteeing the Rights of Workers**

**290.** The Labour Code, promulgated by the law n° 66-27 of the 30<sup>th</sup> April 1966 had been amended several times for the purpose of improving the functioning of the mechanisms for the settlement of individual employment related conflicts (law n° 94-29 of 21<sup>st</sup> February 1994) and of inciting and accompanying the economic development of the country, by preparing new types of work contracts and by improving the work environment (law n° 96-62 of 15<sup>th</sup> July 1996).

**291.** In order to enable the worker to enjoy satisfactory working conditions, the Tunisian legislation guarantees him in particular, the right to a salary, to a weekly day off and to paid leave.

#### **A) The Right to a Minimum Wage**

**292.** In the effort to improve the worker's standard of living and to protect the purchasing power of the low income salaried workers, Tunisia acceded to the principle of fixing minimum wages and ratified the International Labour Convention (n° 26) on the methods of fixing minimum wages (industry) in 1957 as well as the Convention (n° 99) on the methods of fixing minimum wages (agriculture) in 1959.

**293.** In the private sector, Article 134 of the Labour Code stipulates that «the remuneration of workers of all categories is determined, either by direct agreement between the parties, or by collective Convention, and respecting a legal minimum wage guaranteed and fixed by Decree ».

**294.** Tunisian legislation provides for the fixing of two minimum wages:

- The Minimum Interprofessional Guaranteed Wage (SMIG) for the non-agricultural sectors;
- The Minimum Agricultural Guaranteed Wage (SMAG) for the agricultural sectors;
- For the contractual workers, a minimum wage equal to the SMIG or to the SMAG is guaranteed them.

The SMIG and the SMAG are subjected to annual increments.

**295.** Similarly, the workers governed by the Collective Conventions which currently total 51 and which are periodically revised every three years, enjoy freely negotiated salaries and which cannot be lower than the Minimum Guaranteed Wage (SMIG).

**296.** The workers who are not governed by the Collective Conventions or by special statutes also benefit from salary increases.

The salary increases are accompanied by the maintenance of price controls whose increases had been kept, in 2003, at 2.5%.

## **B) Equality of Payment**

**297.** Tunisian legislation sanctions the equality of payment for work of equal value without any discrimination, particularly between men and women. There is need to recall that Tunisia ratified the International Labour Convention n° 100 on the equality of payment in 1968.

**298.** The Labour Code, in its Article 5 (bis) sanctions the principle of non-discrimination between men and women in the application of the provisions of the Code covering all the aspects of work including the allocation of salaries.

**299.** The Collective Convention Framework, signed on the 20<sup>th</sup> March 1973, expressly makes provision in its Article 11 for non-discrimination in professional classification and in remuneration.

**300.** It is also to be pointed out that the Labour Code comprises provisions relating to the protection of salaries (Articles 139 to 151) whose provisions are largely inspired by the International Labour Convention (n° 95) on the protection of wages, ratified by Tunisia in 1958.

## **C) The Right to a Weekly Day off.**

**301.** Under the terms of Article 95 of the Labour Code whose provisions are in harmony with the International Labour Convention (n° 14) on a weekly day off (industry) and the Convention (n° 106) on the weekly day off (businesses and offices) ratified by Tunisia in 1957 and 1958 respectively, the non-agricultural Companies or their branches of whatever nature are obligated to grant every worker a weekly day off of 24 consecutive hours.

**302.** In the agricultural sector, the employers are obligated to give their permanent or temporary staff a weekly day off of 24 consecutive hours (Article 106 of the Labour Code).

## **D) The Right to Paid Leave**

**303.** Tunisian legislation recognizes the right to paid leave for every worker (Articles 112 to 122 and 130 to 133 of the Labour Code). The same right is also recognized for workers in the agricultural sector (Articles 123 to 133 of the Labour Code). It is also to be noted that Tunisia ratified the International Labour Convention in 1957 (n° 52) on paid leave.

## **E) The Right to good Health and to Security in the Workplace**

**304.** Multiple efforts and numerous initiatives have made possible the strengthening of the right of the worker to good health and to security in the work place. They are notably:

- Monitoring and inspection visits to verify the conditions of hygiene and work related security in more than 8,900 economic institutions.
- Sensitization campaigns and activities for the benefit of the agents of production in 1,164 Businesses in order to make them aware of the need to use proper means of individual protection.
- Preparation of information leaflets on the most frequent work-related dangers and the means of self-protection.

**305.** All individuals are considered as equal between them, their position in relation to the job is, after all, simply a matter of competence and of motivation.

**306.** In the context of an approach of positive discrimination in favour of salaried women, the Tunisian legislation accords working women specific rights linked to delivery and to maternity, the right to a salary or an allowance, the right to leave for breastfeeding and the obligation for the employers with 50 women employees to set up a special room for breastfeeding (Art. 64 of the Labour Code and Art. 19 of the Decree 68-328 of 22<sup>nd</sup> October 1968 establishing the general rules of hygiene applicable in the Businesses subjected to the Labour Code).

**307.** Tunisia has devoted itself to consolidating and reinforcing these achievements, by regularly improving the normative labour provisions, in the context of a global vision guaranteeing the social rights of workers, of broadening their field, social peace and the competitiveness of Businesses.

## **II- Sanctioning the Right to Work**

**308.** During the period covered by this Report, the perspectives of the right to work in Tunisia were reassuring and promising, thanks to the political stability and social peace prevailing in the country, as well as the rapid developments realised in the concretization of the strategy of the promotion of employment, based on the stimulation of economic growth, the modernization of professional training, the improvement of the output of adaptation and integration programmes and the development of small-scale enterprises and independent activities, besides the increase in training opportunities and funding mechanisms.

**309.** From the concrete point of view, employment remains at the top of the priorities of the political will as a challenge to be confronted for the realization of social equilibrium and to concretize the degree of success of national choices in the area of development.

**310.** On the basis of this vision, the development strategy adopted in Tunisia has placed employment on the top of its priorities due to the fact that it is considered, over and beyond its strictly economic dimension, as a factor of production and a source of revenue, as an important catalyst of the feeling of membership, a decisive lever for active participation and a privileged meeting point for social integration and insertion, the combat against exclusion and marginalization and the preservation of human dignity.

**311.** In this context, the issue of employment and that of the underlying professional training were, in particular during the 1990s, in the centre of the concerns of the Tunisian Public Authorities. Bending towards a global approach, this policy promotes the transition towards a free market economy and its requirements in terms of efficiency, competitiveness and human competence whilst guaranteeing the conditions for social and human development in general as well as the promotion of work and the guarantee of the sources of revenue in particular.

**312.** While recognizing and reinforcing the economic function of employment which from henceforth obeys the criteria of competence and productivity, the State has put in place employment support mechanisms for the youth and for the vulnerable socio-demographic categories, thereby valorizing the social function of employment, as one of the parameters of identification, of sociability, of social stability and the condition for the exercise of active citizenship.

**313.** In the centre of the set of political and economic mechanisms, the employment authority rests on intersecting approaches which reconcile the economic imperatives with the social imperatives. In this context, a macro-economic policy of growth had been put in place in order to promote the market mechanisms and the creation of jobs in particular through:

- The promotion of private investment which, for the first time, surpasses public investment, and this notably through the various institutional, judicial, financial, monetary and banking reforms undertaken in the past few years;
- The embarking on a privatization programme of public enterprises of a competitive nature, and this on the basis of a re-definition of the roles between the public and private sectors, by strengthening the role of the latter in the development effort so as to introduce a new dynamism in job creation;
- The development of the potential of attracting IDEs whose growth has been consolidated these past years in terms of global volume, and quality of investments and employment.

**314.** Likewise, a policy of modernization of the production and services apparatus had been applied in order to add value to the notions of efficiency, of quality and competitiveness, and to assist the business sector in this respect through the creation of technical centres and sectoral funds in the various Departments and by covering all the sectors and developing professional training programmes to produce qualified and employable individuals.

**315.** A policy of assistance to employment and micro-entreprises promotion had also been defined to accompany the policy of macro-economic growth. This policy is based on four types of mechanism :

- The mechanisms for financing micro and small-scale entreprises in the sectors of the industry, agriculture, services and arts and crafts;
- The extension and strengthening of the pilot programmes, of the networks of training centres for independent employment, through the introduction of new training methods, the creation of entreprises and the development of entrepreneurial competence;
- The reintegration programmes which are meant for the youth of different educational levels having difficulties of entering the job market;
- The regional and urban development programmes which, apart from their contribution to the harmonious and stable development in the different regions, in the context of the decentralization policy, participate in the consolidation and the creation of jobs by means of specific mechanisms set up for the creation of productive activities.

**316.** It is to be pointed out that this employment development strategy had been strengthened notably by the Tunisian Solidarity Bank (BTS), the National Employment Fund (FNE) and other specific programmes.

#### **A) The Tunisian Solidarity Bank (BTS)**

**317.** The system of project funding has moreover been consolidated through the reinforcement of the Tunisian Solidarity Bank's (BTS) interventions and the system of micro-loans granted by the Associations and the various programmes of the National Employment 21-21Fund.

For this purpose, the BTS has contributed, since its creation in 1998 up to end June 2004, to the financing of 70,686 loans and creating more than 101,000 jobs.

Furthermore, with the objective of consolidating employability and of simplifying the meeting between the employer and the job seekers, a set of measures had been put in place, including notably:

- The establishment and equipping of employment bureaux and of strengthening the existing network which currently boasts 89 bureaux distributed throughout the territory;
- The promotion of a computing mechanism which allows the immediate identification of the movement of the job market and the exchange of information and data;
- The creation of a national information and professional orientation centre and the strengthening of all the employment bureaux so as to better enhance their role in accompanying the candidates who come looking for jobs.

## B) The National Employment Fund (FNE)

**318.** The National Employment 21-21 Fund, established by the law n° 99-101 of 31<sup>st</sup> December 1999 establishing the law on finances for the year 2000, is a mechanism endowed with substantial extra resources and whose objective is to improve the employability of the job seekers and to provide them with more job opportunities, by helping them integrate in the salaried job sector or to create small-scale projects or revenue generating sources.

**319.** Le FNE intervenes mainly in the following areas:

- The re-training of certificate holders in new information and communication technology and in the National Anti-Illiteracy Programme;
- The training of un-qualified youth for employment;
- Assistance in setting up a personal account;
- The relaunching of apprenticeship.

**320.** The interventions by this Fund, since its creation up to the end of the year 2005, affected close to 565,000 job seekers, whose distribution by level is as follows:

Educational level	Number	(%)
Higher Education	46,016	8.1
Secondary Education	92,986	16.5
Primary and lower level education	425,925	75.4
Total	564,927	100.0

## C) Specific Programmes

**321.** Specific programmes, aimed at reducing unemployment in certain areas which are characterized by a rate of unemployment higher than the national average (13.9% in 2004), had been put in place. These programmes had been defined by the various intervening parties concerned at the regional and local levels and allowed the provision of training and reintegration opportunities in the form of adaptation courses to professional life, of training-reconversion responding to the needs of the job market, the creation of micro-entreprises...).

**322.** Specific programmes had also been put in place for the employment of categories with special needs (the disabled, the job seekers from needy families, job seekers having waited for more than two years, job seekers without family support). These programmes allowed, during the year 2005, close to 14 thousand job seekers, of whom 6 thousand were holders of higher certificates, to get into the job market (salaried employment, independent employment).

**323.** Courses for initiation to professional life I (SIVP I) and the employment-training contract (CEF) guarantee those with higher certificates or those with professional training an opportunity to prepare for employment as well as for an indepth knowledge of the real work environment. Higher certificate holders and holders of professional training certificates benefitted from these programmes.

**324.** The courses for initiation to professional life II (SIVP II) concern non-certificate holders and can contribute to their reintegration after an internship period within the Company. These measures lead to public aid under the form of scholarships to the youth and/or subventions to the Companies. The trainees benefit moreover from free social security. The rate of reintegration of the beneficiaries is higher than 70%.

**325.** Furthermore, a fund for professional reintegration and adaptation (FIAP) had been created to respond notably to the un-filled job offers. The FIAP takes on the responsibility of the total training costs and allocates a scholarship to the trainee during the entire training period. The latter further benefits from free social security. The FIAP intervenes essentially in two types of activity: on the one hand, the adaptation of the young people in order to satisfy job offers and on the other, the adaptation of the youth to help them set up their own business.

All these programmes contribute to make employment a profoundly socializing factor and a framework within which lies a series of individual and community aspirations for the purpose of achieving better communal living.

**326.** The Tunisian approach in the area of employment is based on consensus, on consultation and partnership between the different components of civil society, which had been concretized on the 13<sup>th</sup> July 1998 through the signature of the « National Charter on Employment » by the Political Parties, the social partners and the national organizations. Thus the rate of unemployment registered a downward trend of 15.6% in 1994 and 13.9% in 2004.

## **Article 16** **The Right to good Health**

**327.** Article 16 of the Charter stipulates that « every individual shall have the right to enjoy the best attainable state of physical and mental health » (paragraph 1) and that « the States to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick » (paragraph 2).

**328.** The right to good health constitutes one of the foundations of human rights in Tunisia. Article 1 of the law n° 91-63 of the 29<sup>th</sup> July 1991 on sanitary arrangements stipulates that « every individual has a right to the protection of his health under the best possible conditions ». In the same vein, Article 5 stipulates that the public and private health structures and institutions should function under conditions which guarantee the fundamental rights of the human being and the security of the patients who seek their services. Article 34 adds that « the public health structures are open to all persons whose state of health requires their services... » .

**329.** The Decree 2003-1027 of the 28<sup>th</sup> April 2003 was introduced to define the activities and the modalities for the exercise of reproductive medicine. This Decree is considered as a text for the application of the law n° 2001-93 of 7<sup>th</sup> August whose Article 1 stipulates that the exercise of reproductive medicine is carried out in the respect for the dignity and physical integrity of the human being. In conformity with the provisions of this Decree, the various activities of reproductive medicine had been established in order to concretize the right of the married couple to procreation, whilst covering the entire set of operations, of the

most rigorous guarantees necessary for their success and by maintaining their confidentiality at the same time.

**330.** The Decree n° 2003-2070 of 6<sup>th</sup> October 2003 established the administrative and financial organization of the regional hospitals as well as their mode of operation. This Decree aims essentially at promoting the equality of health benefits for the patients and this by concretizing their right to health benefits under the best possible conditions.

**331.** To sanction the right of Man to good health, the efforts of the State had been focused notably on two essential areas:

- The extension of the cover by investing in infrastructure on the basis of a four level pyramid: the grassroots health centres, the constituency hospitals of the main cities of the localities, the regional hospitals of the governorates and the major cities and the university hospitals within the university centres around the Faculties of Medicine;
- The training of health professionals through the various Faculties of Medicine (4), of Dental Medicine (1), of Pharmacy (1), Higher Schools of Health Sciences and Techniques (4) and the professional schools of public health (19). These various institutions provide high level training through internship for all, and through the development of continuous training for the Doctors and for the health professionals who benefit from training adapted to the progress of medical science.

#### I- Development of certain health indicators

Health Indicator	1995	2001	2004
Development of the number of Doctors (private and public sectors)	5965	8287	9805
Development of the number of high level paramedical officers (public sector)	25470	28363	31534
Development of the number of beds (public sector)	15900	16400	17269
Number of grassroots health centres	1777	2000	2067
Number of inhabitants per Doctor (public and private)	1.500	1166	1011
Number of inhabitants per paramedical senior official	357	318	284
Number of inhabitants per bed	500	500	504
Number of inhabitants per grassroots health centre	5035	4800	4795
Direct investment (public sector in MD)	60,5	76,6	73,1

**332.** At the level of the public sector, the hospitals had been developed to deal with the needs of the population in terms of specialized basic curative care in the regional hospitals. On the other hand, the university hospitals which are

established around the Faculties of Medicine constitute the tertiary level of highly specialized care and the ultimate referral for the other levels. In addition, these structures have the mission of training the senior health officers and of participating in the various programmes of research and other preventive activities.

**333.** With regard to the private health care sector, it is developed for ambulatory activities, but its contribution to hospital services still remains low (about 20 %).

**334.** In order to successfully implement decentralization policy in health matters, a regional public health head office had been established in each of the 24 administrative regions of the country. The organization of these regional head offices gives a position of privilege to primary health care. This administrative devolution aims at promoting the managerial process at the regional level.

**335.** Since 1994, a national programme for the development of health districts had been developed. This programme was aimed at decentralizing the management of health problems with the objective of improving the efficiency of the health services and the quality of the health care provided for the population. The district health services had been regulated by a Decree n° 2000-2825 of 27<sup>th</sup> November 2000.

This programme seeks to achieve three major objectives, namely:

- The upgrading of the local teams through specific training on the management of the district and quality tools, the accompaniment of the teams in their initiatives to improve the quality and organization of the synthesis meetings to discuss the initial experiences and to exchange ideas;
- The preparation of the authentication through the designing of operational indicators of the health districts and of a manual of procedures for the authentication of the districts. Furthermore, the quality indicators which are relative to mother and infant health have already been finalized;
- The concretization of the district through the application of the provisions of the Decree organizing the district. It is in this manner that 55 districts had been created by two Decrees of the Minister of Public Health dated 19<sup>th</sup> February 2003 and 29<sup>th</sup> September 2004 respectively and 19 Doctors had been appointed to the post of chief medical officer of the district;

**336.** Within the context of the 9<sup>th</sup> development plan (1997-2001), a sectoral investment project was launched in 1998. This project, of a 5-year duration is made up of three components: the upgrading of the regional hospitals, the development and re-organization of medical emergencies and the putting in place of a national health information system.

**337.** In the establishment of its strategies of choice in the area of health, Tunisia took inspiration from the WHO recommendations. It is for this reason that it adopted the objective of « *Health for All* » by the year 2000, and subscribed to the Alma Ata Declaration on the 12<sup>th</sup> September 1978.

## II- The share of the national budget allocated to health

**338.** The share of the budget allocated to the health sector illustrates the firm determination of the political will to give concrete effectiveness to the right of Man to good health. The expenditure in the health sector rose to 5.2% of the national budget in 1990, to 5.5% in 1995, to 5.6% in 2000 to reach 5.9% in 2004. This shows both the position that health occupies in the country's global policy and the importance given to primary health care as a fundamental component of this policy which allowed the attainment of the objective of « Health for All » by the year 2000. In effect about 30% of the budget reserved for health is allocated to primary health care.

**339.** The proportion of the population, with access to qualified staff for the treatment of illnesses and routine wounds and able to procure essential medication for themselves is higher than 90%. Over 90% of the households are located at less than 4 kms from a health centre.

**340.** This cover is explained by the large number of structures established throughout the territory. In 2004 health infrastructure consisted of:

For the Public Sector	For the Private Sector
2,067 grassroots health centres	82 clinics
121 District hospitals and peripheral maternity clinics	99 haemodialysis centres
33 regional hospitals	3,371 medical clinics
29 Hospitals, university centres and institutes	1,393 dental clinics
	1,492 dispensaries

\*This data does not include the structures within other Departments and Institutions (the Ministry of National Defense, the Ministry of the Interior and Local Development and the National Social Security Office).

**341.** This health map has the objective of reducing the intra – and inter- regional disparities and to optimize the use of resources available for investment. It relates to both the public and private sectors for the purpose of achieving complementarity, and for a better inter-regional distribution particularly for the second and third line specialized structures.

## III-The baseline indicators

### A) The Infant Mortality Rate

**342.** The mortality rate which was in the region of 30 per 1,000 in 1995 fell to 22.8 per 1,000 in 2001, to stabilise in 2004 at 20.6 per 1,000, which allowed the realization of the objectives established within the framework of the national action programme for the survival, development and protection of the child during the last decade. This development is the outcome of several factors, notably the

improvement of the vaccination cover, of the quality of care given to deaths, of the socio-economic development and the improvement of hygiene and nutrition.

**343.** Within the framework of the national action programme drawn up in 1992, Tunisia had attained most of the objectives (from the World Summit for the year 2000) of « Health for All ». Thus:

- Infant mortality and that of children aged less than five years had been reduced by 40% and 33% respectively during the last decade;
- The total vaccination cover given to children aged less than a year exceeded 90%;
- Poliomyelitis, neo-natal tetanus and measles are virtually eradicated;
- The prevalence of malnutrition had been reduced by more than half;
- Mortality due to diarrhoeal diseases no longer constitutes a public health problem;
- The incidence of low weight at birth is 9%;
- All Tunisian households eat iodized salt.

## **B) Life expectancy at birth**

**344.** Life expectancy at birth was estimated in 2004 at 73.4 years (75.3 for the women and 71.4 for the men). In 1966, this indicator had been globally evaluated at 54 years. This increase in life expectancy, combined with the decline in infant mortality and birth rate results in the progressive increase of the aged population and thereby an increase in the demand for care relating specifically to the elderly.

## **C) The National Vaccination Programme**

**345.** From 1979, a national vaccination programme had replaced the vaccination campaigns which had been carried out for three months per year against tuberculosis and poliomyelitis essentially and where needed, against diphtheria and whooping cough. This programme benefitted from the highly dense network of grassroots health centres distributed throughout the country. This allowed the attainment, from the early 1990s, of the rates of vaccination cover higher than 90% with a vaccination calendar targetting in the beginning the six most deadly illnesses for the child (Tuberculosis, Poliomyelitis, Diphtheria, Tetanus, Whooping Cough and Measles).

**346.** This national vaccination programme had been reinforced, first by an acceleration strategy consisting of the organization of National Days, then Maghrebi Days of Vaccination, through the conduct of strategies of eradication or of the elimination of certain targeted illnesses and through the introduction of new vaccines in the vaccination calendar provided free for all the children in the entire country.

**347.** The MICS II inquiry carried out in 2000 showed that at the age of 2 years, the vaccination cover by DTCP3 and BCG was higher than 95% at the national level and higher than 90% for all the governorates of the country without exception.

**348.** The national vaccination programme supported by a monitoring system which conforms to WHO standards, achieved the eradication of poliomyelitis.

Neonatal tetanus had also been eliminated since 1996 and this in conformity with the definition of WHO. The measles monitoring system, with laboratory checking of more than 80% of suspicious cases, is evidence of the decline in the incidence of this illness to less than 1 case per 100,000 inhabitants. The absence of cases of deaths from measles since 1992 and the absence of confirmed cases of measles since 2002 also indicate the success of the national effort to eliminate this disease.

**349.** The efforts deployed in the area of vaccination had been strengthened, from 1995, with the introduction of the vaccination against Hepatitis B in the calendar of the first systematic vaccination of infants and in 2002 of the vaccination anti-haemophilus B. These efforts made by the State, notably at the budgetary level, are aimed essentially at two main objectives:

- The control of major health problems;
- Equity (these two vaccines, up to then, were only given in the private sector).

All these vaccinations are now provided free of charge at the level of the public sector.

**350.** The vaccination programme in the school environment is administered free of charge in all the public and private educational institutions. In 2004-05, the vaccinal cover in the primary schools was 99%, in the colleges and high schools 96% while that of Hepatitis B was 84%.

**351.** The national perinatal programme, implemented from 1990, had been enriched over the years. Besides the antenatal monitoring, the assisted deliveries, postnatal monitoring and the monitoring of growth established from the beginning, other components were added to this:

- The promotion of pre-marriage consultation;
- The promotion of breastfeeding;
- The prevention and the control of anaemia in pregnant and breastfeeding women;
- The care and resuscitation of the newly-born;
- Preventive action against disability.

**352.** Thanks to the existence of at least one centre for maternal and infant protection per district and the integration of the activities of maternal and child health (achieved in 90% of the total number of centres), almost all infants can benefit from care administered by qualified staff.

#### **D) The rate of provision of drinking water for the population**

**353.** The rate of provision of drinking water for the population has attained the following levels:

Urban Population: 100% (rate attained in 1991)

Rural Population: 95.8% (rate attained in 2004)

**354.** A clear improvement of the quality of drinking water had been registered since 1990, since the percentage of the population with clean drinking water at home or in reasonably accessible places increased from 60.7% at this date to 86% in 1992 and to 89.6% in 1994 to reach 98.5% in 2004.

**355.** The checking of the bacteriological and physico-chemical quality of the water supplied, the identification of the risk factors of the degradation in the water quality and the monitoring of the state of hygiene of the water works constitute the main activities undertaken by the public authorities in this area.

### **E) The evacuation of waste water**

**356.** It should be noted that the rate of the population having adequate means for the hygienic evacuation of waste water (through evacuation networks, septic tanks, cesspools....had reached 100% in the urban areas and 70% in the rural areas in 1999. In 2004, the rate of connections to evacuation networks (ONAS network) reached 75.9% for the urban population against 4.8% for the rural population. The number of purification stations which in 1991 were 25 increased to 66 in 2003 to reach 78 in 2004.

**357.** The quality of untreated and treated waste water is subjected to regular bacterial checking. Likewise, special attention is paid to the checking of waste water treated and recycled for agricultural purposes.

### **F) Environmental hygiene and Industrial hygiene**

**358.** Tunisia has implemented a strategy in the domain of environmental hygiene based on the following four points:

- a) Active intersectoral collaboration in the programmes with an incidence on health matters (such as the extension of grassroots health infrastructures and the national programme of environmental cleanliness and protection);
- b) Encouraging community participation through the provision of technical support to health promoting projects, particularly those which are implemented by the district committees in the urban areas and the collective interest groups (GIC) in the rural areas. Tunisia has, since 1991, unreservedly been a member of the project « Towns-Health » of the WHO. It is in this context that a network grouping 12 towns initially had been set up in September 1991. The national network was then extended to cover 33 towns and villages.
- c) Reinforcement of the activities of monitoring and of health education in the matter of drinking water supplies and mass consumption products as well as the hygienic evacuation of hospital waste;
- d) Development of the human and material resources of the area's Hygiene Department.

**359.** The measures taken by Tunisia to improve the aspects of environmental hygiene are concretized by the putting in place of health control networks for the controlling of the institutions among which figure 10,274 educational and training institutions (schools, restaurants and housing), drinking water in rural and urban areas, mineral water plants, water for bathing (sea water, swimming pools,

thermal water stations, sea water therapy centres) waste water (raw, treated and recycled).

#### IV- Health Education

**360.** Health education is one of the main factors contributing to the firm establishment of the right to good health. It is based on the following essential points:

- Integration of health education as a subject in educational programmes relating to AIDS, to Rabies, Infant Diarrhoea, to the perinatal period, to diseases of hydric origin, diseases of vectorial origin, to collective food toxi-infections, to reproductive health, to the prevention of addictive behaviour (tobacco) ...);
- Organization of demonstration and sensitization days among which can be cited in particular:
  - a) The national Day of Health in the pre-school environment;
  - b) The national Day for Blood Donations;
  - c) The Day of Health Clubs for the Secondary Schools;
  - d) The Maghrebi mobilization campaign for Diarrhoeal Control;
  - e) The Maghrebi Days of Vaccination;
  - f) The Maghrebi Week of Educational Health for the Primary schools;
  - g) The World Health Day;
  - h) The World No-Tobacco Day;
  - i) The World AIDS Control Day;
  - j) The World Mental Health Day;
  - k) The World Diabetes Day;
  - l) The World Cancer Day;
  - m) The World Elderly Persons Day;
  - n) The national Days of Hygiene;
  - o) The national Food Hygiene Sensitization Day;
  - p) The World anti-Tuberculosis Day;
  - q) The University Health Day for Students.

**361.** Furthermore, a global media-based support, based on permanent cooperation with the mass media (national radio television, regional radio stations, written press), had been developed and progressively strengthened through:

- a) The organization of brainstorming or information seminars (Media and Health) for the professionals of the media;
- b) The participation in numerous radio broadcast and televised medical programmes;
- c) The twice-daily telecasting of spots on health;
- d) The publication of press Articles guaranteeing the promotion of health matters or conveying health information (extracts of the press dossier or original articles);
- e) The preparation and distribution of educational support material (posters, brochures, leaflets ...).

## **V- Participation of civil society in the promotion of health education**

**362.** The national non-governmental organizations contribute to the effort being carried out by the State in the area of promotion of health education. Among these NGOs, can be cited notably:

- The National Union of Tunisian Women (UNFT);
- The Medical Career Women's League;
- The League for the Control of Tuberculosis and Respiratory Diseases;
- The Tunisian Red Crescent;
- The Tunisian Family Planning Association (ATPF);
- The Tunisian Education and the Family Organization (OTEF);
- The Tunisian AIDS Control Association (ATLS);
- The Tunisian AIDS Information and Orientation Association (ATIOS).
- The Tunisian Society for Pedodontics Prevention (STPP);
- The Health-Environment Association.

### **ARTICLE 17**

#### **The Right to Education and participation in cultural life**

**363.** Article 17 of the Charter stipulates that « every individual shall have the right to education » (paragraph 1) and that « every individual may freely take part in the cultural life of his community » (paragraph 2). Paragraph 3 makes the « promotion and the protection of morals and traditional values » a condition for « the safeguarding of human rights ».

#### **I- The Right to Education**

**364.** Article 5 of the Constitutional law n° 2002-51 of 1<sup>st</sup> June 2002, on the amendment of certain Articles of the Constitution, stipulates that « the Tunisian Republic guarantees the fundamental freedoms and human rights in their universal, global, complementary and interdependent meaning ». The right of the human being to education and professional training is governed by the law n° 91-65 of 29th July 1991 relative to the educational system, which stipulates that « the State guarantees to all those of school going age, the right to free education ». Similarly, orientation law n° 2002-80 of 23rd July 2002, relative to education and school teaching, constitutes a new legislative framework of the Tunisian educational system which is aimed at sanctioning the principles of «gratis», of «obligation» and of equal opportunities.

##### **A) Education is compulsory**

**365.** Article 1 of the orientation law n° 2002-80 of 23<sup>rd</sup> July 2002, relative to education and school teaching proclaims that « education is compulsory from six to sixteen years ». According to Article 20, basic education lasting 9 years is also compulsory so long as the pupil is capable of pursuing his studies normally in conformity with the regulations in force.

**366.** To guarantee a pre-school education for all children, the law institutes a « preparatory year which receives children aged from 5 to 6 years » (Article 17)

and gives the State the responsibility of its generalization and the promotion of pre-school education. The orientation law fixes the objective of pre-school education as « the development of the oral communication capacities, the senses, the psychomotor capacities and the healthy perception of the body. Furthermore, it facilitates the initiation of the children to community living » (Article 16). A national plan aimed at generalizing this preparatory year before 2009, had been adopted.

**367.** To put the compulsory nature of education into effect, Article 21 of this law stipulates that « the guardian who fails to register his child at one of the institutions for basic education or withdraws the child before the age of sixteen (16) » is liable to a fine of up to four hundred (400) Dinars.

## **B) Education is free**

**368.** Overdetermined condition of the full enjoyment of the right to Education, free education is considered as one of the fundamental principles of the Tunisian Educational System. In effect, Article 4 of the orientation law n° 2002-80 of 23rd July 2002, relative to education and school teaching stipulates that « the State guarantees the right to free education in the public education institutions for all those who are of school going age and equal opportunities in the enjoyment of this right for all pupils, so long as they are capable of legally pursuing their studies...».

**369.** Moreover, Article 2 of the Child Protection Code (CPE) stipulates that « this Code guarantees the child the right to benefit from the various preventive measures be they social, educational, health-related ... ». According to Article 7 of this same Code, the objective of these measures is « to consolidate the responsibility of the parents or of those who are in charge of the child, in the education of the child, his schooling and upbringing through the provision of protection necessary for his natural development ». Concretely, these measures consist in activities undertaken at the level of the educational institutions. It relates to the granting of scholarships to pupils from poor families, the provision of boarding facilities and school canteens at the disposal of the pupils, to the free distribution of textbooks and school materials as well as the setting up of social action units and listening bureaux, the improvement of allowances for medical studies.

**370.** The absolute priority given to education and the sacrifices made by the national community to guarantee education for all have borne fruit. The marked improvement of school results is seen in the progression of the rates of enrollment of children aged between 6 – 12 years.

### **Development of the rates of enrollment (Primary Public Education)**

<b>Net Enrollment Rate 6 ans</b>	<b>2000/2001</b>	<b>2001/2002</b>	<b>2002/2003</b>	<b>2005/2006</b>
	99%	99%	99%	99%
	92.0%	91.3%	91.1%	97.1%

The same trend is noted for the age bracket of 13 – 19 years whose enrollment rate rose from 50.2% in 1994 to 71% in 2001-2002.

**371.** The public authorities and civil society have deployed numerous efforts for a better « sustained educational support » through the control of school failures and early drop out rate. Thus, the drop out rate at the primary level has declined. It was brought down from 7% in 1990 to 1.8% in 2005.

**372.** With regard to higher education, the university year 2005-2006 registered a number of students of up to 335,876 compared to 27,000 in 1978. This development is explained by the constantly increasing percentage of success of the A level exams, through democratization and through the continued improvement of higher education.

**373.** The general rate of university education for the age bracket of 19 to 24 years developed from 5.5% in 1997 to 19% during the period 1999-2002 to reach 42% during the 2005-2006 university year. The percentage of girls has increased considerably since 1987: from 37.2% in 1987-1988, it reached 58.2% in 2005-2006.

**374.** The decentralization of the university institutions responds to a policy which is endeavouring to rationalize the creation of new institutions, on the basis of the following principles:

- To bring the university institutions as close as possible to the students' places of residence;
- Reduce the pressure on traditional university poles and, in particular, on the Capital;
- Create new university poles in all the regions of the country;
- Contribute to the socio-economic development of the regions.

**375.** The institutions of higher education today number 178, of which 155 are under the Ministry of Higher Education and 23 are in co-tutelage, involving other Ministries.

### **C) Equal Opportunities**

**376.** To guarantee universal access to school and to offer equal opportunities to all the children, several support and assistance mechanisms have been put in place, including notably:

- Compensation for the paper used in the manufacture of school textbooks and exercise books so as to maintain them at an affordable price and accessible to all families. As for the needy pupils, they receive free school materials and obtain study scholarships and all sorts of assistance. Every year, more than 400,000 pupils benefit from this assistance.

- Bringing the school closer to the citizens through the continuous extension of the network of educational institutions in all the regions of the country and especially in the rural areas. In spite of the significant drop in the number of pupils in the primary due to birth control, the number of schools has continued to grow and the number of teachers has not dropped.

School Year	Number of Pupils	Number of Schools	Number of Teachers
1996-1997	1441143	4388	59623 (namely one Teacher for 24 pupils)
2001-2002	1314836	4476	59884 (namely one Teacher for 22 pupils)
2005-2006	1120425	4.492	58281 (namely one Teacher for 19 pupils)

**377.** Out of a total of 4,492 schools, 2,725 are located in the rural areas. The town/countryside parity is a reality in Tunisia today.

**378.** The validation of the principle of equal opportunities also takes shape through the setting up of a national programme of assistance to educational institutions which register results below the national average. Thus, 696 primary schools and 104 colleges had been considered as «Educational Priority Schools» (EPE) and required to be treated in accordance with the principle of « positive discrimination ». Extra resources are granted to these « EPEs » to enable them reduce the gaps and catch up on their backwardness. These resources, both human and material are aimed at improving the educational output of these institutions and their working conditions.

**379.** The educational integration of children with special needs, whose right to education is guaranteed by law (Article 4), is done in two ways:

- Total integration which allows the children with « minor » disabilities to pursue their studies in ordinary classes in all the years of schooling;

- Partial integration which consists in receiving certain mentally disabled and hard of hearing children in specific classes within the ordinary institutions.

Having said that, the bulk of the education of children with special needs is currently carried out in specialized centres which are directly under the State or under specialized organizations which receive subventions from the State and are supported by the Ministry of Education and Training which provides them with Teachers and specialized Educators.

**380.** Furthermore, special attention had been given to disabled children by allowing them to pursue their education under normal conditions within specialized institutions. In this regard, orientation law n° 2005-83 of 15<sup>th</sup> August 2005, relative to the promotion and protection of disabled persons had been promulgated to guarantee equal opportunities between disabled persons and the other people as well as their promotion and protection against all forms of discrimination. Article 24 of this law stipulates that « the State endeavours to guarantee proper conditions allowing disabled children who are incapable of following an education and training within the ordinary system, to pursue appropriate education, specialized education and professional rehabilitation appropriate for their specific needs ».

**381.** A programme for the integration of the disabled into the ordinary school institutions, known under the name of « National Strategy for the Educational Integration of Disabled Children », had been drawn up. The school year 2003-2004 saw the launching of this national programme whose implementation had involved the Ministries of Education and Training, of Public Health and Social Affairs, of Solidarity and of Tunisians Abroad. Initiated in 126 schools, this programme is extended today to more than double this number.

**382.** The concretization of the right of all citizens to education also takes shape in the National Adult Educational Programme (PNEA) launched in 2000 within the framework of the global development strategy in Tunisia. This programme is aimed principally at accelerating the rhythm of reducing illiteracy and by guaranteeing the access to education and social culture to those people who are incapable of reading and writing so that they can assume their citizenship.

**383.** The PNEA consists of flexible and diversified apprenticeship modules adapted to the nature of the learners, to their family, professional and social conditions while giving priority to the youth aged less than 30 years, to the female gender and to persons originating from the rural areas.

**384.** The PNEA, during the period 2000-2005, registered 450,000 learners, with the following distribution:

- 32% among the youth aged less than 30 years;
- 55% among those from the rural areas.

**385.** A very broad associative network of which 53 were regional and local Associations specialized in the area of adult education contributed to the putting into practice of this programme.

## **II- The Right to participation in Cultural Life**

**386.** Tunisia has given the right of man to culture a prominent place in the social choice defined since the 7<sup>th</sup> November 1987. The legislative, institutional and financial measures aimed at the concretization of this right comply with a double objective: to win the intelligence and democratize culture since it is a question of allowing the Tunisian to make the artistic and cultural field a space for self-development and self-realization.

**387.** The Ministry of Culture, the designation of which, in 2004, was changed to Ministry of Culture and the Protection of the Heritage, is currently responsible, within the framework of the general policy of the State, for implementing the national choices in the fields of culture and the protection of the Heritage. The objective is:

1) to guarantee for all the access to a broad and modern culture, allowing each one to face the current and future changes in knowledge, in technology, in the society, in all the dimensions of human culture;

2) to encourage the artists, step up the participation in cultural life of the different age brackets and social categories and to endeavour to guarantee access of all citizens to all the components of culture;

3) to guarantee the protection and valorization of the heritage, in a broad sense, in collaboration with the structures concerned;

**388.** The budget of the Ministry of Culture and Protection of the Heritage in 2004 represented 1% of the State budget. The pursuit of the increase in the budget allocated to Culture which will be gradually brought up to 1.5% of the State budget before 2009, is aimed at giving the citizens the means to guarantee satisfaction of these rights and cultural needs.

#### **A) Cultural Democracy and the effective participation in cultural life**

**389.** The double requirement in a cultural democracy, the most effective participation of the artists, of men of culture and the maximum involvement of the citizens, is above all a question of practice. From this perspective, associative cultural life in Tunisia constitutes a vector for the democratization of cultural life and of active and creative citizenship. Undoubtedly, the Cultural Associations have an auxiliary and complementary role to play in support of the State's effort in promoting cultural and associative life. From their capacity to mobilize individual and collective lyrics, and to stage the globality of opinion and of creation, they deduce the usefulness of all mediation other than the institutional one and correspond with the imperatives of the freedom of creation, of expression and of association.

**390.** Tunisia guarantees the right of all citizens to participate in cultural life, to widen their horizons and to perfect their aptitudes and faculties, and this within the framework of a political option based on a set of themes, including notably the promotion of cultural associations. Thus the number of Associations of a cultural nature currently total close to 6,000.

**391.** The field of initiatives and cultural activities is infinite. Associative cultural life groups together intellectual activities, theatrical and audiovisual activities, youth activities, musical activities, bibliographical activities, scientific and computing activities. It also affects the plastic arts, archaeology and the national heritage. This wealth, this dynamics, this passion all contribute to bringing the culture of the citizens and the citizens of the culture closer together and lead to the thought of cultural democracy as constituting not so much a vertical relationship with the State as a lateral one, that of citizens between themselves.

**392.** To preserve the freedom of creating, of cultural pluralism, of the living and open development of national identity and of its original regional components, the Tunisian Government put in place a support fund democratically managed with the participation of the artists and professionals concerned. It is funded from State subventions, from the compulsory contributions of the profit making cultural industries which need the work of the artists, from private sponsors since they are subjected to the appreciation of the business committees. Cinema, audiovisual arts, literature, poetry, music, lyrics and dance, the plastic arts and all living shows depend to a great extent on this fund for support.

**393.** The following table shows the progression of public support to the private initiative in the cultural domain from 1999 to 2004:

Area of Intervention	Year						Rate of Progression (1999-2004)
	1999	2000	2001	2002	2003	2004	
Compensation for paper	300	309	431	400	420	600	100%
Books	1287	1594	2067	2450	2585	3250	153%
Cinema	1530	2193	2602	2870	3955	4400	188%
Theatre	620	1041	1406	1720	2365	2850	360%
Plastic Arts	310	557	668	855	857	980	216%
Music	100	126	200	270	398	400	300%
Cultural Shows	2500	2986	3143	4720	4446	5000	100%
Subventions for Committees, Associations and Artistic Groups	807	843	860	1160	1452	1420	76%
<b>Total</b>	<b>7,454</b>	<b>9,649</b>	<b>11,377</b>	<b>14,445</b>	<b>16,478</b>	<b>18,900</b>	<b>154%</b>

(Amounts in 1,000' Tunisian Dinars)

## B) The principle of « Culture for All »

394. The concretization of the principle of « Culture for All » in the Tunisian Cultural Policy led to the putting in place of a national strategy for the realization of the following objectives:

- The number of cultural centres total 203. They constitute a framework of appropriate activity enabling all those who go there to open an activity of a coherent duration, promoting the most compact and most permanent synergies and exchanges;
- The specific activities which are attached to them number 913. The number of beneficiaries of these activities total 4,000,000;
- The Book, under all its forms, both conventional and modern, plays an essential role in the dissemination of knowledge and of the arts, in the enrichment of the spirit and the propagation of the values of good, of law and justice, as well as from the aesthetics point of view. The year 2003 had been declared « National Year of the Book ». This decision has the objective of improving the book sector and to promote reading in all the areas (urban and rural) and to affect the entire population (the disabled, the illiterates ...). Currently there are 362 public libraries (including the mobile libraries) directed at all the age brackets and distributed throughout the Tunisian territory. New measures had been decided in favour of the book sector in its cultural and economic components notably the raising of the rate of compensation for paper to 75%, the encouragement of private initiative, etc. These measures are aimed at guaranteeing a book for each inhabitant;
- The launching in 2006 of the broadcasts of the **Cultural Radio** to promote the presence of all the expressions of Tunisian culture through the services of communication and broadcasting, to allow the deployment of the

creative capacities of all the citizens, to seek public expansion as a dimension of citizenship, to create spaces for dialogue between intellectual families, to disseminate scientific and technological culture, to contribute to the discovery of the national heritage and promote international cultural cooperation;

- The access to museums is ever increasing as shown by the table below:

	<b>Archeological and Historical Museums</b>	<b>Anthropological Museums</b>	<b>Archeological Sites</b>	<b>Historic Monuments</b>
<b>Number of Museums/Sites</b>	19	7	18	15
<b>Number of Visitors</b>	816,290	14,429	861,665	1,099,046

### **2004 Statistics**

- The cultural shows and festivals keep increasing from year to year and currently they have reached 400 festivals.

### **The Festivals are distributed as follows:**

<b>Local Festivals</b>	<b>90%</b>
<b>Regional Festivals</b>	<b>6%</b>
<b>International Festivals</b>	<b>4%</b>

### **Cultural Shows during the summer period (July - August)**

	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
<b>Number of Festivals</b>	300	320	325	310	325
<b>Average number of shows per Governorate</b>	81	93	106	112	135
<b>Average cost of the ticket (TD)</b>	1,075	1,286	1,074	1,066	1,001

**395.** In the context of the decentralization of cultural activities, Decree n° 2004-1430 of 22<sup>nd</sup> June 2004, amending Decree n° 1994-560 of 15<sup>th</sup> March 1994 and establishing the administrative and financial organization of the operational modalities of the regional cultural bureaux, was introduced to consolidate the decentralization of cultural management by strengthening the administrative role of the regional officer for culture and the protection of the national heritage.

**396.** The budget increase makes possible the realization of new major projects for the benefit of the cultural infrastructure, they are:

- The City of Culture which contains several rooms for shows (Opera, Theatre, Music), a Multimedia Library, Exposition Galleries, A National Archive Office for Artistic Works, two large Cinema Projection rooms and National Civilizations Museum;
- The National Book Centre (The National Library of Tunis) which shows the importance accorded in Tunisia to the preservation of collective memory as a basic cultural right and means of communication between the generations;
- The technological pole for the Cinema Industry which is intended to be a supporting institution for the professionals of the private sector, both Tunisian and foreign, for the purpose of allowing picture artists in Tunisia to carry out their work in appropriate conditions and through the use of advanced technology.

**397.** In the matter of human rights linked to the participation in cultural life, Tunisia can therefore boast of a cultural space open to all Tunisians.

### **III- The promotion and protection of morals and traditional humanistic values**

**398.** The promotion and protection of morals and traditional humanistic values are necessary for societal equilibrium and for each of the citizens. It is a requirement for the resistance against all the expressions of extirpation and loss of self generated by a certain destructive globalization. It is in this regard that Tunisia made the protection of humanistic values an uninterrupted daily endeavour, which constantly requires *Ijtihad* and creativity in order to preserve its creativity and its aura.

#### **A) The values of solidarity, of mutual assistance, of tolerance for work and moderation**

**399.** Article 5 of the Tunisian Constitution stipulates that « the State and Society shall work towards the firm implantation of the values of solidarity, of mutual assistance and tolerance between individuals, groups and generations». This constitutionalization of the fundamental human values carries a vocation which corresponds to Tunisia's best values and to its firm establishment in universality. The political incidences of solidarity, of mutual assistance, of tolerance on the relationship between rights and responsibilities, between freedom and responsibility, as between individualism and the general interest, nationality and citizenship become a concrete and daily affair.

**400.** In this same perspective, Article 3 of the orientation law n° 2002-80 of 23<sup>rd</sup> July 2002, relative to education and school teaching establishes for the School a primary mission of implanting in the pupils « the set of values shared by all Tunisians and which are based on the primacy of knowledge, of work, of solidarity, of tolerance and moderation. It is guarantor of the establishment of a society which is deeply attached to its cultural identity, open to modernism and which takes inspiration from the humanistic ideals and universal principles of freedom, democracy, social justice and human rights ».

**401.** Furthermore, Article 8 of this same law which relates to the educational function of the school specifies the finality of education as follows:

- «To develop the civic sense of the youth; to educate them on the values of citizenship; affirm in them the awareness of the indivisible nature of freedom and responsibility; to prepare them for participation in the consolidation of the meeting of a solid society based on justice, equity, the equality of citizens in terms of rights and responsibilities;

- To develop the personality of the individual in all its dimensions: moral, emotional, mental and physical; refine his talents and faculties and guarantee him the right to build his personality in a manner which will sharpen his sense of Judgement and his will, so as to develop in him perspicacity of judgement, self confidence, the sense of initiative and creativity.

- To develop in the youth an appreciation for effort and love for work, considered a moral value and a decisive factor in the development of self and in the building of a personality; and arouse in them an aspiration for excellence.

- To educate the pupil on the respect for common values and on the rules of communal living ».

**402.** Pertaining to the Child Protection Code, it is based on general principles which take inspiration from human rights ideals and are aimed at, among other things, « raising the child to be proud of his national identity, faithfulness and loyalty to Tunisia, land, history and knowledge, and the feeling of civilizational belonging, this, at the national level, Maghrebi, Arabic and Islamic while imbuing himself with the culture of human Brotherhood and openness to others, in conformity with the requirements of educational and scientific teachings ».

## **B) World Solidarity**

**403.** For Tunisia, economic globalization should, moreover, be accompanied by a globalization of solidarity, in order to create a dynamism of partnership and co-development at the planetary level, instead of the traditional aid which has reached its limits, capable of closing the unfair gap separating the rich countries from the less endowed ones, by integrating the citizens of all the regions of the world in a vast project of shared progress.

**404.** The economic and social divide which separates the populations of the North from those of the South generate a multifaceted unpleasant living which can well become the breeding ground for terrorist acts and fear used by the preachers of hatred of the various types of fundamentalism. It is for this reason that globalization with a human face calls for measures marked with justice and a fine tuning of the appropriate development strategies to promote a climate in which it will be possible to build stable relationships between nations, establish constructive dialogue and design a viable mode of globalization.

**405.** The false universality of the world market unleashes communitarian particularisms and toughens devastating xenophobia: the market cosmopolitanism of capital and the aggressive identity-related impulses give each other mutual support. Now, for Tunisia, it is not a question of choosing between these two forms of inhumanity, but of putting forward a credible human universality which is constructive and equitable against the one and the other. The **World Solidarity Fund**, proposed by Tunisia in 1999 and adopted by the **UN**, constitutes, in this context, a realistic alternative to the loftiness of the

interests of the period and can be inscribed in the Millennium Goals. It is therefore with full awareness of the appropriateness of this initiative that the international community, assembled within the United Nations General Assembly, unanimously adopted, in December 2000, the Tunisian proposal to set up a World Solidarity Fund.

This was a historic decision of major political and symbolic significance. It is homage paid by the international community to a country which has chosen to put the intelligence of its people at the service of the noble causes of humanity. It is a recognition of the relevance of the Tunisian perception in matters of human and global development which refuses to create a two-tier society and which endeavours to achieve harmony between economic growth, progress and social justice.

### **C) Protecting and enhancing the value of the National Heritage**

Tunisia has implemented an entire policy aimed at protecting and enhancing the value of the national cultural heritage in all its prosperity and extent.

**406.** The efforts at implanting cultural identity are consolidated by the celebrations dedicated to the great names linked to thought and reform in Tunisia such as Khair-eddine Pacha, Ahmed Ibn Abi Dhiaf, Tahar Haddad and Aboul Kacem Chebbi. These celebrations consist in the organization of national and international scientific seminars and the publication of the works of these figures. As example, the year 2006 was proclaimed « Ibn Khaldoun Year » and this by way of celebrating the sixth centenary of the death of the famous Scientist « Abdurrahman Ibn khaldoun » with the re-edition of his works and the organization of seminars both Arabic and international dedicated to this great thinker.

**407.** In the context of the preservation of collective memory, several programmes had been designed and implemented, including notably:

- The drawing up of a national programme of the collection and digital registration of the Tunisian audiovisual heritage;
- The establishment of a plan for the digital treatment of a Tunisian Book and the creation of a databank on Tunisian Writings and Books (manuscript or printed) as well as the realization of a national potential index of the Book;
- The edition of a series of Works with the title « Al-Dhakira Al-hayyah » (The Living Memory) dedicated to the literary cultural production and to his symbols which are still alive;
- The creation of a plastic arts museum;
- The creation of a series of Works with the title « Oummahat Al-Koutoub » (Major Works) dedicated to the master work of the cultural heritage.

**408.** The annual celebration of the National Heritage Month (from 18 April to 18 May) in all the regions of the country in collaboration with the institutions responsible for the national heritage, the cultural Associations and the Associations for the protection of the medina. This celebration guarantees the active participation of the Tunisian citizens for the Improved knowledge of the national wealth.

**409.** The non-material heritage is also included in the effort to safeguard the national heritage and this is done in harmony with the international trends aimed at the protection of this type of heritage, considered as a national asset. For this purpose, the National Heritage Institute is responsible for the protection of the non-material national heritage (folklore and traditional knowledge).

**410.** The setting up of a Research Unit « History and Memory » at the University of Manouba contributes to this effort aimed at the protection of the national heritage. It is a new perception of historical phenomena by inscribing them not in absolute terms, but in relative terms and by reflecting on them in terms of tolerance.

**411.** Furthermore, the Tunisian State has also taken over the responsibility of supporting the effort to enhance the value of this heritage within the perspective of global and sustained development. The National Agency for the Development of the National Heritage and Cultural Promotion is responsible, in this context, for pursuing the implementation of the national policy in this domain.

**412.** Moreover, the legislative and institutional environment has allowed the effective protection of the moral and material interests of the creators in terms of literary and artistic property. In effect, the ratification of the international conventions linked to the protection of literary and artistic property, the promulgation of the law n° 94-36 of 24<sup>th</sup> February 1994 relative to the literary and artistic property as well as the creation of the Tunisian Institution for the Protection of Copyright (OTPDA), under the administrative supervision of the Ministry of Culture and the Protection of the National Heritage contributed towards consolidating this protection.

**413.** Far from promoting the fall back on a given cultural identity, the policy adopted by Tunisia in the area of protection and valorization of the national heritage aims at allowing national culture to develop and to contribute to the enrichment of the universal heritage of humanity.

**414.** Tunisia, a country with a great civilization and a thousand-year-old history, has a deep and homogenous identity referential. The preservation and consolidation of this referential constitutes a strategic priority axis in its cultural policy. This choice is not contradictory with the equally vital imperative of openness on the other cultures, of respect for difference, of dialogue and exchange with the other populations and the banishment of all forms of intolerance and and cultural chauvinism.

#### **D) The Dialogue between Cultures, vector of Cooperation and Solidarity between peoples**

**415.** The real challenge of genuine cooperation between populations and cultures is not only the exchange of economic assets, but the establishment in terms of equal exchange for a dynamism of partnership and solidarity which does not abandon any social outcast on the edge of the road. In effect, it is necessary to promote a sincere and honest dialogue, based on common convictions based on the universal values and reciprocal commitments towards humanity, with the participation and commitment of all Governments, Institutions, Organizations and Associations, as well as the intellectual, cultural, social and scientific elites, the

centres of education, training and research, and the organs of information and communication everywhere in the world.

**416.** Tunisia feels that the time has come to move beyond the double opposition between the East and the West, between the North and the South, and to get rid of the misunderstandings and prejudices which have accumulated on both sides, so that all can recognize the moral and human content which characterizes the civilizations, cultures and religions of all peoples. It is therefore indispensable to strengthen the rapprochement, the communication, the cooperation and solidarity between peoples, in the context of equity and of the treatment on equal terms, far from all ethnic, intellectual, religious or political exclusion, so that the international community can get to the end of its problems, its imbalances and its crises, and preserve its homogeneity, its evolution and its development.

**417.** Beyond the tensions, the nostalgia and the excesses observed here and there and some of which are worrisome, the cultural dialogue opens on the requirement of the recognition of sovereignty, the re-stabilizing of the relations between States and civil societies, the establishment of relations of cooperation and of genuine dialogue between nations, of a real new international order based on the intervention of all the actors mindful of imposing nothing, of not suffering anymore but in contributing together to transform the realities and to humanize international relations.

**418.** The organization in Tunisia, during 1995, of the international Conference on Tolerance in the Mediterranean under the aegis of UNESCO and the Declaration which resulted from it, baptised «Carthage Charter on Tolerance», sanctions Tunisia's unshakeable commitment to the respect for this value.

**419.** Similarly, the Chaire Ben Ali for the dialogue of civilizations and religions, created in November 2001, organized several seminars, colloquiums and round tables in contribution to the effort led by Tunisia to promote tolerance and rapprochement between cultures and civilizations.

## **ARTICLE 18**

### **Protection of the Family, of Women, of the Child, of the Elderly and Physically Disabled Persons**

**420.** Article 18 of the Charter stipulates that « the family shall be the natural unit and basis of society », that it « should be protected by the State » (paragraph 1) and that « the State shall ensure the elimination of all forms of discrimination against women and also ensure the protection of the rights of the women and the child » (paragraph 3). « The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs ».

#### **I- Protection of the Family**

**421.** In Tunisia, the Personal Status Code promulgated in 1956 laid the foundations of a modern, solid, developed and prosperous family. Prompted by the concern of adapting the legal arsenal to the development of society, the Tunisian legislator promulgated, in line with the 7th November Changes, a series of new legal texts aimed at reinforcing and promoting the right of the family, including notably:

- Law n° 93-74 of 12<sup>th</sup> July 1993, amending certain Articles of the Personal Status Code (C.S.P.) relative to the status of the woman as a fiancée (Article 2), as a spouse (Articles 12, 23 and 28), as a mother (Article 6), as a divorcee (Article 32, 32 bis and 53 bis), as a child minder (Article 67) ;

- Law n° 93-65 of 5<sup>th</sup> July 1993, creating the guarantee fund for food allowance and alimony;

- Law n° 95-95 of 9<sup>th</sup> November 1995, amending and completing some Articles of the Contracts and Obligations Code, amended Article 93 bis on the responsibility of the Father and the Mother for acts committed by their children who are minors. Under the terms of this law, the Mother becomes collectively responsible with the Father for the payment of compensation to third party victims of her child's actions;

- Law n° 2002-4 of 21<sup>st</sup> January 2002, amending Article 12 of the Tunisian nationality Code, grants Tunisian nationality to a child born abroad of a Tunisian mother and a foreign father on condition that he requests this status by making a declaration within one year preceding his coming of age. Besides, and in case of the demise of the father, of his disappearance, or of his legal incapacity, the unilateral declaration of the mother suffices;

- Law n° 2003-51 of 7<sup>th</sup> July 2003, amending and completing law n° 98-75 of 28<sup>th</sup> October 1998 relative to the granting of a patronymic name to abandoned children or to children of unknown descent, permitted the child born out of wedlock to have the patronymic name of his mother or that of his father should evidence of paternity be established through confession, testimony or genetical analysis.

**422.** Mindful of guaranteeing the good health of the family, the legislator instituted by law n° 64-46 of 3<sup>rd</sup> November 1964 the pre-nuptial medical certificate required before marriage. The establishment of this certificate does not hinder the right to marriage. It aims in particular at drawing the attention of the candidate intending to get married to the harmful effects of dangerous diseases, in particular tuberculosis and syphilis, for the wife or the descendants.

**423.** The right to marriage is recognized for both the man and the woman with no discrimination whatsoever. This emerges from the various provisions of the Personal Status Code. Even where it concerns foreigners governed by their Personal Status, the Public Records Officer is compelled to celebrate their marriage. In effect, Article 38 of law n° 57 - 3 of the 1<sup>st</sup> August 1957, regulating the civil status, stipulates that the Public Records Officer should celebrate « the marriage ceremony of foreigners in Tunisia in conformity with Tunisian laws, on submission of a certificate from their Consul certifying that they can contract the marriage ».

**424.** The Tunisian legislator fixed the minimum age for marriage (twenty full years for the man and seventeen years for the woman). Likewise, the Personal Status Code has made marriage the business of only the two persons intending to be married by making their consent a requirement.

**425.** In the concern to promote the structures of family related legislation, law n° 93-74 of 12<sup>th</sup> July 1993, amending certain Articles of the CSP, created the office of « family Judge », who is distinguished by his specialization and competence and whose professional experience should not be less than 10 years (Article 32 new). The objective being to define the limits of family disputes so as to protect

the family from disintegration and safeguard the interests of the children. The family Judge intervenes in the context of reconciliation between the spouses. If divorce is inevitable, he takes urgent measures pertaining to matters of housing, allowance, child care and visiting, in consideration of the interests of the small children and of the imperatives of their protection and guarantee of their future.

**426.** Tunisia has adopted a voluntarist programme of birth control aimed at promoting a stable family. The « National Family Planning Office », created in 1971 and which took the name of « National Family and Population Office » (ONFP) in 1984, contributes actively to the realization of Tunisia's demographic policy and to the drawing up of programmes of action for the development of the family. Basic health services for families have also been created throughout Tunisian territory in order to provide the necessary care for the good health of the mother and the child and especially to engage in preventive action for the family. This policy earned the ONFP its selection by the « United Nations Population Fund » (UNFPA) as a centre of excellence in the area of reproductive health.

**427.** In the effort to protect the acquisitions of the Tunisian family and to promote its rights, the post of Minister Delegate in the Office of the Prime Minister, responsible for Women's Affairs and the Family, had been created in 1993. This structure became, in 2004, the Ministry of Women's Affairs, of the Family, of Childhood and Elderly Persons.

**428.** Two Action Plans in favour of the family had been adopted: the first in 1996 is in line with the implementation of the IXth Development Plan (1997-2001). The second, adopted in 2002, is based on the following four major points: the relations within the family, the socialization of the generations, the well being of the family and the management of the family's income.

The mechanisms for the application of this Plan are:

- An Information, Education and Communication Strategy (I.E.C);
- A mechanism for the observation and monitoring of the conditions of the Tunisian family;
- The training of speakers in the mediation of family matters.

**429.** Furthermore, the family has benefited from other programmes targeting families with specific needs such as the Social Promotion Programme, the National Aid Programme for needy families. Besides, the emigrant family has been the object of special attention on the part of the political leaders, consisting of measures targeting the youth, the women and the single parent families headed by the spouses whose husbands have emigrated.

### **-The Social Promotion Programme**

**430.** The national social promotion strategy in Tunisia reposes on:

- The improved targeting of the poor populations through the use of the poverty index established since 1996 and decentralized in 1998, for the selection of families and individuals eligible for the different programmes and permanent or occasional social aid;
- The putting in place of appropriate mechanisms for the improved coordination between the various actors and the programmes of permanent and occasional aid, of health, housing and development programmes such as integrated rural and urban development

programmes, the National Solidarity Fund (26-26) and the National Employment Fund (21-21);

- The integration of needy families in the economic system by means of lucrative projects capable of contributing to the improvement of the incomes and living standards of these families, to help them overcome poverty.

### **-The National Aid Programme for needy families**

**431.** This programme consists of:

- The granting of permanent aid in the context of the national aid programme for needy families. The number of beneficiaries of this programme rose from 73,590 in 1987 to 114,544 in 2005 of whom 244 were site workers aged 65 years and more. The budget allocated to this programme increased from 4.6 million Dinars (MD) in 1987 to 55.9 MD in 2005;
- The granting of financial and material assistance, at the re-opening of school and university, to the pupils and students from needy families for the 2004-2005 school year. This aid, totalling 12.4 MD, affected 428,826 pupils and students.
- The granting of assistance in cash and in kind during religious feasts. This assistance involved 365,000 individuals in 2004 for a total amount of 11.9 MD. Moreover, exceptional assistance in cash and in kind had been given to a certain number of persons and families in difficulty. The amount of this assistance rose from 1.080 MD in 1996 to 5.1 MD in 2004.

## **II- Protection of Women**

**432.** In Tunisia, the principle of equality between men and women in its different aspects has a constitutional value. In effect, in its Article 6 the Constitution of the Tunisian Republic stipulates that « all citizens have the same rights and the same responsibilities. They are equal before the law ».

**433.** Similarly, Tunisia has ratified the « Convention on the Elimination of all forms of Discrimination Against Women » under the terms of the law n° 85-68 of 12<sup>th</sup> July 1985.

In June 2002, Tunisia presented its 3<sup>rd</sup> and 4<sup>th</sup> combined Reports to the Committee monitoring the implementation of CEDAW. This Committee lauded the efforts by Tunisia which ceaselessly promotes the rights of Women by placing the country in a dynamic of modernism whilst remaining attached to its authenticity.

### **A)- Sanctioning Gender Equality in Law and in practice**

**434.** The Personal Status Code (CSP), promulgated on the 13<sup>th</sup> August 1956, constituted a normative and political vector for the emancipation of women and opened the way for initiatives on the emancipation and promotion of women confirming Tunisia's attachment to all its commitments with regard to the protection and consolidation of the rights of women.

**435.** This principle is also confirmed in the « National Pact », signed on the 8<sup>th</sup> November 1988, by the representatives of the Political Parties, the Social and

Professional Organizations which stipulate that « the principle of equality is not less important than the principle of freedom, that is the equality between the citizens, between men and women, with no discrimination in terms of religion, colour, political opinion or affiliation ». Similarly, organic law n° 88-32 of 3<sup>rd</sup> May 1988 organizing the Political Parties as well as Constitutional law n° 97-65 of 27<sup>th</sup> October 1997 amending and completing certain Articles of the Constitution, stipulates that the Political Party « should in its activity respect and defend the principles organizing Personal Status » and « reject racism and all other forms of discrimination ».

**436.** The amendments introduced in the CSP, by virtue of the law n° 93-74 of 12<sup>th</sup> July 1993, amending certain Articles of the CSP, strengthened the status of women as fully fledged human beings enjoying all their rights. The philosophy under-lying this amendment considers that the cause of women is part of the cause of integral development, that their rights cannot be separated from human rights and that the development of their acquisitions are not an end in itself but are part of the general framework of effort to protect the family, to guarantee the psychological and social balance of the individual and of society.

**437.** Article 23 of the CSP, amended by the law n° 93-74 of 12<sup>th</sup> July 1993, stipulates that « each of the two spouses should deal kindly with his partner, live with him in good relations and avoid causing him harm. The married couple should fulfill their conjugal responsibilities in accordance with established habits and customs. They cooperate for the running of the affairs of the family, the good education of the children, as well as the management of the affairs of the latter including their schooling, travel and financial transactions. The husband, as head of the family, should provide for the needs of the spouse and of the children to the best of his ability and according to their situation in the context of the components of the support allowance. The woman should contribute to the costs of taking care of the family if she has the means ». This development of the relationships between men and women undoubtedly has consequences on the type of intra-family relations and on the male and female roles within the couple.

**438.** The suppression of the obligation « of submission » of the wife to her husband confirms the attachment of Tunisia to a better family equilibrium, to the elevation of the woman's status within the family, and to the suppression of all that which can injure her esteem or violate her dignity. The CSP made it possible to move beyond the relationship of dominating man/dominated woman and to establish the legislative and cultural basis of gender equality. The changes in the fields of behaviour and the law benefited the women and widened the horizon of gender equality so sought after by the women, but also by more and more men, as a liberating value of the two human conditions constrained to live together in interdependence and complementarity.

**439.** Within the framework of the reinforcement of the role and place of women in society and of the ethic and political concern to protect them from all forms of discrimination, the Tunisian legislator took it upon himself to enhance the promotion of gender equality legally and to remove from the legislation all the remnants of discrimination against women. Law n° 2000-17 of 7<sup>th</sup> February 2000, repealing certain provisions of the Obligations and Contracts Code (COC), eliminated Article 831 of this Code which enunciated that « the married woman can only offer her services as a childminder or other with the authorization of her

husband. The latter has the right to annul a contract which may have been concluded without his consent ».

**440.** The same law also repealed the second paragraph of Article 1481 which stipulated that « the surety of the married woman is only worth one third of his assets if the husband has authorized her to contract a longer contract. The husband's authorization does not carry any guarantee if the contrary is not expressed ». This law also repealed the second paragraph of Article 1524 which proclaimed that « the woman cannot stand as security for appearance without the agreement of her husband. In retrospect, the latter can no longer stand as security, except on contrary stipulation ».

This new legislation came to reinforce the principle of gender equality in rights and responsibilities, without order of precedence.

**441.** Law n° 2005-80 of 9<sup>th</sup> August 2005, amending some provisions of the Obligations and Contracts Code, amended Articles 1138 and 1158 of the COC which contained discriminatory provisions due to the fact that the only case of mandate provided for was that of the husband as representative of his wife, which implicitly denied the wife the right to represent her husband. In this context, Article 1158 (new) recognizes for the woman the status of representative of her husband by stipulating that « the divorce will put an end to the mandate given by one of the spouses to the other ».

**442.** In order to better strengthen gender equality, the amendment of the law n° 93-62 of 23<sup>rd</sup> June 1993, made to Article 12 of the Tunisian Nationality Code, granted the Tunisian woman the possibility of handing down her nationality to her children born outside of Tunisian territory of a foreign father and this, by virtue of a simple joint written declaration by the two parents and so long as the children have not reached the age of 19, at which age the legislator gives them the possibility of personally expressing their position with regard to the nationality they wish to adopt.

**443.** The Tunisian Nationality Code, amended by virtue of the law n° 2002-4 of 21<sup>st</sup> January 2002, amending Article 12 of the Code, specified that « in case of the death of the father, of his disappearance or his legal incapacity, the mother's unilateral declaration suffices ».

**444.** Reinforcing the principle of equality in this matter, the amendment of the Constitution, carried out under the terms of the Constitutional law n° 97-65 of the 27<sup>th</sup> October 1997, amending and completing certain Articles of the Constitution, places on the same equal footing the filiation by the father and by the mother in recognizing the right of candidature to the deputation to any Tunisian born of a Tunisian father or Tunisian mother without discrimination.

**445.** In the area of the law on succession, the Tunisian legislator has made some progress in sanctioning gender equality. There is need to point out that the Tunisian woman's right to succession has been significantly improved thanks to the putting in place of several legislative mechanisms such as the reversion mechanism which grants the girls the benefit of the entire estate if she is the sole heiress.

The second mechanism relates to the establishment of the system of the compulsory legacy which allows the children of a pre-deceased son or of a pre-deceased daughter the right to benefit from a claim on the inheritance.

The third mechanism relates to the system of the community of property between married couples put in place by virtue of the law n° 98-91 of 2<sup>nd</sup> November 1998, amending the law n° 60-30 of 14<sup>th</sup> December 1960 on the organization of the social security systems and this, in harmony with the new relations of co-responsibility and partnership governing the couple, as are stipulated in Article 23 (new) of the Personal Status Code.

**446.** Although Article 24 of the CSP sanctions the separation of assets between married couples considering that women dispose of their property acquired during marriage under the same conditions as their husbands, the law n° 98-91 of 2<sup>nd</sup> November 1998 gives the couple the possibility of opting for the system of community of property. This system has the objective of giving them joint ownership of one or several buildings destined for family use. The law specifies that only the property acquired after marriage falls within the scope of community of assets, with the exception of that which is acquired through inheritance, legacy or by donation.

**447.** Furthermore, Article 207 of the Penal Code had been repealed by virtue of the law n° 93-72 of 12<sup>th</sup> July 1993, amending and completing certain Articles of the Penal Code. This law thereby eliminated the mitigating circumstances enjoyed by the husband who murdered his or her accomplice at the moment when he catches them red-handed in the act of committing adultery. The maximum penalty was 5 years in jail whereas the simple case of grievous bodily harm leading to death could be punishable by 20 years in jail. By abolishing these mitigating circumstances enjoyed by the betrayed husband, the legislator institutes equality between the married couple in the matter of crimes of passion.

**448.** A new law n° 2004-73 of 2<sup>nd</sup> August 2004, amending and completing the Penal Code concerning the repression of offences against public decency and sexual harassment, had been promulgated to fill the legal gap represented by the absence of punishment against those committing harassment. This law completed the Penal Code in the area of offence to public decency and sexual harassment. It reflects, moreover, the concern to more firmly implant collective civic behaviour and to preserve the dignity of the individual in general, and that of the woman in particular.

**449.** The former over-simplistic image of the woman was based on a distribution of roles between the sexes which is presented as « natural » and therefore inconvertible: to the men, the salary and politics, to the women, the house and procreation. A real transformation of gender relationships towards greater equality and confidence assumes that the men question themselves radically about themselves and about this formerly dominant image. For this reason, the objective of the interest on the improvement of the woman's image in the media and other publications as well as on the revision of educational programmes is to inculcate the principle of gender equality in the minds of the children and of the youth and to present an objective and realistic image of the woman in the school books. This image, reflecting her status within the family, underlines the principles of harmony, of mutual respect and the sharing of responsibilities which should prevail in family relations and in society.

**450.** In the concern to eradicate illiteracy, notably among women and particularly among those in the rural areas, a « National Adult Education Programme » (PNEA) had been implemented in 2000. This Programme which targets, first and foremost, the youth and the women, notably the rural women, recorded the massive membership of women representing 87.6% of learners in 2006. Thanks to the national efforts, the rate of illiteracy among women had been reduced to 42.3% in 1994 and to 31% in 2004.

**451.** Furthermore, Tunisia made commitments at the international level for the promotion of gender equality in the field of work through the ratification of the « ILO Convention (n° 111) pertaining to discrimination in the area of employment and of profession » of 25<sup>th</sup> June 1958 and of the « ILO Convention (n° 100) relating to equal remuneration between male labour and female labour for work of equal value » of the 29 June 1951 as well as the « Convention on the Elimination of all forms of Discrimination Against Women » of the 18<sup>th</sup> December 1979.

**452.** Tunisia has made the stimulation of the role of women and her active participation in the development effort one of the essential components of its model of society. Towards this end, the increased presence of women in all the domains and in all the sectors of activity sanctions the principle of gender equality. According to the 2004 census, women represented 26.6% of the active population in Tunisia against 5.5% in 1966. Moreover, the number of women-promoters of projects has developed remarkably. Thus, the number of women heads of Companies in the structured sector rose from 1,000 in 1991 to 10,000 in 2003.

**453.** Tunisian legislation grants the working woman specific rights linked to delivery and to maternity. Besides, she enjoys breastfeeding hours. It is in this regard that the employers, having at least 50 women on their payroll, are compelled to prepare a special room for breastfeeding (Article 64 of the Labour Code and Article 19 of the Decree n° 68-328 of 22<sup>nd</sup> October 1968 establishing the general rules of hygiene applicable in the Businesses subjected to the Labour Code).

**454.** It is also necessary to point out that Tunisian legislation has made provision for other arrangements for the working woman such as early retirement, part time work (private sector), part time work (in the public service and the public enterprises) and extended leave.

**455.** The Labour Code, revised in 1994 and 1996, the « Collective Framework Convention » concluded in 1973, the « Sectoral Collective Conventions » (currently numbering 51) do not allow any form of discrimination.

**456.** Apart from this legal arsenal, a new Article (5 bis) had been added to the Labour Code under the terms of a law n° 93-66 of 5<sup>th</sup> July 1993, amending the Labour Code relating to gender non-discrimination. This Article explicitly establishes the principle of gender non-discrimination in the implementation of the provisions of the Labour Code.

The presence of women in decision making positions within the Public Service has also progressed reaching the rate of 22.7% in 2003 against 12% in 1994.

**457.** In order to involve women more in the process of sustainable development, the Ministry of Women's Affairs, of the Family, of Childhood and Elderly Persons, in the context of its strategy for the reinforcement of the empowerment of women, and this with the objective of attaining the « Millennium Development Goals » (MDGs). For this purpose, the following structures had been created:

- The National Observatory on Women's Affairs (within the Centre for Research, Studies, Documentation and Information on Women's Affairs);

- The National Council for Women's and Family Affairs, consolidated by the setting up of three technical committees responsible for the preparation of annual reports on the application of laws and equal opportunities, the image of women in the media, the national and international deadlines pertaining to Women and the Family;

- The Committee « Women and Development ».

## **B) Impetus given to women's participation**

**458.** The legal arsenal made it possible for the contents of the rights of women to be increased to a higher level. Starting from the minimal threshold of protection rights and enriched by need rights, the rights of women have attained a new meaning: that of the right to citizenship and that of the political responsibility of the civic woman.

Thus, the manner in which women figure individually and politically in public affairs denotes tangible progress. In effect, the participation of women in political affairs leads women to give rise to new rights, in the day to day realities, to a full and total citizenship and to assume responsibilities in this regard in conformity with the principles proclaimed in the international Conventions relative to the rights of women ratified by Tunisia.

### **a) In Public Affairs**

**459.** At the level of the executive powers, the women represent, since the Cabinet reshuffle of the 10<sup>th</sup> November 2004, a rate of 14.89% of the total number of the members of the Government against 13.6% previously. The Government currently has two women Ministers and five women Secretaries of State. The rate of representation of women in the National Assembly has doubled from 1999 to 2004, rising from 11.5% to 22.75%, against 7.4% in 1994. A woman occupies the post of Deputy Speaker of the National Assembly and another chairs one of the permanent Committees. Furthermore, the women represent 17% of the members of the Councillors' Chamber (Senate), elected in 2005, for the first mandate of this new body of whom one of the Vice-chairpersons is a woman. The level of women's representation in the Municipal Councils at the end of the 2005 municipal elections is 21.6% against 16% in 1995. Their participation in the Consultative Committees has developed significantly. It is currently 25% in the Constitutional Council, 20% in the Economic and Social Council (against 11% in 2002), 20% in the Supreme Communication Council and 13.3% in the Supreme Council of the Magistracy.

Moreover, the Tunisian woman had been appointed to positions of high responsibility as the Ombudsman, the First President of the General Accounting Office, Ambassador, Governor ...

Finally, close to 20 women hold the position of Permanent Secretary within Ministerial Cabinets.

**460.** In the judicial bodies, the women represent 27% of the corps of Magistrates, 31% of the Bar. A number of them hold the positions of President of the District Tribunal, of State Counsel to the Court of Appeal and the Cassation Court. Three women magistrates sit in the Supreme Council of the Magistracy.

**461.** The same is true at the level of the regional institutions where the women are represented with a rate of 32% within the regional Councils of the 24 Governorates, and this in conformity with the decision taken in 1999 aimed at consolidating the participation of women in public affairs.

### **b) In Civil Society**

**462.** Tunisian women participate actively in associative life which underwent a decisive stimulation in the consolidation of the democratic process and the strengthening of the foundation of civil society. They represent more than 1/3 of the members to the 8,913 Associations that exist in the country. They also occupy 21% of the senior positions in the Associations and in the national and professional organizations.

**463.** Reassured by the acquisitions from the legal arsenal, the women continue to make progress in the field of emancipation. Their perception of themselves changed, amending de facto other peoples' perception in their regard, but their requirements also changed. What is gained in the area of protection and promotion of the rights of women is not only the respect for a right: it is a symbolic revolution and a discovery of the new values which have consequences on the type of intra-family relationships (especially the education and future of the children), in the social field and in the field of civic rights. It is the path of new social links, of freedom and the responsibility of citizens. It is no longer the rights of women which are at the basis of social progress, but the rights of the civic woman whose right to participate in the management of the affairs of the City implies the enhancing of her faculties of appreciation through the full satisfaction of her right to instruction, to training, to culture, to health and to employment.

### **III- Protection of the Child**

**464.** In Tunisia, the children have a right to protection and to the care necessary for their well-being. In all activities relating to children, whether they are carried out by the public authorities or by private institutions, the child's supreme interest should be a priority consideration.

**465.** The protection of the child is guaranteed by the family, the society and the State. The Tunisian positive law has fine-tuned a legal arsenal allowing the optimal protection of the child without any discrimination based on race, sex, religion, or the social environment. Various measures had been taken in order to translate the commitments made in relation to the ratification by Tunisia of the international instruments on the rights of the child into action and to pursue its action in promoting the protection of the rights of the child.

**466.** Under the terms of the law n° 2002-42 of the 7<sup>th</sup> May 2002, Tunisia had acceded to the additional Protocol to the Convention on the rights of the child which pertains to the involvement of children in armed conflicts. It also approved, through the law n° 2003-5 of 21<sup>st</sup> January 2003 the additional Protocol to the

United Nations Convention against organized transnational crime, aimed at preventing, repressing and punishing slavery, in particular that of women and children.

**467.** Tunisia also participated in the World Summit on Children, held in September 1990, which adopted a universal Declaration on « the survival of the child, its protection and its development » as well as a strategy for the application of this Declaration.

Tunisia, moreover, participated in the 27<sup>th</sup> Special Session of the General Assembly on Children which held its meeting in New York from 8 to 10 May 2002. The final document which issued from the said Session, comprised a Declaration and an Action Plan which were testimony of the commitment of the international community to found a world which guarantees children the right to development.

**468.** Law n° 95-92 of 9<sup>th</sup> November 1995, relative to the publication of the Child Protection Code, springs from a new ethic according to which the child, because of its physical and moral fragility, has a claim on the entire society. According to its Article 1, this Code aims notably at « registering the rights of the child to safeguard and protection in the context of the major national options, which made human rights noble ideals orienting Tunisia's will and allowing it to develop its realities as well as accede to a better life in conformity with human values ».

**469.** Tunisian legislation regulated child labour in order to protect them from exploitation. Besides the provisions contained in the Labour Code governing child labour, law n° 2005-32 of 4<sup>th</sup> April 2005, amending law n° 65-25 of 1<sup>st</sup> July 1965, relative to the situation of domestic servants, was introduced to strengthen the rights of the child in this respect. In effect, Article 2 (new) of the said law proclaims that « the employing of children aged less than 16 years as domestic servants » is prohibited.

**470.** The access to free education is re-affirmed by Article 4 of the orientation law n° 2002-80 of 23<sup>rd</sup> July 2002 relative to education and schooling which stipulates that « the State guarantees the right to free education in the public schools » and this at all the levels of the school cycle. The compulsory nature of education is guaranteed by Article 20 of this law which proclaims that « no pupil aged less than 16 can be definitively barred from all the public schools except on the decision of the Minister responsible for Education and after his appearance before the Educational Council for serious misdemeanor ».

**471.** Concrete measures have been taken to guarantee the effective enjoyment of this right for all children, with respect for equity and equal opportunities. In this regard, the State gives assistance to pupils from low income families. This assistance covers several aspects such as the provision of boarding schools and school canteens for the pupils, the distribution of text books and school material on a free basis as well as the granting of study scholarships.

**472.** From another perspective and in relation to apprenticeship and professional training and in concretization of the appeal contained in Article 28 of the Convention relative to the rights of the Child and of Convention n° 143 of the International Labour Organization, Tunisia promulgated a series of laws under the numbers 93-10, 93-11 and 93-12 date 17 February 1993 which aim at strengthening the role of apprenticeship and professional training in the

valorization of human resources and increasing the orientation opportunities towards the channels of professional training for the benefit of children.

**473.** The attention given to children's health represents one of the permanent traits of the State's policy which continuously accords this matter vital importance not only at the therapeutic level, but also with respect to the prevention and promotion of health issues.

**474.** Article 46 (new) of the Personal Status Code, as amended by the law n° 93-74 of 12<sup>th</sup> July 1993, amending certain Articles of the Personal Status Code, extended the right of the child to be fed up to his coming of age and even beyond that up to the end of his studies, without however exceeding the age of 25 years. The girls, for their part, would continue to be taken care of so long as they do not have their own resources or a husband to take care of their needs.

**475.** In the concern to protect the unity of the family, Article 32 (new) of the CSP requires the holding of three reconciliation sessions if the couple have small children. In case of separation, it gives to the mother, if she has care of the children, the responsibility of supervision relating to the child's travel, his studies and the management of his financial affairs. This supervision can even relate to the child's other affairs if his guardian is unable to manage them, and this in the interest of the child in conformity with Article 67 of the CSP amended by the law n° 93-74 of 12<sup>th</sup> July 1993, amending certain Articles of the Personal Status Code.

**476.** Law n° 93-65 of 5<sup>th</sup> July 1993, establishing a Guarantee Fund for alimentary support and alimony also created a Guarantee Fund for alimentary support and alimony with the objective of providing solutions for the problem of the procrastination of debtors who do not fulfil their obligation towards the entitled parties. This measure aims at the same time to strengthen the rights of women and to protect the interest of the children. Towards this end, the law n° 93-74 of 12<sup>th</sup> July 1993, amending certain Articles of the Personal Status Code, substituted the national community to the debtors who show obstination with regard to the non-payment of support and alimony.

**477.** Pertaining to the administration of justice for delinquent children in order to guarantee their rights in consideration of their situation and depending on the importance of the offence committed, the law n° 93-73 of 12<sup>th</sup> July 1993, amending certain Articles of the Criminal Procedure Code, stipulates that children aged between 13 and 18 years against whom charges of criminal offenses are made cannot be brought before the common law courts but should be tried by the children's Judge or the children's Tribunal. The case is entrusted to an examining Magistrate for children.

In this context, a technical Committee had been created for the purpose of monitoring the children who had been freed, of guaranteeing their re-education and their reintegration. This Committee brings together ten Ministries and meets periodically every quarter to review the educational programmes, to contribute to the preparation of training programmes for the children, to evaluate the efforts deployed to facilitate the reintegration of children who had been released and to guarantee the future protection of minors leaving the re-education centres.

**478.** Besides, law n° 95-93 of 9<sup>th</sup> November 1995, amending and completing some Articles of the Penal Code, contributed to the strengthening of the Penal Code in terms of protecting the child against any form of sexual or economic exploitation to which it can be subjected by an individual or criminal organization. Likewise, law n° 95-94 of the 9<sup>th</sup> November 1995, amending and completing law n° 92-52 of the 18<sup>th</sup> May 1992 relative to drugs clearly favours the social and medical treatment of drug addicted minors relating to court proceedings in their regard.

**479.** In order to protect abandoned childhood, Tunisia commenced actions which consist in:

- The creation of eight regional life units responsible for the care of children born out of wedlock and the commencement of the construction of two other living units within the National Institute of Childhood Protection;
- The improvement of living conditions within the National Institute for Childhood Protection for the benefit of children deprived of a family environment;
- The increasing of the monthly allowance paid to families that have received children within the context of family placement, at one hundred Dinars per child, and which will be raised to one hundred and twenty Dinars in case of the placement of a disabled child (Decree of the Minister of Social Affairs and Solidarity of the 19<sup>th</sup> March 2003);
- The reinforcement of the supervision of the National Institute for Childhood Protection by psychologists.

#### **IV- The Protection of Elderly and Physically Disabled Persons**

Tunisia has taken numerous measures and made provisions aimed at the protection of elderly and physically disabled persons.

##### **A) The Protection of Elderly Persons**

**480.** Tunisia recognizes and respects the right of elderly persons to live a dignified and independent life and to participate in social and cultural life. In this regard, the law n° 94-114 of 31<sup>st</sup> October 1994, relative to the protection of elderly persons, created private institutions for the assistance and protection of elderly persons whose admission can only take place in case of need or in the absence of an alternative. Elderly persons cannot be admitted or kept in these institutions without their consent. They are admitted at their request or on that of their legal representative or that of the public authorities.

**481.** The underprivileged social categories also benefit from health cover. In the context of the rationalization of the health care system, a reform of the health care system for the benefit of the needy families and the low income families had been implemented in 1998. It aims notably at the control of health costs and the improvement of the quality of the care provided. This reform had instituted:

- The system of free health care for the beneficiary families and persons eligible for the permanent aid programmes and who live below the poverty threshold;

- The system of care at reduced rates which affect low income families and who do benefit from the social security cover.

## **B) The protection of the physically disabled**

**482.** Tunisia recognizes and respects the right of physically disabled persons to benefit from measures aimed at guaranteeing their autonomy, their social and professional integration and their participation in community life. In this regard, the orientation law n° 2005-83 of 15<sup>th</sup> August 2005, relative to the promotion and protection of physically disabled persons had been promulgated to guarantee the principles of equal opportunities and of non-discrimination. Article 24 of this law stipulates that « the State ascertains the guarantee of appropriate conditions to enable disabled children who are incapable of undergoing education and training within the ordinary system, to follow adequate teaching, specialized education and professional rehabilitation appropriate for their specific needs ».

**483.** The policy of promoting the categories of specific needs, notably the disabled, is reinforced. Thus, paragraph 2 of Article 1 of the Decree n° 2005-3087 of 29<sup>th</sup> November 2005, relative to the establishment of the conditions and modalities of application on the employment of disabled persons, defines the institutions subjected to the obligation of employment. This Decree also makes provision for cases of impediment and the alternatives to direct employment, the measures prompting employment as well as the procedures for checking the application of the provisions of orientation law n° 2005-83 of 15<sup>th</sup> August 2005, relative to the promotion and the protection of physically disabled persons. The needy disabled persons benefit from material assistance within the context of the National Programme of Assistance to needy disabled persons incapable of working.

**484.** Furthermore and in conformity with the provisions of Article 2 of Decree n° 2005-3087 of 29<sup>th</sup> November 2005, the needy disabled person in a state of apparent physical incapacity or without family support can be placed, if he so desires, in a host family.

In accordance with the provisions of the above-mentioned Decree, the host family undertakes to treat the disabled person well. On the other hand, the State grants financial aid to this family to take care of the basic needs of the disabled person.

**485.** In order to enhance the promotion of physically disabled persons, several measures had been taken during the period covered by this Report:

- Creation of the Institute for the Promotion of the Physically Disabled for the training and re-fresher training of specialised senior officers;
- Increase of the amount contributed by the Social Security Department to the charge allowance for physically disabled children within the professional training and specialized education centres. This amount had thus been raised from 600 D to 700 D per child per year. Similarly the participation of the Ministry of Social Affairs, of Solidarity and of Tunisians Abroad had been raised from 400 to 500 Dinars per child per year;
- The contributions from the Social Security Department and the Ministry of Social Affairs, of Solidarity and of Tunisians Abroad had been raised, in 2003, from 800 to 900 Dinars per year per child with multiple disabilities;
- Strengthening of the associative fabric and the stimulation of the Associations working for the promotion of the physically disabled. The

number of Associations rose from 14 in 1987 to 59 in 2005. These Associations guarantee the allowances for specialized education, for professional training and re-habilitation for the benefit of more than 12,656 disabled pupils distributed in the 235 specialized Centres. Besides, these Associations guarantee the provision of care at the home level for the benefit of 345 persons with a heavy handicap;

- Opening of a special account for the promotion of disabled persons sustained by the revenue from taxes on monopolistic products and on postal packages. The fund, financed through this account serves as an allocation for needy disabled persons incapable of working. It also contributes to the creation of revenue sources for physically disabled persons, to the distribution of equipment and finances the specialized education and training programmes;
- Exemption of the Associations in charge of the physically disabled persons from certain fiscal charges;
- Exemption of vehicles designed for the use of physically handicapped persons, from certain import taxes;
- Creation of a Supreme Council for the protection of physically disabled persons under the terms of the Decree n° 2004-114 of 14<sup>th</sup> January 2004;
- Preparation of a programme for the strengthening of the employability of disabled persons through training within the framework of the National Employment Fund (21-21). This fund has, since 2002, affected 3,719 beneficiaries with a budgetary amount of 3,856,710 D;
- Compulsion of the Companies employing more than 100 individuals to reserve 1% of the jobs for physically disabled persons;
- Preparation and launching of a programme for the integration of disabled persons in the ordinary educational institutions, known as « national educational integration strategy for physically disabled children ». Initiated in 2003-2004 in 126 schools, this programme has today been extended to more than double this figure of schools;
- Strengthening of the revenue generating programmes for the benefit of physically disabled persons. Thus, 13,066 projects had been realised during the period 1987-2005 for a global amount of 18,364 MD.

## **ARTICLE 19** **Equality of Peoples**

**486.** Article 19 of the Charter stipulates that « all peoples shall be equal », that «they shall enjoy the same respect and shall have the same rights » and that « nothing shall justify the domination of a people by another ».

**487.** Tunisia displays its African identity, reaffirmed in the historical Declaration of the 7<sup>th</sup> November 1987. Tunisia has, since its independence in 1956, developed relations of solidarity and programmes of cooperation with the African countries and has participated in the liberation of the countries which were still under colonial yoke and apartheid.

**488.** Tunisia has not ceased giving its active and multifaceted support to the activities of the Organization of African Unity (OAU) of which it is one of the founder members, which has constituted an ideal space for joint African action, consultation, dialogue and cooperation.

**489.** Tunisia's membership of the African Charter on Human and Peoples Rights proves the firm attachment of the Government to the rights of the peoples, to the equality of nations, great and small and to the recourse of negotiated solutions for disputes.

**490.** The 30<sup>th</sup> OAU Summit in Tunis had been one of the powerful moments filled with great symbolism reflecting the links of fraternity and solidarity existing between Tunisia and the African countries. This Summit registered a record participation of 42 African Heads of State including President Mandela, the admission of South Africa as the 53<sup>rd</sup> Member State of the Organization and the creation of the Mechanism for the prevention, management and settlement of conflicts of the pan-african organization.

**491.** In March 2001 Tunisia ratified the « Constitutive Act of the African Union » which, in its Article 3, makes provision for one of its objectives to be the promotion and the protection of Human and Peoples' Rights in accordance with the African Charter on Human and Peoples' Rights and other human rights instruments.

**492.** During the 16<sup>th</sup> Ordinary Session of the « Summit of the League of Arab States » it participated actively in the adoption of the Arab Charter on Human Rights, which in its preamble, insists on equality between peoples, it being recalled that almost half of the Member States of the League are African States.

**493.** Furthermore, Tunisia has established genuine intra-African cooperation at both bilateral and regional levels so as to attain a high rate of economic integration between the countries of the Continent and to guarantee better exploitation of their wealth, as defined in the various African strategies, including NEPAD in particular.

## **ARTICLE 20**

### **The Right of peoples to self-determination**

**494.** Article 20 of the Charter stipulates that « all peoples shall have the unquestionable and inalienable right to self-determination ». (paragraph 1), that the « colonized or oppressed peoples shall have the right to free themselves from the bonds of domination » (paragraph 2) and that they shall have the « right to the assistance of the States Parties to the present Charter in their liberation struggle against foreign domination » (paragraph 3).

**495.** At the beginning of this 21<sup>st</sup> century, humanity finds itself at a fork in the road: on one side the path of military, economic and technological predominance of certain countries over the multitude of poor countries with its string of wars, violence and injustices; and on the other, the path of solidarity and peace. It is in this context that Tunisian diplomacy is working indefatigably to promote peace, understanding and cooperation in its regional setting and in the world.

**496.** Tunisia has always been and will always be on the side of the oppressed peoples. It calls for the required measures to put an end to the dreadful injustices that they are suffering. It is working for a world where colonialism, neo-colonialism, racism, extremism, terrorism will all be cast out forever; for a world of equal human beings, whatever their colour, and of equal nations, whatever their

size. Towards this end, Tunisia has constantly given its material and moral support to the liberation movements on the African Continent (Algeria, Namibia, South Africa, and Eritrea) and in the Arab world (Palestine). It has also spoken for the putting into practice of the relationships based on independence, the strict equality in rights and non-interference, the recognition of the right to differences in opinion and, if need be, to divergence of views on such and such an issue.

497. By entering the great combat for a genuine new world order which is fairer and more stable, Tunisia contributes to the opening of new perspectives for peace and security. It contributes in an original and innovative manner to the solution of the vital problems of hunger, under-development, illiteracy. By acting in this manner, Tunisia acquires the means of a greater opening on the world, of the re-balancing of its external exchanges, of improved cooperation with the Third World, that is to say, the means of a more exhaustive integration in its international environment.

498. By establishing new types of links with the other nations, it contributes to the creation, around itself, of beneficial solidarity for its economic, political and social development. For by supporting other peoples' combat for peace, development, security and stability, for greater justice, freedom and independence, Tunisia can only find new means of guaranteeing its democratic development and its firm implantation in modernism, while participating in the advent of a new era in international relations.

499. According to Article 2 of the Tunisian Constitution, « the Tunisian Republic constitutes a part of the Great Arab Maghreb, the unity of which it works for in the context of the common interest ». It is for this reason that the diplomatic efforts in relation to the Maghrebi Union are being engaged with the hope that it will end by overcoming the economic difficulties which preclude the revival of its progress and the concretization of the aspirations of the Maghrebi peoples for complementarity and unity.

500. The interest of diplomacy also relates to « the Middle East zone » with the hope « that peace and security will finally be established there, so that the brotherly Palestinian people can recover their rights and create an independent State on its own soil, and so that the brotherly Iraqi people can enjoy security and stability, in a context of harmony and national unity ».

501. Moreover, during the Summit of the Organization of African Unity (OAU) of Algiers in 1999, Tunisia subscribed to the Algiers Declaration which proclaimed the right of peoples to self-determination and to democracy and which condemns anti-constitutional changes.

502. Tunisia, particularly during its chairmanship of the OAU in June 1994, also called for the firmer implantation of the notions of respect and sovereignty, of non-interference and the right to self-determination, in African relations and more generally in international relations. During the OAU Summit held in 1994 in Tunis, the adoption of a Code of Conduct had been proposed to govern interAfrican relations. Tunisia had advocated the establishment of this Code of Conduct in order to organize the relations between the countries of the Continent, on the basis of the attachment of all to the principles and objectives of

the « Organization of African Unity » and of the « Organization of the United Nations », and of the re-affirmation of the need for respect for the principles of good neighbourliness, of brotherhood, of solidarity, of non-interference in the internal affairs of States, of the settlement of conflict through peaceful means and of the rejection of all forms of violence and extremism.

## **ARTICLE 21**

### **The Right to the free disposal of natural wealth and to international cooperation**

**503.** Article 21 of the Charter recognizes the right of peoples to freely dispose of « their wealth and their natural resources » (paragraph 1) and the responsibility of States to combat « all forms of foreign economic exploitation, notably that which is practiced by international monopolies, so as to allow the population of each country to fully enjoy the benefits accruing from its natural resources » (paragraph 5).

**504.** From Tunisia's point of view, to help Africa implies that an end must inextricably be put to the persistent paternalist and neo-colonialist relationships.

**505.** The Human and Peoples' Rights, in movement, is based on the findings that new rights should be added to those which had been proclaimed, notably on the social and economic aspects, without forgetting those which influence all the others: the right to peace, the right to self-determination and the right to the free disposal of natural wealth which shows that democracy goes first and foremost through each people taking their destiny into their own hands and which implies that all development projects should, in order to succeed, be endogenous and not the product of a so-called model imposed by the foreign major powers.

**506.** In this regard, Tunisia has ceaselessly strived towards the recovery by the African Continent of its total independence, of its detachment from foreign dominance, to freely dispose of its natural wealth, that it contributes to the building of a world order, of cooperation on equal terms, of collective security and of disarmament, of listening to the African peoples and of contributing to their development, of the protection of the natural balances of the Continent, of the free choice by each people of their economic and social system, of the respect for sovereignty and the independence of each nation.

**507.** Besides its significant contribution to a self-centred development of the African countries, this form of action spreads the increasing awareness of the African public opinion to inter-african solidarity – which has become, in the minds of numerous citizens, a requirement for the reversal of the growing current of world social fracture.

**508.** Two principles govern this action: the re-affirmation of the first responsibility of a country with regard to its own development, which assumes that all development projects should first of all be based on local human and material resources. Thus, there is need for action towards a better integration of the developing countries in the inter-african decision making process. Furthermore, good cooperation cannot be achieved without the mobilization of all the actors of development, and democracy presumes the primacy of politics. This is why Tunisia has set itself objectives for the promotion of new relations of cooperation,

including the possibility of multilateral or bilateral agreements, regarding the development of each of the African countries.

### **I- At the multilateral level**

**509.** Mindful of the need to consolidate its links of cooperation and complementarity with the African countries and to actively contribute to the enhancement of African solidarity, Tunisia has always recommended, in the various institutions and international forums, on the one hand, the quest for appropriate solutions to the requirements of sustainable development in the African countries, and this in consideration of their political, economic and social specificities, and on the other, the judicious exploitation of the human potential and natural resources concealed by the African Continent.

**510.** Thus, Tunisia has advocated, through its initiative launched in 1999 for the creation of the World Solidarity Fund, the laying of the foundations of a more just, more stable and more interdependent world in which the international community would play an active role in the eradication of the plague of poverty and in the elimination of the phenomena of destitution and deprivation currently suffered by several African countries. The adoption by the United Nations General Assembly of this initiative on the 20<sup>th</sup> December 2002, reflects Tunisia's unshakeable attachment to the implanting of the principles of justice, solidarity and sustained development, strengthened by an experiment successfully carried out in this area at the national level.

**511.** Besides, Tunisia has actively supported the New Partnership for Africa's Development (NEPAD) as it constitutes a re-affirmation of the will of the Africans to take the destiny of their Continent into their own hands and it is a privileged framework for the stimulation of the relations of cooperation and partnership between the African countries. Towards this end, Tunisia participates regularly and actively in the different NEPAD structures and consistently calls for the concretization and the sanctioning of the principles of solidarity and cooperation between the African countries. It also insists on the need to perfect economic integration so as to benefit from the opportunities offered in the context of the triangular cooperation to achieve both the objectives of NEPAD and those of the Millennium Development Goals (MDGs).

**512.** Tunisia has steadfastly undertaken to achieve, increased cooperation, complementarity and integration within the framework of the spaces of direct membership, in its Maghrebi, Arab, Islamic, Mediterranean and African environment. It has continued to have a special interest in African affairs to which it bestows a place of privilege in its foreign relations. Thus, the need has several times been re-affirmed to intensify the relations of cooperation between the different African countries, in particular vis-à-vis the Continent's major causes, with development, the settlement of conflicts, the strengthening of a climate of peace and stability, the control of epidemics and the promotion of relations of cooperation between the States of the Continent figuring on the forefront.

**513.** In concretization of this tendency, Tunisia contributed positively during the Lusaka Summit (July 2000) to the gathering of conditions favourable for the advent of the African Union. It played an important role in the founding of this organization, in the identification of consensual solutions and the rapprochement of views relating to numerous structural issues with regard to the functioning of the Union.

**514.** It is in this context that Tunisia actively participated in the various summits, meetings and conferences held within the framework of the forums of dialogue and cooperation with the African Continent, including notably the « Africa-Europe Summit », the « Africa-France Summits », the « International Tokyo Conference on Africa's Development », the « Africa-Asia Summit », the « Sino-Africa Forum » as well as « Arabo-African Cooperation Initiative ».

**515.** Tunisia also calls for the pursuit of the path of triangular cooperation in order to achieve lasting development in Africa and the development of the African peoples, and this through its commitment to the « Programme of Triangular Cooperation » established with the various international partners.

**516.** It is also committed to placing its experience in development matters at the disposal of the African countries, both within the frame work of the African Union, of the Economic Commission for Africa, of the International Francophony Organization, the NEPAD programmes, and in the context of South-South cooperation.

**517.** Ever faithful to its tradition of land of hospitality and of solidarity with Africa, Tunisia received the temporary headquarters of one of the principal African development institutions, the « African Development Bank » to which it offered all the necessary facilities for the smooth running of its activities.

## **II- At the Bilateral Level**

**518.** In parallel to its contribution to the level of joint African action, and despite an unfavourable international climate, Tunisia has been determined to develop its bilateral relations with the African countries through joint commission meetings, exchange visits and an increase in roving diplomatic and economic missions responsible for exploring the possibilities of cooperation, the opening of new markets and the diversification of partners. In this regard, it put in place a suitable legal framework to encourage Tunisian businessmen to invest in Africa through the conclusion of bilateral agreements on investment promotion, agreements on no double taxation, incentive provoking and encouraging commercial agreements.

**519.** Tunisia also attaches great importance to the development of technical cooperation with the African countries by putting its experience in this area at the disposal of the African countries which may wish to take inspiration from it at the bilateral and multilateral levels. The appropriate framework for the provision of this experience is the Tunisian Technical Cooperation Agency (ATCT), a public institution created for the implementation and the promotion of technical cooperation policy.

**520.** Confronted by the obsessive promotion of the private sector by the international institutions, the need was felt to accept a regulation which protects work and employment, to define a significant role for the modernized public systems, to take charge of the major functions of general interest, and to assign a genuine economic role, in particular in the agriculture and local production sectors, financing, local services, economic structures of associative, cooperative or mutualist type, close to the populations and facilitating local and regional exchanges, favouring the promotion of women's affairs, guaranteeing food security and reducing the debt burden.

**521.** To compensate for the devastation of the past years, to cancel the debts, to assist without interference and without invasion on the part of the multinational companies in Africa's effort to stand up on its own, to provide support in the fields of the illiteracy eradication, of training, education, health, infrastructure, of agri-food balance which respects the rural populations and the environment, more generally to cooperate in the equality of rights with the African partners, to restabilize the international institutions in their favour and support the establishment, for development purposes, of an international tax on the movement of capital, these are the objectives which constitute the constants of Tunisian diplomacy.

## **ARTICLE 22** **The Right to Development**

**522.** Article 22 of the Charter expresses that « all peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind » (paragraph 1) and that « the States shall have the duty, individually or collectively, to ensure the exercise of the right to development » (paragraph 2).

**523.** Tunisia has ratified several legal instruments related to human rights in development including in particular the International Convention on Economic, Social and Cultural Rights. It has also been one of the authors of the African Charter on Human and Peoples' Rights which recognizes the right of Man to development.

### **I- The Right to Development and Solidarity**

**524.** Tunisia has cleared a path for itself, opting for a global human development strategy based on the quest for a balance between the economic, social and political dimensions. Numerous measures for the restructuring and the liberalisation of the economy had thus been undertaken during the period covered by this Report to promote a wealth generating economic growth and daring and fair social policies, implemented to ensure the equitable redistribution of the dividends of growth at the national level.

**525.** Close to 80% of the State budget is allocated to socio-economic and cultural rights, namely, education, health, food, social security, professional training, employment and cultural activities. Tunisia is, in effect, a country where 80% of the population is part of the middle class, 80% of Tunisian families own their houses, more than 99% of the children are educated, where the rate of poverty has been reduced to at least 4%, where salary increases had been effected throughout the past 15 years, where economic growth surpasses 5% and where the per capita income has increased: it rose to 952 Dinars in 1986, to 2,444 Dinars in 1998, and to 3,555 Dinars in 2004.

**526.** The successful experiment of stable development and of the combat against disparities and injustices, diverse sources of tension, the Tunisian approach had been constantly quoted as example by the international development institutions. In this connection, Tunisia had been placed in ***the United Nations Development Programme*** (UNDP) Human Development Reports, among the group of countries which guarantee a harmonious human development for their citizens,

taking into account both quantitative and qualitative criteria, namely, education, labour, social security, health, housing and food on the one part, freedom and democracy in all its forms, on the other. And it is through social democracy, through the conquest of new rights, through the promotion of solidarity that Tunisia is laying the foundations for a world of human development, a world of justice, of respect for the environment, of combat against imbalance, of job creation and of training.

**527.** Between the « too much State » (Providence State) and the « too little State » (ultraliberal theories) whose effects at the socio-economic level are also disastrous, Tunisia opted for the « better State », dedicating itself to directing the activities of the public authorities not towards production and social aid, but towards the integration of the greatest possible number of citizens in the economic network. It is no longer a matter of granting financial assistance to citizens to help them take care of their needs, but of providing them with the requisite technical resources and financial support, notably through the provision of micro-loans at low level interest, to create their own activities and to take care of themselves.

**528.** The Investment Incentives Code, promulgated by virtue of the law n°93-120 of 27<sup>th</sup> December 1993, particularly attractive for the private sector promoters, sanctions equal opportunities relating to the right to launch a business by providing and granting specific benefits to new promoters, to small scale enterprises and to petty traders.

**529.** The disparities and the injustice which an uncontrolled economic globalization can generate call necessarily for imperative responses. Beyond the principles and the sentiments, the glaring disparities are economically detrimental and socially destabilizing and constitute a threat to peaceful co-existence and national unity. They hinder the survivability of economic growth. Thus, various mechanisms have been put in place to contain the negative effects of liberalism and to extend to all the regions and all the citizens, the benefits of the opportunities created by the national economic growth and the well considered integration in the global economy. To better mark the irreversible character of solidarity as a strategic option in Tunisia, the concept had been sanctioned by the constitutional law n° 2002-51 of the 1st June 2002 amending certain provisions of the Constitution. Solidarity from henceforth became a constitutional value. Article 5 (paragraph 3) of the fundamental Tunisian law stipulates that « the State and society work for the firm implantation of the values of solidarity, mutual assistance and tolerance between individuals, groups and generations ».

**530.** Economic liberalism creates wealth. But it can be a factor of aggravation or of the creation of new disparities. To avoid this fault which, if it is not corrected, tends to create a two tier society detrimental to social peace and to the right to development, Tunisia developed integration vectors directed towards the most vulnerable categories of the society. It is the case notably of the National Solidarity Fund (FSN), of the Tunisian Solidarity Bank (BTS) and the National Employment Fund (FNE).

#### **A) The National Solidarity Fund (FSN)**

**531.** The National Solidarity Fund (NSF), established since 1993, enabled more than 240,000 families (namely more than 1,200,000 inhabitants) to get out of isolation and poverty, by contributing to the improvement of their living conditions and this by transforming the crude houses of 56,335 families into healthy and decent housing as well as guaranteeing electricity supplies for 71,733 families and clean drinking water supplies to 81,221 families.

**532.** The NSF inspires numerous African countries. Mali and Senegal have obtained technical assistance from the NSF to create national mechanisms similar to the NSF and the Tunisian Solidarity Bank. Others, like Cameroon, Cote d'Ivoire and Burkina Faso have embarked on studies to take inspiration from Tunisia's NSF in their human development and poverty eradication strategies.

## **B) The Tunisian Solidarity Bank**

**533.** The political will which promotes the access by the vulnerable populations to loans, which they would never have dreamed of obtaining from the traditional banks due to lack of sufficient resources and guarantees, was significantly manifested through the creation in 1997 of the Tunisian Solidarity Bank (TSB) specialized in the granting of micro-loans at very low interest rates, not exceeding 5%.

## **C) The National Employment Fund**

**534.** In Tunisia's supportive development strategy, employment occupies a prominent position as a basic human right and as a factor of economic and social integration par excellence. The National Employment Fund was created in December 1999 through the will of the public Authorities to make employment a privileged instrument of individual and social promotion and part of an approach aimed at removing the vulnerable populations from situations of dependence which paralyse all efforts at achievement and underscore social exclusion.

**535.** All these programmes enabled a large number of destitute Tunisian families and citizens, excluded from social interaction, to regain their dignity and to become subjects of history. It is for this reason that the responsibility of all those men and women who refuse to give up is directly committed by the noble ambition of human development promotion in our society. It is the sole means of preventing all forms of marginalization and all the expressions of extremism. The partnership with civil society, notably the economic and social development NGOs, opens necessarily on a virtuous dynamism of participative development. Agreements had been signed with NGOs like the Tunisian Union of Social Solidarity specialized in the provision of support to vulnerable populations, the National Union of Tunisian Women (UNFT) whose activities are directed towards the provision of professional training for young girls originating from the shadow zones, with the objective of helping them draw up viable projects, the National Family and Population Office (ONFP) which put a family planning and reproductive health pilot programme in place since 1994 in the rural areas.

**536.** The promotion of human development gives a broad and practical meaning to the integration paradigm: civic integration making possible the participation in the management of one's life and work, economic integration

through which one becomes a stakeholder of all exchanges, social and cultural integration which means that one can maintain relational links and that one has access to a common symbolic heritage.

**537.** In a world threatened by fundamentalism and terrorism, the World Solidarity Fund appears like an antidote for the dehumanization of the world and the shock of civilizations. The **World Solidarity Fund** proposed by Tunisia in 1999 and adopted by the **UN** in December 2000 is a powerful vector of partnership and rapprochement between peoples, in the service of peace, social progress, shared well-being and security in the world.

**538.** It is in recognition of Tunisia's efforts and its commitment in the field of information and communication technology that it had been chosen by the United Nations General Assembly to host the second phase of the World Summit on Information Society from 16 to 18 November 2005 whose deliberations had resulted in two important documents titled: « Tunis Commitment » and « Tunis Diary ».

The challenges posed by these two international documents are that much more vital as the mastery of the information highways touches the very heart of civil and political rights: public information, freedom of expression, secret of private life and the protection of personal information, individual freedom. They can be a powerful vector of the right to human development just as they can be tools for segregation, dominance, hegemony and a hindrance to the sovereignty of less well-equipped States and of transnational organized crime.

## **II- The Right of the Regions to Development**

**539.** Springing from the firm conviction that national development can only be equitable and efficient where it covers all the regions, Tunisia has elevated regional development to the position of absolute priority considering that it represents a powerful lever for the concretization of the principle of equal opportunities and of opportunities for all Tunisians no matter what their geographical location.

**540.** The constantly renewed interest in the development of the region, of all the regions, also indicates the conviction that the attainment of the objectives fixed by the international community and the confronting of the challenges arising from the new context require the mobilization of all energies and all the living forces of the Nation.

**541.** A global and coherent strategy based on the continuous consolidation of achievements, of a strengthening of the means deployed for the benefit of each region and of the elimination of all obstacles to development, had been implemented and is fundamentally based on two main lines:

- The first aims at establishing the region as a full actor in the development process and enabling it to fully valorize and exploit its existing and potential resources;
- The second consists in promoting a greater complementarity between the regions for the purpose of creating synergies capable of accelerating their development and of strengthening national cohesion.

**542.** In order to give the region an institutional capacity enabling it to engage in self-government and self-managed development, a decentralization and devolution process had been engaged and pursued through the creation of regional councils (chaired by the Governors and made up of Deputies, local council chairmen and regional and local leaders), the consolidation and expansion of their roles, the creation of local councils, the restructuring of the promotional institutions of regional development and the strengthening of the regional authorities' and municipal councils' prerogatives.

**543.** Beyond the institutional aspect, the regional development strategy got down to meeting all the conditions favourable to a self-managed development and to the diversification of its productive base and its economic fabric by taking into consideration the peculiarities specific to each region such as its demographic characteristics and natural endowments.

**544.** The strategy was devoted to improving the attraction of each region by setting up a series of activities capable of provoking the required reactivity from the private operators and to promote their initiatives. These activities, seen as so many incentives, and relating to fields as varied as:

- The coordination between the multiple actors, notably those under the public service, to guarantee the necessary coherence and efficiency for their interventions;
- The regulation of the markets and the dissemination of economic information to help the economic agents enhance the rationalization of their decisions and improve their expectations;
- The development of the appropriate infrastructure to open up the landlocked regions and facilitate their integration in the marketing field and in their environment;
- The valorization of the human resources of the region by adapting the training mechanism in relation to its needs and those of the enterprises operating therein;
- The granting of fiscal and financial benefits to encourage private investment and enterprises to set up business in the regions.

**545.** Furthermore, and to take into account the differences in terms of initial allocations as well as to guarantee to each region the right to development, the public authorities have ensured that:

- On the one hand, while benefiting all the regions, these incentives be modulated according to the principle of positive discrimination for the regions which are inadequately endowed to enable them integrate more in the dynamics of economic growth and expansion;
- On the other hand, this system of incentives is completed for these regions by means of specific programmes whose content is commensurate with the zone of intervention and with the category of the targetted population.

**546.** To allow all the regions of the country to enjoy the right to development, various programmes had been implemented. This is the case for the integrated rural development programmes in particular (PDRI), the integrated urban development programmes (PDUI) and the activities of the National Solidarity

Fund (FSN) which allowed the introduction of dynamic solutions to the problems linked to the lack of collective infrastructure in some areas.

**547.** These programmes have, besides, contributed effectively to the diversification of the regional economy, particularly through the development of new more modern cultural practices (irrigated and mechanized agriculture), the stimulation of private investment, the development of independent labour, the realization of collective equipment, etc.

### **III- Protection of the Identity and Openness to the Universal**

**548.** In the context of globalization, the distinctions between the national and international, the local and the global have become blurred. The explosion of the means of communication and information has deeply stirred national identities. For this reason, the culture that Tunisia covets to promote, the renewed construction of modernism is a culture which has its roots in its authentic civilizational heritage and particularly in the legacy of the enlightened *Ijtihad* and of the arabo-islamic rationalism, while being open on mankind in general and on the same level in the current world in order to fructify the recent scientific discoveries and the great potential of technology.

**549.** The culture of difference is unquestionably one of the principal purposes of the Tunisian educational system. According to Article 3 of the law n° 2002-80 of 23<sup>rd</sup> July 2002 relative to education and schooling « education has the aim of raising the pupils to be loyal to Tunisia and honest towards it, as well as to love the fatherland and be proud to belong to it. It re-affirms in them the consciousness of national identity and the feeling of belonging to a civilization at the national, Maghrebi, Arabic, Islamic, African and Mediterranean dimensions, whilst strengthening the openness to universal civilization ».

**550.** The orientation of the culture of difference is to develop a humanism based on critical and tolerant rationality. It has the objective of training the citizens who are proud of their citizenship and of developing in them capacities for analysis and judgement. It also aims at the openness toward the universal and at the same time toward the achievements of universal awareness. As humanity is one, and its fundamental values converge, any right to difference can only acquire authenticity through the aspiration to universality. It is for this reason that the diversity of cultures and the multiplicity of human expressions which are factors of mutual emulation and enrichment should not be transformed into obstacles which would preclude the development of a culture of values for progress, peace and human solidarity. The peculiarities should always be at the service of the concretization of universal human values.

### **ARTICLE 23**

#### **The Right to Peace, Security and Solidarity**

**551.** Article 23 of the Charter stipulates that « all peoples shall have the right to national and international peace and security » and that « the principles of solidarity and friendly relations.....shall govern relations between States ».

**552.** Member of the United Nations, of the League of Arab States, of the African Union, of the Maghrebi Union, of the Organization of the Islamic Conference, of

the Non-Aligned Movement, and partner of the European Union, Tunisia, in preserving its freedom of action and its legitimate national interests under all circumstances, plays a role promoting international relations worthy of all that which makes progress in the world.

**553.** By entering the major combat for a fairer and more stable new world order, Tunisia contributes to the opening of new perspectives of peace, security and solidarity. It contributes in an innovative and original manner to the solution of the plagues of hunger, under-development, illiteracy, diseases and poverty.

**554.** As a matter of fact, this policy underscores the imperative strategy imposed by the data of History and Geography which unite the African countries in terms of the construction of an Africa without borders. This is why the Tunisian diplomatic effort is focused, for the most part, on the African Union with the hope that it will one day overcome the economic difficulties which hinder Africa's progress in terms of development, prosperity and solidarity and the concretization of the aspirations of its peoples to complementarity and unity.

**555.** Tunisia has urged the international community, at various levels, to work towards the increased sanctioning of the values of harmony, mutual assistance, tolerance, solidarity and cooperation, and to make them one of the foundations of international relations. It has also endeavoured to support the efforts of the United Nations in the combat against the phenomena of extremism, hatred, violence and fanaticism, in all forms.

**556.** It is indisputable that the initiatives taken by the President Ben Ali at the level of the regional and international organizations explicitly confirm this position which is consubstantial to the past, to the present and to the future of Tunisian diplomacy: to construct bilateral or multilateral relations in order to « serve the causes of peace, justice and freedom » and to « defend the spirit of tolerance and of dialogue ».

**557.** Tunisia has also supported the request formulated by the African Group aspiring for two permanent seats in the Security Council which are to devolve, as of right, on the Africa region. These two seats would be occupied by the countries of the Continent on a rotational basis while ensuring that the same privileges inherent in the current permanent seats are retained.

**558.** During its mandate as member of the Security Council (2000-2001), Tunisia participated actively in the consultations between the Member States of the Council and other countries on the subject of the strengthening of international community's means of action, so as to guarantee their efficiency. These consultations revealed the need for the Council to fully assume its responsibility in the settlement of international problems and underscored the need to reinforce its capacities in peace keeping operations so as to promote conditions favourable for the success of UN missions.

**559.** Sitting within the Security Council and having had the privilege of chairing this Body, Tunisia endeavoured to have this Council pay greater attention to the problems of the African Continent. It also redoubled efforts in the quest for solutions to just causes first among which is the Palestinian cause.

**560.** For Tunisia, economic globalization should, moreover, be accompanied by a globalization of solidarity, in order to create a dynamism of partnership and co-development capable of filling the unfair gap which separates the rich countries from the poor ones, instead and in place of the traditional aid which has reached its limits, by integrating the citizens of all the regions of the world in a vast project of shared progress.

**561.** The economic and social disparities which separate the peoples of the North from those of the South generate a multifaceted malexistence which is liable to become the ideal breeding ground for terrorist acts and fear which is used by the preachers of hatred of the various fundamentalisms. It is for this reason that globalization with a human face calls for measures stamped with justice and a fine tuning of the appropriate development strategies to promote a climate in which it would be possible to build stable relationships between nations, to establish a constructive dialogue and to conceive viable globalization.

**562.** Tunisia did not wait for the events of the 11<sup>th</sup> September 2001 to adopt an appropriate legal framework for the combat against terrorism and to support the international efforts aimed at eradicating this plague. It considers that the combat against terrorism needs to be engaged through the intensification of efforts at international cooperation, by means of a complete and universal legal mechanism which would allow the plugging of the sources of funding for terrorism, to punish the perpetrators and to refuse them any sanctuary which would serve them as a rear base for the preparation and execution of terrorist acts or for escaping legal action.

**563.** Deeply convinced of the need to respect the rules of international law, the principles enunciated in the United Nations Charter and the provisions of the International Conventions on the combat against terrorism, Tunisia has ratified the relevant Conventions in this field.

In short, Tunisia has acceded to the following International Conventions and Protocols:

- The International Convention against hostage taking, adopted in New York on the 17th December 1979 (Accession by Tunisia on the 3rd March 1997);
  - International Convention for the repression of terrorist attacks with explosives, adopted in New York on the 15th December 1997 (Accession by Tunisia on the 14/02/2004);
  - International Convention for the suppression of the financing of terrorism, adopted in New York on the 9th December 1999 (Signed by Tunisia on the 2<sup>nd</sup> November 2001 and ratified on the 24th February 2003);
  - International Convention for the suppression of the financing of terrorism (signed by Tunisia on the 2<sup>nd</sup> November 2001). The National Assembly had approved this initiative by adopting the law n° 2002-99 of 25th November 2002, and the President of the Republic had ratified the Convention under the terms of the Decree n° 441 of 24<sup>th</sup> February 2003, thereby representing the entry into force of the Convention on Tunisian territory.

Furthermore, Tunisia has acceded to other international conventions related to the combat against terrorism. They are the United Nations Convention against transnational organized crime. Signed by Tunisia on the 14th December 2000 and ratified on the 23<sup>rd</sup> September 2000 and the Additional Protocol to the United Nations Convention against transnational organized crime aimed at preventing,

repressing and punishing human trafficking, in particular that of women and children (ratified by Tunisia on the 25th March 2003).

**564.** Within the context of regional organizations, Tunisia acceded to the following Conventions:

- The Arab Convention on the repression of terrorism, signed in Cairo on the 22nd April 1998 (ratified by Tunisia on the 15th February 1999);
- The OAU Convention for the prevention and the combat against terrorism, adopted in Algiers on the 14th July 1999 (ratified by Tunisia on the 1st August 2001);
- The Convention of the Organization of the Islamic Conference on the combat against international terrorism (signed by Tunisia on the 6th November 2000).

**565.** Tunisian Penal Law has established the terrorist acts violating the security of individuals, groups or property, as serious offences punishable by serious penalties. Since the United Nations adopted, in 2001, the Resolution n° 1373 on the combat against terrorism the Tunisian Republic has associated itself with the combat against this phenomenon by supporting the efforts of the international community in this combat. In this context, Tunisia promulgated, on the 10<sup>th</sup> December 2003, the law n° 2003-75 on the support of the international efforts on the combat against terrorism and money laundering. In effect, Tunisia had, by virtue of this law, transposed into domestic law the provisions of the relevant international conventions in the combat against terrorism as well as the Resolutions of the United Nations Security Council and those of the General Assembly in this regard.

The objective of the law n° 2003-75 of the 10th December 2003 consists, according to its Article 1, in contributing « to the support for the international effort in the combat against all forms of terrorism, to deal with the related sources of funding ».

#### **ARTICLE 24** **The Right to a satisfactory environment favourable to development**

**566.** Article 24 of the Charter stipulates that « all peoples shall have the right to a general satisfactory environment favourable to their development ».

**567.** The right to a healthy environment is one of the fundamental rights that Tunisia guarantees its citizens. In effect, the Tunisian State pays special attention to the improvement of the living environment of the citizen and to the protection of the environment, in order to guarantee the well-being of current and future generations.

**568.** The guarantee of the fundamental rights of the Human Being through the gradual integration of environmental concerns and actions within the development activities both at the sectoral and territorial levels on the one hand, and the achievement, through adequate means, of a more equitable distribution of the fruits of economic growth on the other, constitute a constant objective of all the sectoral and regional strategies of economic and social development.

**569.** The objectives outlined in the policy of the Ministry of the Environment and Sustained Development do not lack legitimate ambition: well-balanced development over the entire territory linking social progress, economic efficiency and protection of the environment, development of employment and growth of the national heritage.

**570.** On this basis, certain principles of action aimed at sustained development through the promotion of sectoral approaches for the integration of the environment in the development process had been introduced in the context of the « National Action Programme on the Environment and Development » (National 21 Agenda) drawn up in 1996.

**571.** The great importance that Tunisia attaches to the environment is evident from the international conventions that it has ratified, the legislation that it has implemented, the technical structures and bodies that it has created and the various programmes which it has implemented for the purpose of preventing environmental degradation and to ensure the rational and stable exploitation of the natural resources of the country.

### **I- The International Conventions ratified**

**572.** Tunisia is a member of the international system for the protection of the environment and the preservation of natural resources through its ratification of the related international conventions and by ensuring their application, including notably:

- The Montreal Protocol on substances harmful to the ozone layer, adopted at the 9th meeting of the Parties, under the terms of the law n° 99-77 of 2<sup>nd</sup> August 1999;

- The United Nations Convention on bio-diversity, under the terms of the law n° 93-45 of 3rd May 1993;

- The United Nations Convention on the control of desertification, under the terms of the law n° 95-52 of 19<sup>th</sup> June 1995;

- The Basle Convention on the control of the transborder movements of hazardous wastes and their elimination, under the terms of the law n° 95-63 of 10<sup>th</sup> July 1995;

- The Convention on the protection of the aquatic environment of the Black Sea, of the Mediterranean and of the neighbouring Atlantic zone aimed at the preservation of water species, under the terms of the law n° 2001-68 of 11<sup>th</sup> July 2001;

- The Stockholm Convention on persistent organic pollutants, under the terms of the law n° 2004-18 of 15th March 2004.

**573.** Tunisia's attachment to the application of the International Charters and Conventions relating to the environment was confirmed during its participation at the Second Earth Summit as well as at the 19<sup>th</sup> Extraordinary Session of the United Nations General Assembly, held in June 1997 in New York to evaluate the application, at the national level, of the recommendations of the first Earth Summit held in Rio de Janeiro in 1992.

## II- Specific Legislations

**574.** This international normative framework had been strengthened by the promulgation of new laws relative to the development of the industrial zones, to the protection of the waters and of the earth, to waste management and its elimination, including notably:

- The promulgation of Decree n° 2001-1534 of 25<sup>th</sup> June 2001 amending the Decree n° 94-2050 of 3<sup>rd</sup> October 1994, in order to establish the conditions for the connection to the public drainage network in the intervention zones of the National Cleansing Service (ONAS);
- The promulgation of the Decree n° 2001-329 of 23<sup>rd</sup> January 2001 amending the Decree n° 87-50 of 13<sup>th</sup> January 1987, by instituting compulsory and periodic controls on the use of the energy;
- The promulgation of the Decree n° 2001-843 of 10<sup>th</sup> April amending the Decree n° 97-1102 of 2<sup>nd</sup> June 1997, establishing the conditions and modalities for the recovery, recycling and management of used wrapping bags and boxes;
- Law n° 95-72 of 24<sup>th</sup> July 1995 creating the Agency for the Protection and Development of the Coastline;
- The promulgation of the Decree n° 2001-2419 of 8<sup>th</sup> October 2001 instituted the fiscal incentives aimed at encouraging the use of equipment promoting energy conservation or the development of alternative sources of renewable energy.

## III- Appropriate Programmes and Structures

**575.** The attention given to the protection of the environment is manifested notably through the creation of several Agencies with mutually completing missions such as « the National Environment Protection Agency » (ANPE), « the Coastline Protection and Development Agency » (APAL), « the National Agency for Renewable Energy » (ANER) and the « International Environment Technology Centre of Tunis » (CITET).

This attention is also reflected in the control of pollution, the management and treatment of waste, the draining of the cities and the protection of the urban aesthetics, the control of energy consumption, the development of ecological and pleasure parks, the preservation of bio-diversity and the sensitization of the citizens with regard to the need to protect the environment, besides the control of the sources of pollution.

**576.** In this connection, Tunisia had drawn up a national strategy which takes into account current and future constraints. This strategy is based principally on the following aspects:

- Drainage;
- The recycling and protection of the environment against contamination and pollution;
- The control of industrial pollution and the management of special wastes;
- The treatment of solid and household waste;
- The control of desertification and the protection of the waters and the earth;
- The protection of nature and bio-diversity.

## **A) The Drainage System**

**577.** The substantial efforts undertaken in this domain have consisted notably in developing extensive infrastructure which required thousands of millions of Dinars in terms of investment. These efforts made possible an increase in the number of connections made for the inhabitants to the « National Cleansing Service » (ONAS) network from 1.9 million in 1987 to 4.7 million in 2004.

This investment also benefited 600 working class areas with about one million inhabitants. It allowed the realization of rural drainage programmes and also contributed to the consolidation of the country's capacity to recycle collected waste water, thereby making possible considerable break throughs in the protection of water and underground sources against pollution and contamination.

## **B) The control of industrial pollution**

**578.** The State policy in the area of control of industrial pollution had been considerably consolidated in the past years. In this context, several measures had been taken and major projects had been programmed including notably the realization of a phosphogypsum dump site in Gabès, at a total cost of 150 million Dinars, the development of the zone at a cost of 90 million Dinars, the development of the shores of the lakes North and South of the Capital, the adoption of clean production in the national cellulose and halfa paper factory, the programming of numerous anti-pollutant pilot projects in the phosphate washing centres of the mining basin.

Subventions totalling 15 million Dinars had also been allocated to the small industrial enterprises for the realization of pollution control projects, allowing the reduction of the pollution caused by 340 industrial units.

## **C) The treatment of solid and household waste**

**579.** The policy engaged in this domain is based on a full array of instruments aimed at reinforcing the means and equipment for the collection of household waste, both at the level of the cities and the municipalities, the generalization of the controlled public dump sites, the installation of screening centres and the improvement of hospital waste management through incineration.

**580.** Pertaining to household waste and its management, the national effort provided during the past decade has allowed the completion of 5 controlled dump sites and the commencement of the development of 9 others in different regions of the country. Investments estimated at 75 million Dinars are programmed for the collection of about 85% of household waste in the controlled dump sites. For the purpose of consolidating the control of solid waste, specific programmes had been designed such as the Eco-Lef programme which has, since its creation in 1998, set up 120 remunerated collection centres of plastic waste, allowing the collection of almost 16,000 tons of this waste of which 90% had been recycled. Currently the project works for the development of a treatment unit of industrial waste have commenced. The cost of this project totals 32 million Dinars.

## **D) The control of desertification and the preservation of waters and soils**

**581.** Several activities had been engaged for the protection of the factors of production in a domain considered vital for guaranteeing sustained food security

for the country. These activities, which related to the development of forests and natural parks, the re-afforestation of bare areas, the stabilizing of dunes and the recourse to a set of techniques of preservation of waters and soils resulted in:

- An increase in the rate of vegetation cover from 6.2% in 1987 to 11.75% currently;
- A significant acceleration of the rhythm of the works on soil protection, as is evidenced by the annual development of 80,000 hectares in 2004 as against only 20,000 in 1987;
- An increase in the irrigated surface areas using systems of water conservation which rose from 35,000 hectares in 1987 to 280,000 hectares in 2004;
- Substantial progress in the water resources mobilized in relation to the moveable resources, which rose from 88.4% in 2004 as against 60% in 1990.

### **E) The protection of nature and bio-diversity**

**582.** Considering biological diversity as a necessary investment to maintain and improve agricultural, forestry and water resource production, Tunisia has developed several programmes for the protection of bio-diversity and of the fauna and flora genetic heritage.

**583.** Among these programmes can be cited the creation of 24 protected areas (against only 5 before 1987) covering 218 thousand hectares and comprising 8 national parks and 16 natural reserves.

**584.** Numerous projects had also been realized during the past five years, with the objective of enhancing the living conditions of the citizens who live near the national parks. Besides, a national strategy had been decided on for the stocking up of pesticides and their use in natural and agricultural environments.

### **F) Reinforcement of the beauty of the urban areas**

**585.** In order to procure better living standards for the citizens, a major effort had been deployed in the domain of beautifying the urban areas. Thus numerous urban green areas and parks had been developed in all the regions of the country, allowing the realization of an average of 11.5 m<sup>2</sup> of green space per inhabitant in 2003, as against 4.4 m<sup>2</sup> in 1994.

### **G) Protection of the natural resources**

**586.** Tunisia has pursued the implementation of numerous programmes intended to protect the natural resources, rationalize their exploitation, and establish the bases of sustainable development. Towards this end the protection of the waters and soils and the extension of the forest cover and pastoral areas had been carried out. For the same purpose, national re-afforestation programmes to combat erosion and arrest desertification had been implemented. At the same time, the means for the integrated control of plagues had been disseminated through the exploitation of the results of the research carried out in this domain.

## **H) Cleanliness**

**587.** Within the framework of the regional programmes on cleanliness, the municipalities have pursued their activities in this field by ensuring:

- The programming and implementation of exceptional cleansing activities;
- The eradication of ancient rubbish dump sites;
- The pursuit of allocating spaces for the dumping of rubbish, rubble from construction sites and from gardens;
- The maintenance and protection of the environment of the forests close to the cities by ensuring that these forests are not transformed into black points;
- The control of plastic waste pollution;
- The protection of the coastal environment and maintaining the cleanliness of the public beaches.

**588.** The Tunisian NGOs undertake to work efficiently towards the success of the national programmes on the sustainable management of hydric resources, for the protection of these resources, the reporting of all abuses to the authorities and for the sensitization of all the sectors of the population, in particular the children, on the need to economize water and to preserve its quality.

**589.** All these policies and efforts enabled Tunisia to make great progress in the area of protection of the environment and of the natural capital as outlined in the various international Reports specialized in the subject. Thus, the Report of the World Bank relating to « the analysis of the environmental performance », indicates that Tunisia is at the head of the group of countries of the Southern bank of the Mediterranean basin, through reference to the sustainable development indicator, and that it occupies an honourable position among the countries which have succeeded in reducing the cost of environmental degradation.

**590.** In consideration of Tunisia's efforts and its contribution to the protection of the ozone layer, the United Nations Environment Programme gave Tunisia its first prize in 1977.

### **Article 25**

#### **Publication of the culture of Human Rights**

**591.** Article 25 of the Charter stipulates that « the States Parties shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter ».

**592.** The laws and mechanism can undoubtedly protect human rights, but they gain by being completed through an educative, cultural and media strategy. In this regard, the Tunisian Government considers that one of the major foundations of the protection and promotion of human rights, of the apprenticeship in democracy consists in disseminating the culture of human rights on a vast scale, as well as civic education aimed at promoting human rights at the level of the secondary and tertiary educational institutions and in the specialized institutions.

## I- Through Educational and Didactic programmes

### A) Primary Education and Secondary Education

**593.** The promotion of the culture of human rights is indispensable for living the real sense of the word citizen: co-sovereign in a city, that means a free State. Only the school which holds the key to the future and which only operates in the universal and modernist contexts is qualified to provide the hard core of this training.

**594.** Article 8 of the orientation law n° 2002-80 of 23rd July 2002, relative to the education and school teaching stipulates that « the School ensures, within the context of its educational role, in collaboration with the family and in complementarity with it, the education of the youth in the respect for accepted standards of behaviour and the rules of good behaviour, and in the sense of responsibility and of initiative. On this basis it is called upon to:

- Develop the civic sense of the youth, educate them in the values of citizenship; consolidate in them the awareness of the indivisibility of freedom and responsibility, prepare them to participate in the consolidation of an interdependent society founded on justice, equity, the equality of citizens in rights and responsibilities;

- Develop the personality of the individual in all its moral, emotional, mental and physical dimensions; refine his talents and faculties and guarantee him the right to build his individuality in a manner which sharpens his sense of criticism and will so that he can develop a sense of perspicacious judgement, self confidence, a sense of initiative and creativity.

- Raise the youth with a liking for effort and love of work considered as moral values and as a decisive factor in the development of autonomy and building of the personality; and provoke in them the aspiration for excellence,

- Educate the pupil in the respect for common values and on the rules of communal living ».

**595.** The promotion of the culture of human rights consists in allowing the civic pupils-students to intellectually take ownership of the most complex tools which contribute to the formation of a civic mind and conduct. It is a question of ensuring that the civic pupils-students are convinced of the need to fulfil their responsibilities, towards the national community, conscious of their rights and responsibilities, ready to stand in solidarity with the national community, convinced of the need for democratic behaviour, imbued with humanitarian values (freedom of conscience and of expression, respect for others, openness, tolerance, solidarity).

These objectives are at the basis of a jurisdictionally-constitutional citizenship and of an active citizenship, of involvement, through conscious commitment in the mechanism of public activities. They therefore correspond to an extension of the societal links, of organic solidarity. In other words, the democratic culture can only stimulate citizenship and promote the democratic transition to a better society.

**596.** It is in this manner that we find ourselves on the terrain of a certain conception of democracy, not as a given talent or preserved heritage, but as a daily living practice, since the notions of freedom and democracy are

not a simple political concept, but represent something much deeper than that. It is a culture and an ethic.

**597.** Furthermore and to better supervise human rights education and to guarantee the dissemination of this culture, Tunisia decided, on the 4<sup>th</sup> April 1996, within the framework of the Human Rights Decade (1995-2004) to create a National Commission for Education in Human Rights Issues. Chaired by the Minister of Education and Training, it brings together the representatives of the Ministries and Organizations working in the domain of human rights as well as the Associations which are active in the promotion of its ideals.

**598.** Civic and human rights education is a teaching provided notably by the teachers of civic education, of philosophy and history. It has the objective of teaching about the basis of citizenship, about human rights in their specificity, their universality and their globality, of reflecting on the principles of the Republic and the Rule of Law, and of training the pupils to develop a critical sense of judgement on the basis of legal and historical texts. This teaching on human rights issues is spread over eleven years of study starting from the third year of primary education to the sixth year of secondary school. It is also extended to the level of higher education.

## **B) Higher Education**

**599.** Since 1996, Tunisia has instituted distinct courses on human rights at the university level. This education is compulsory and generalized to cover all the areas of training. It has the objective of educating and training the students in the respect for human rights and to make them aware of the most recent achievements in this field.

**600.** The 178 institutions of higher education teach human rights subjects, under the form of lectures, integrated courses, seminars or workshops. The objective is to ensure that the educational methods chosen promote the implanting of the culture of human rights.

**601.** In 2003, the Ministry of Higher Education published a book titled « Teaching Human Rights in the Universities –Selected Texts ».

This Manual contains international texts: -Universal Declaration of Human Rights, International Convention on Economic, Social and Cultural Rights – International Convention on Civil and Political Rights. It also contains national texts: - The Carthage Constitution and Aristotle's Foreword concerning this Constitution – The Fundamental Tunisian Convention of 10 September 1857 – Tunisian Constitution of 26 April 1861 – Decree of 29 May 1890 relative to the abolition of slavery in the Regency - Constitution of the Tunisian Republic of 1959 with the recent reform of 1st June 2002 – Extracts of the Personal Status Code, of the Child Protection Code, of the Penal Code, of the Criminal Procedure Code, of the Media Code – Extracts of the laws on Associations, on Political Parties, on the Food Pension and Alimony Guarantee Fund, on the Organization of the Prisons, on the granting of legal assistance, on the compensation of individuals who have been subjected to remand in custody or of a conviction and whose innocence had been established.

The document also contains tables of International Conventions which define human rights standards and are managed by specialized bodies, conventions of bilateral cooperation on legal matters concluded between Tunisia and foreign countries and outlines of the guarantees of human rights in Tunisia. The contents of this document show the will of the Ministry of Higher Education to train a generation of students imbued with humanitarian values.

**602.** Moreover, the students have submitted end of study Dissertations and Doctoral Thesis in the five Tunisian Law Faculties, on the international instruments and mechanisms relative to the promotion and protection of human rights as well as on the national legal procedures. Thus, the integration of the Human Rights module in the degree course has given rise to a new phase of research within the higher education institutions.

### **C) Adult Education**

**603.** The educational content of the National Adult Education Programme (PNEA) established in 2000, comprises courses of general culture on the rights and responsibilities of the citizen, on the national laws and regulations which define the relations within society and protect the rights of citizens (Constitution, Republican system, Personal Status Code, Labour Code as well as the fundamental rights outlined in the international conventions and agreements relating to human rights) and on the fundamental rights enunciated in the international conventions and agreements relative to human rights.

## **II- Through specialized educational programmes**

**604.** The specialized institutions responsible for the training of State officials (Higher Institute of the Magistracy, the National School of Administration, National School for Security Officers, Higher Institute for Prison Officers) provide an education which relates to human rights and fundamental freedoms.

**605.** The Higher Institute for the Magistracy: The teaching of human rights is provided there with the objective of implanting the principles of human rights, of developing in the Magistrate the knowledge of international conventions, recommendations and principles of conduct emanating from the United Nations and the specialized regional organizations and to teach about the international protection mechanisms and comparative law and to sharpen the sense of humanitarianism in the Magistrates so as to guarantee the rights of persons subject to trial and to establish justice.

**606.** School for National Security Officers, Higher Institute for Prison Officers: These two institutions endeavour to develop the sense of human rights and of re-education among the senior and other officials of the prison services in order to improve the relations between the Security Officer and the Citizen, and the benefits provided for the detainees, and to consolidate the civilized behaviour of the officials in their dealings with the public.

### III- Through sensitization programmes

**607.** All the citizens benefit from programmes directed towards the promotion of the culture of human rights through the means of information (newspapers, audiovisual, multimedia), seminars, cultural and artistic manifestations and other activities of civil society.

**608.** The Tunisian media (television channels, radio and newspapers) plays an important role in the dissemination of the values of human rights to the public, of non-discrimination, of tolerance, of openness and respect for difference.

**609.** The channel Tunis 7 undertook to disseminate the culture of human rights through programmes which are broadcast during certain events as well as during numerous meetings hosted by Tunisia and devoted to these issues.

**610.** Channel 21 for its part has developed numerous programmes aimed at the dissemination of the culture of tolerance and human rights in general and the rights of the child in particular. This concern is manifested through the broadcasting of reports in which the youth are the principal actors.

**611.** In this same context, the programmes destined for children contribute essentially to this logic. The reports endeavour to infuse a spirit of tolerance and human rights into the children's personalities.

**612.** Tunisia's ambition in the area of promotion and protection of human rights is permanently devoted to the historical, social, political and cultural forms which make a dynamic and open choice on the future. It is for this reason that Tunisia has deployed all efforts for the respect of humanism, pluralism, of the right to difference. This implies the punishing of all discriminatory action, whatever the excuse, all incitement to hatred or violence, calumny and insult. It is in this manner that one can conceive of a « society for Man, by Man » and continue to struggle towards this end.

**613.** The culture of human rights leads to a new decisive step in the same direction. Not to take the edge of the combat for human rights, but to allow it to develop better on behalf of the principle of all modern civilization itself: Man cannot be considered only as a means, but always as an end. Every human being has inalienable rights. But none of these rights is ever acquired; it requires efforts of perception, responsibility and solidarity to conquer and exercise them. In effect, the concrete and continuous validation of this vision of the culture of human rights can only progress in respect for each other: respect for the dignity, the identity of the right to living conditions for all Tunisians; respect by all, of the right of each person to a peaceful and safe life, of the responsibilities which involve communal life.

**614.** The human values (the dignity of Man, freedom, justice, progress, peace), the democratic principles (the sovereignty of the people, the separation of powers, the equality of rights and responsibilities, equality before the law, the rights of citizens to employment, to good health, to progress, to education) and the rights and political, economic and social liberties constitute the theoretical foundation of this culture of human rights.

## **ARTICLE 26**

### **The Independence of the Judiciary**

**615.** Article 26 of the Charter relates to the responsibility of the States « to guarantee the independence of the courts and shall allow the establishment and the improvement of the appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter ».

**616.** In Tunisia, the Tribunals and law Courts are independent and are only answerable to the Constitution and to the law, whether they fall under judiciary jurisdiction or administrative jurisdiction. The courts of limited jurisdiction are prohibited.

**617.** The independence of the judiciary is guaranteed by the Constitution, whose Article 65 stipulates categorically that « the judiciary authority is independent; the magistrates are only subjected to the authority of the law in the exercise of their duties ».

**618.** This independence is moreover concretized at the level of the definition of the role of the Supreme Council of the Magistracy which operates as a guarantor of the independence of the Magistrates. In effect, this body is not only required to issue simple opinions, but also to taken binding decisions, notably in matters of appointment, promotion, transfers and discipline in conformity with Article 67 of the Constitution.

**619.** Within the framework of the strengthening of the independence of the judiciary, instructions had been given for the setting up of Committee from within the Supreme Council of the Magistracy, responsible for examining the means likely to improve the status of the Magistrates. This Committee had advocated the improvement of the status of the Magistrates so as to strengthen the independence of the judiciary, to guarantee the efficiency of the judicial activities and protect the rights of those brought to justice.

**620.** In the same spirit and in the context of the interest given to the material and moral conditions of the Magistrates in the exercise of their duties, a new allowance had been established for their benefit, known as « duty allowance ». The Magistrates also benefited, in the context of the programme every three years, from an increase in « the justice allowance ». Likewise, it had been decided to improve the situation of the President and Public Prosecutors of the Court of Appeal, as well as the working conditions of the Magistrates occupying similar functions and the First Class Magistrates having spent six years in that grade.

**621.** The supremacy of the law, the establishment of justice and equity within the rule of law and in the institutions constitute the steadfast choices of Tunisian policy. To concretize these choices the action of bringing justice closer to the citizen, of consolidating judicial guarantees and the strengthening of the independence of the judiciary is pursued.

**622.** Furthermore, in the context of the simplification of the systems and of the judicial procedures, there is need to mention the contribution of the various

structures which give aid and support to the citizen through the provision of the required information and necessary services. Among these structures figure the State Counsels established in all the Courts, the Judicial Council and Social Action Unit, the Citizens' Relations Bureau and the permanent Counter.

**623.** It is in this perspective that the recourse to modern methods in the administration of justice lies. In effect, the Computing Master Plan which had been updated comprises both the setting up of a system linking the Courts together and the Courts with Central Government and systems and programmes linked to the registers kept by the Clerks of the Courts, besides the production in the civil and penal domains.

**624.** In order to provide more guarantees for the triables, numerous measures had been taken to this effect, including in particular:

- The reduction of the costs of court proceedings through the suppression of the rights to enrolment and of speech for the defence and through the reduction of the right to registration of Judgements;
- The improvement, under the terms of the law n° 2002-52 of 3rd June 2002, of the system of legal assistance through the broadening of the circle of triables who are to benefit from it, the simplification of the related procedures, the institution of a special system of remuneration for the officers of the court designated by the Judge as well as the possibility of recovering the legal costs;
- The institution of a new legal framework offering legal guarantees for the protection of Companies, and this following the promulgation of the law n° 2000-93 of 3rd November 2000 relative to the promulgation of the Code of Business Entreprises;
- The amendment of the Civil and Commercial Procedure Code by virtue of the law n° 2002-82 of 3rd August 2002 in order to guarantee greater efficiency to the procedures of execution of Judgements, from the first phases of the institution of legal proceedings, thanks to the enhanced simplification of the reporting procedures, the summons and the notification up to the last phase of the civil dispute and the commencement of execution;
- The establishment, under the terms of the law n° 2003-15 of 15<sup>th</sup> February 2003, of the function of social security Judge, an advanced form of the Child Benefit Office Judge. The role of the social security Judge is, in effect, extended to include rulings on matters involving the affiliates to the social security fund whether they are from the public or private sector;
- The institution, under the terms of the law n° 2000-43 of 17<sup>th</sup> April 2000, of the principle of two tier proceedings in criminal matters for the benefit of the persons to be tried aged more than eighteen years and the institution of the same system in the area of justice for children, under the terms of the law n° 2000-53 of 22<sup>nd</sup> May 2000;
- The establishment, under the terms of the law n° 2000-77 of 31<sup>st</sup> July 2000, of the office of penalty execution Judge having numerous roles including, notably, his power to propose the release of certain prisoners on parole, of controlling the conditions of execution of sentences within the prison establishments, of visiting the prison at least once every two months, of meeting the prisoners and checking the disciplinary register. Moreover, under the terms of the law n° 2002-92 of 29<sup>th</sup> October 2002, the role of the penalty execution Judge had been strengthened to allow him to release detainees on parole in cases of certain offenses and to guarantee the monitoring of the execution of the penalty of community labour which falls under the prison Department;

- The transfer of the prison establishments and their administration from the Ministry of the Interior and Local Development to the Ministry of Justice and Human Rights, under the terms of the law n° 2001-51 of 3rd May 2001, and this, to strengthen the legal supervision at the point of execution of sentences and to consolidate the principles of legality and supremacy of the law;
- The improvement of the system applicable to the prisons thanks to the promulgation of the law n° 2001-52 of 14<sup>th</sup> May 2001. This law, lays down the conditions of stay in the prisons, guarantees the rights of the detainees and helps them to effect their eventual re-integration into public life;
- The institution of the principle of the responsibility of the State in the prejudice caused by the application of the law and this through the promulgation of the law n° 2002-94 of 29 October 2002 relative to the compensation of the individuals who have suffered remand or who have been condemned to a prison sentence and whose innocence had been established;
- The institution, by virtue of the law n° 2002-93 of 29 October 2002, of the system of arbitration in criminal matters. This system grants the Public Prosecutor, in the case of offences and misdemeanors which are not a danger to society and which do not indicate a tendency to criminality in the perpetrator, the possibility of carrying out, with the agreement of the parties involved, a reconciliation which guarantees the rights of the victim and puts an end to the criminal suit;
- The transfer of the duties of judicial inquiries to Judges who have the competence and the experience and who belong to the Cassation Court and the Appeals Court.

**625.** Furthermore, efforts had been deployed to bring justice closer to the triables. It is in this context that the new Courts of various tiers of jurisdiction had been created in accordance with the needs of each region. The number of specialized Divisions within the Courts, such as the Commercial matters Division and the Fiscal matters Division had been increased. At the same time, there had been the institution of the office of Companies Judge, Social Security Judge and Commercial Register Judge.

**626.** In this same context, it is important to point out that in August 2004, a series of new measures had been announced for the improved organization and modernization of the legal processes, and the paying of more attention to the material and moral working conditions of the Magistrates. Among these measures figure, in particular:

- The modernization of the computer system of the Courts in order to allow the citizen to obtain, from a distance, the various legal certificates which do not necessarily require his travel to the headquarters of the Court, and for the legal Counsels and the officers of the Court to receive, in their offices, the data they need to accomplish their task;
- The creation in the Centre for Judicial and Legal Studies, of a specialized Unit in Criminology which serves as a modern scientific laboratory responsible specifically for the study of criminal symptoms of all sorts, of the determination of their characteristics as well as the indepth research on their causes and motives;
- The review of the Criminal Procedure Code with the objective of including the psychiatrist's report in the file of every habitually offending criminal and which will be taken into account during the court proceedings against the individual concerned;

- The assurance that the travel by the Judges to the sites on mission, takes places under the best of conditions;

**627.** All these measures guarantee the independence of the judiciary. They show that the independence of the justice system is based on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and human rights. They also contribute to bringing justice closer to the citizen and to give him back all his credibility and efficiency.

## **Conclusion**

**628.** The protection of the human being, the development and the realization of each individual move in tandem with the development of the society. There was a time when civil and political rights and social and economic rights were being opposed. Such an opposition would today appear senseless. There are no economic and social rights without the civil protection of individuals, without democratic political institutions, just as there is no protection of human dignity and genuine democracy in exploitation, destitution and illiteracy. Civil and political rights and economic and social rights are indivisible.

**629.** Beyond the formal display of the rights, it is their contents that Tunisia is currently enriching through the promotion of collective guarantees ensuring an effective right to human development. Thus, the promotion of the right to employment, to good health, to education and to training, delineates the perspective of a social democracy which pushes away all the external and internal constraints to the development of personalities.

**630.** The encouragement of civil society's participation in the conception and concretization of development priorities, in particular at the local level, the stimulation of private initiatives, the promotion of the dynamic sectors for economic growth and the involvement of the regional structures in the decision preparation process are rooted in the meaning of good governance.

**631.** Tunisia has fixed other objectives in the domain of human development: to join, by the year 2009, the platoon of countries which have the best indicators in the area of human development; multiply by two the per capita income by the year 2016 by raising it to 8,000 Dinars; bring down the unemployment rate from 14% to 10% by the end of 2016. These objectives will allow the maximization of the advantages of globalization and to guard against the negative effects detrimental to the exercise of human rights and to human development.

**632.** Tunisia has ceaselessly sought to promote an international future built on other dynamics, on other values than those of profit and in which good governance would be the democratic aptitude that the public authorities, civil society and the Businesses would deploy in order to participate in, even direct the sustained development of their environment. So long as nations continue to clash with each other, with all the suffering that that generates and so long as national selfishness dominates international relations, the ideal of human brotherhood will remain vain. The appeal launched by President Ben Ali for the creation of a World Solidarity Fund opens on a certainty which renders to the peoples and leaders of the world their share of the intrinsic responsibility in the building of better future and in the discovery of new complicities and new international solidarity.

**633.** Tunisia has, in effect, embarked deeply in modernism and universality with certain challenges to be taken on from the point of view of the youth, of employment, of sustainable development or even of globalization. The issues of training, of higher education and employability are crucial. Therefore, what is expected of tomorrow's school/university is in fact a response which Tunisia has ceaselessly formulated by organizing national consultative meetings with all the nation's resources. Therein exist challenges for the development of the society, and which call for the reflection, more and more, in terms of acquisition of cognitive competences, on the manner of thinking and less and less in terms of content. Thus, the perspectives of employment and the benefits of productivity can and should result in positive elements such as the extension of the fields of activity, the increasing of investments and of job opportunities, the raising of qualifications, technical excellence, competitiveness and social justice.