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Ca' Foscari  
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30123 Venezia

# European Monitoring Tunisian's Legislative and Presidential Elections.

The political and cultural changes triggered  
by 2014 elections

**Supervisor**

Ch. Prof. Antonio Trampus

**Assistant Supervisor**

Dr. Annalisa Milani

**Graduand**

Francesca Leone  
Matriculation Number 844812

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## ABSTRACT

La tesi analizza il processo di transizione democratica in Tunisia, iniziato con la cosiddetta Primavera Arabe del 2010-11, fino alle elezioni del 2014 tenute nel paese. Il mio lavoro si focalizzerà sul processo elettorale, sulla Missione di Osservazione Elettorale tenuta dall'Unione Europea e su una prima valutazione di questo ultimo e decisivo passo verso la democrazia.

L'evento scatenante delle proteste fu il suicidio del giovane Mohamed Bouazizi, il quale ha compiuto un gesto di estrema protesta, dandosi fuoco di fronte al governatorato della città di Sidi Bouzid. Questo gesto, nel giro di poche settimane, ha attraversato l'intera nazione arrivando fino alla capitale, dove il 14 gennaio 2011, ha imposto la fuga dell'allora presidente Ben Ali, mettendo fine alla sua dittatura.

La Tunisia, con la sua Rivoluzione dei Gelsomini, è stata la pioniera di un movimento più ampio che ha riguardato diversi paesi dell'area Medio-Orientale e Nord Africana, e tra questi è stata anche l'unica ad iniziare un processo di transizione democratica che possiamo ora definire "di successo". Lo scorso autunno, il lungo e faticoso percorso della Tunisia per una piena stabilità democratica, sembra aver raggiunto il suo compimento con l'organizzazione di elezioni parlamentari (26 ottobre 2014) e presidenziali (23 novembre 2014, con un secondo turno il 21 dicembre 2014). Secondo molti esperti in questo campo, queste elezioni sarebbero le prime elezioni *free and fair* nella storia del paese, specialmente per quanto riguarda quelle presidenziali. Queste elezioni erano state considerate fondamentali per mettere fine ad una serie di governi e istituzioni transitorie create dopo le rivolte del 2010-11, ed possiamo oggi affermare la positiva riuscita delle stesse. Purtroppo la natura degli eventi, e il fatto che il ciclo elettorale è ancora in corso, rende difficile un'analisi completa della riuscita di queste elezioni. Una valutazione appropriata può essere sviluppata solamente tra qualche anno, quando la situazione si sarà stabilizzata e si arriverà alla conclusione di questa prima fase di aggiustamento e organizzazione del nuovo governo, e del nuovo presidente. Per questo motivo, la mia tesi non avrà delle conclusioni precise, ma lascerà delle questioni aperte sottolineando le sfide che il paese dovrà affrontare per la buona riuscita della transizione democratica.

Il 23 ottobre 2011, la Tunisia ha tenuto quelle che sono comunemente considerate le prime elezioni democratiche del paese fin dalla sua indipendenza nel 1956, come dopotutto sono state le prime elezioni tenute nel mondo arabo in seguito agli eventi della Primavera Araba. Con queste, venne eletta una Assemblea Nazionale Costituente, incaricata della stesura di una nuova Costituzione tunisina. Il processo di scrittura della nuova costituzione ha richiesto più tempo del previsto in quanto ha avuto delle grandi difficoltà ad ottenere un consenso politico, a placare le tensioni tra islamisti e secolaristi e a sanare il malcontento sociale ed economico. La nuova costituzione è stata votata e adottata il 26 gennaio 2014.

Le elezioni e gli eventi avvenuti nel 2014 rappresentano quindi un passo chiave per il raggiungimento di una sistema democratico, considerato da molti esperti e analisti un obiettivo raggiunto dal paese, tenendo sempre in considerazione che a pochi mesi dalla votazione è impossibile dare un giudizio oggettivo e generale delle conseguenze e dei risultati pratici di questi eventi.

La mia tesi è strutturata in quattro principali capitoli. L'analisi parte con una breve descrizione del background geografico, culturale, religioso ed economico della Tunisia, continuando poi con una panoramica storica, dalla storia antica del paese fino alla presidenza di Habib Bourguiba, che divenne il primo Presidente della Repubblica Tunisina, dal 1957 al 1987. Dopo l'indipendenza, avvenuta il 20 marzo 1956, Bourguiba pose fine alla monarchia, dichiarando la repubblica e iniziando così la costruzione della Tunisia come stato moderno. Le sue principali priorità includevano il miglioramento del sistema educativo del paese, l'abbattimento delle ineguaglianze di genere, lo sviluppo dell'economia e il mantenimento di una politica estera neutrale. Queste politiche riformiste non hanno però evitato di sviluppare intorno alla figura di Bourguiba il titolo di "supremo combattente", avviando i suoi venti anni di governo a partito unico. La fine del suo potere fu caratterizzata da un colpo di stato "medico" da parte del suo primo ministro Ben Ali, il quale prese il posto di presidente il 7 novembre 1987.

Il secondo capitolo del mio lavoro esaminerà in profondità il periodo tra l'ascesa al potere del presidente Ben Ali e gli eventi avvenuto nel 2010-11. Verranno analizzati i diversi passi affrontati durante la transizione democratica tunisina, cioè l'elezione dell'Assemblea Nazionale Costituente, l'elaborazione della nuova costituzione da parte dell'Assemblea, e l'istituzione dell'Alta Autorità Indipendente per le Elezioni (ISIE:

*Instance supérieure indépendante pour les élections).*

Durante gli anni di transizione, la Tunisia ha creato inoltre diverse istituzioni transitorie incaricate di gestire e definire il contesto politico nel quale i partiti, le associazioni e le strutture sociali dovevano agire in seguito alla dipartita del Presidente. La principale fu la Alta Istanza per la Realizzazione degli Obiettivi della Rivoluzione, delle Riforme Politiche e della Transizione Democratica (*Haute instance pour la réalisation des objectifs de la révolution, de la réforme politique et de la transition démocratique*), la quale fu incaricata di riempire il vuoto istituzionale creato in seguito alla dissoluzione del Parlamento e di adottare i testi legali fondamentali per dare avvio al processo di transizione. Il terzo capitolo tratterà interamente delle elezioni parlamentari e legislative tenute durante i mesi di ottobre, novembre e dicembre 2014. Come già accennato, queste elezioni sono stato il picco di un lungo e incerto processo di transizione. Il sistema di partiti tunisino è stato profondamente rinnovato, assistendo ad una vera e propria fioritura di nuovi partiti elettorali e liste indipendenti. Il processo elettorale è stato basato dalla nuova legge elettorale, la quale ha fornito ottime e soddisfacenti basi per una tenuta democratica delle elezioni, in conformità con gli standard internazionali e con la supervisione dell'ISIE.

Negli ultimi quattro anni, la Tunisia ha vissuto una transizione molto più lunga del previsto. In un contesto di contrapposizione tra laici e islamisti, di mobilitazioni popolari quasi giornaliere, di due crisi governo e della conseguente intervento della società civile, la Tunisia ha raggiunto enormi traguardi. Il risultato positivo delle elezioni è stato solamente il coronamento di quel percorso di successo affrontato dal paese, la cui traiettoria ha attirato l'attenzione degli stati del Golfo e quella dell'Unione Europea, la quale ha contribuito fortemente schierando un copioso team di osservatori.

Il monitoraggio elettorale è uno strumento molto importante che supporta e controlla, in realtà fragili o pericolose, il corretto svolgimento di quella che è la concretizzazione di uno dei diritti fondamentali di ogni individuo. L'Unione Europea riconosce l'osservazione elettorale come uno dei suoi mandati, insieme al rispetto e alla promozione dei diritti umani.

L'ultimo capitolo del mio elaborato si concentra nello specifico sull'azione di monitoraggio elettorale internazionale e sulla missione dell'Unione Europea durante le elezioni tunisine del 2014. per trattare tutto lo svolgimento del processo elettorale,

delle fasi preparatorie, del periodo di voto e dell'elaborazione finale dei risultati, mi sono basata sul report ufficiale pubblicato dalla missione stessa. La stesura del report viene infatti eseguita seguendo quella che è la scaletta e i punti principali seguiti durante la missione di osservazione elettorale sul campo. Durante queste elezioni, la missione ha schierato più di cento osservatori, appartenenti all'Unione Europea, alla Svizzera, alla Norvegia e al Canada.

Lo scopo di queste pagine è di spiegare e capire il significato delle scorse elezioni legislative e presidenziali le quali, in aggiunta all'adozione della nuova Costituzione, sono i simboli del processo di transizione tunisino.

Oggi la Tunisia si è dimostrata disposta alla costruzione di uno stato moderno, rappresentando, come già stato detto, un caso unico nell'intera area Nord Africana e mediorientale. Il mio interesse nel campo delle elezioni e del processo di osservazione elettorale viene dalla convinzione che il diritto di voto, e quello di partecipare attivamente alla vita politica, siano diritti essenziali dell'uomo, considerando le elezioni come il pieno raggiungimento della democrazia e quindi del potere del popolo. Nello specifico, il mio interesse per questo campo si è sviluppato dopo aver partecipato ad un workshop, organizzato dal Prof. Antonio Trampus all'Università Ca' Foscari di Venezia, dove ho avuto modo di venire a contatto con questo aspetto della vita internazionale. Durante questo workshop ho avuto modo anche di incontrare la Dot.ssa Annalisa Milani, da anni impegnata in missioni all'estero per le organizzazioni internazionali e osservatrice elettorale per l'Unione Europea, la quale mi ha dato un grandissimo aiuto per approfondire il mio lavoro di tesi. Ho deciso di affrontare come caso specifico la Tunisia perchè credo che il processo di transizione democratico affrontato dal paese sia un esempio per la sua unicità all'interno dell'area Nord Africana e mediorientale. Sebbene le sfide non sono ancora finire, l'identità del paese ci porta ad essere ottimisti, confermando la Tunisia come l'unico caso di successo della Primavera Araba.



## INTRODUCTION

The thesis analyzes the democratic transition process in Tunisia, started with the so-called *Arab Spring* of 2010-11, up to the 2014 elections held in the country. My work will focus on the electoral process, on the European Union Election Observation and on a first assessment of the fact that this was a decisive step for the country.

On December 18, 2010, Mohamed Bouazizi made a gesture of extreme protest, setting himself on fire on a public street of Sidi Bouzid. The self-immolation of the 26-years-old street vendor, sparked the protests all around the country. For this dictator-ruled period, a combination of harsh repression and impressive socio-economic development in the country, ensure a certain level of stability of Ben Ali's regime. However, on January 14, 2011, after several weeks of anti-government protests, the President fled the country, ending his dictatorship.

Tunisia, with its 10 milion people and its small dimentions was, among the countries upset by the great riots of 2010-11, the only one who started a process of democratic transision that can now be defined as "succesful". Last fall, the long and toilsome path of Tunisians towards the full stabilization of democracy seemed to have reached its fulfilment. The parliamentary elections were held on October 26 and the presidential elections on November 23 (with a second round on December 21). According to the scholars and the experts in this field, these elections were the first truly free and fair elections in the country's history, especially the presidential ones.

Tunisia is in its fourth year of transition after the 2011 *Jasmine Revolution* and it has so far continued to avoid the types of chaos and/or authoritarian resurrections that have affected other *Arab Spring* countries. Legislative and presidential elections were expected to put an end to a series of transitional governments and this was the case. Unfortunately, the nature of the events and the fact that the electoral cycle is still in progress prevents a definitive analysis of the elections themselves, and influences the thesis itself. An appropriate assessment will be developed within a few years, after the situation has stabilized and the first phase of natural adjustment and organization of the new government, and the new president, will be outdated.

On October 23, 2011 Tunisia held what are commonly considered the first democratic

elections since the country's independence in 1956, as well as the first elections in the Arab world held after the start of the Arab Spring. With these elections were elected the National Constituent Assembly, in charge of drafting the new Constitution. The newly elected Assembly also had the power to either appoint a new government or extend the current one's term until the general election would have been hold in the country.

On January 26, 2014, Tunisia's National Constituent Assembly fiercely voted to adopt a new constitution. This was seen as a landmark accomplishment, given the difficulty of achieving political consensus, tensions between Islamists and secularists, and social and economic unrest. Summarizing, the 2014 Constitution asserts Tunisia's Muslim identity, it creates a civil state and it gives provisions for civil liberties, resulting as a victory for secularists. The vote followed a political agreement under which Tunisia's main Islamist party, Ennahda, agreed to give up its leadership of the government in favor of a technocratic prime minister in the lead-up to the elections.

Tunisia has a small territory, a relatively well-educated and homogenous population, and a history of encouraging women's freedoms. Still, Tunisians face significant challenges in reforming state institutions and responding to security concerns.

The 2014 elections and events represented a key and final step towards a democratic system. Many analysts considered in fact Tunisia as “having the best hope of any Arab Spring country to complete a peaceful transition to fully democratic rule<sup>1</sup>”. They considered that if the elections were successful, “Tunisia will have crossed one more threshold that has eluded other transitional states in the Middle East and North Africa<sup>2</sup>”. Only after the natural adjustment of the process we will be able to judge objectively and generally what were the consequences and the practical results of the elections. In fact, few months after the vote is impossible to give full evaluation of the entire process.

My thesis is structured in four chapters. My analysis starts with a brief description of the geographical, cultural, religious and economical features of the country. It will then briefly continue with an historical overview, starting from the ancient history, up to the presidency of Habib Bourguiba, who became the first President of the Republic of

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1 ARIEFF A., HUMUD C.E., *Political Transition in Tunisia*, Congressional Research Service, 2014, PDF, <https://www.fas.org/sgp/crs/row/RS21666.pdf>

2 *Ibid.*

Tunisia, from 1957 to 1987. Following the country's independence on March 20, 1956, Bourguiba put an end to the monarchy, declared the republic of which he served as first president and then focused on building a modern Tunisian state. His main priorities included the improving of the country's educational system, fighting gender inequality, developing the economy and maintaining a neutral foreign policy. President Habib Bourguiba established in this way a twenty-year single-party state, defining himself as the *supreme combatant*. The end of his rule was marked by his declining health, which was concluded by his removal from power by his prime minister Zine El Abidine Ben Ali on November 7, 1987.

The second chapter of this work will examine in depth the period between the rise in power of Ben Ali and the 2010-11 events. I will analyze then few steps of the Tunisian democratic transition, such as the election of the National Constituent Assembly, in charge to create the basis for the new constitution; the drafting of the constitution itself and the resulting debate above it; and the institution of the Independent High Authority for Elections. In fact, right after the Revolution was created a provisional Authority (the *Higher Authority for Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition*) which was essential to define in which context the parties, the associations and the social structures had to act after the President departure. This Authority had to fill the institutional vacuum created after the dissolution of the Parliament, adopting the fundamental legal texts for the beginning of the transitional process, such as the law to the National Constituent Assembly (NCA) elections and to the constitution of the High Authority for Elections (ISIE). This section will also analyze the structures and the functions of the NCA and of the ISIE, according to their establishing Decree-Laws. Furthermore, the drafting of the new constitution was accompanied by a long debate within the different current of thoughts of the parties. The constitutional draft was presented four times, and all of them were subjected to the debate of the deputies, political parties, civil society and citizens. Principal disagreement points were the nature of the state; the role of *Sharia*<sup>3</sup> in the set of rules; and the formulation of certain human rights and freedoms, including the recognition of the universality of human rights as a source of the law and some

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3 *Sharia* is the Islamic Law. Is the Islamic legal system derived from the religious precepts of Islam, particularly the Quran and the Hadith.

particular aspect of women rights. The new constitution was finally approved on January 26, 2014; it entered into force on February 10, 2014, and it is described as highly progressive.

The third chapter is entirely focused on the 2014 legislative and presidential elections. As already said, these elections were the peak of the long, and in certain meaning painful, transition process. Tunisian party system has been deeply renewed and the country has experienced a real flowering of new parties and independent lists covering a wide ideological spectrum. The electoral process was managed by the newly published electoral law, providing satisfying bases for holding democratic election in conformity with the international elections standards, with the supervision of the Independent High Authority for Elections (ISIE). The above-mentioned electoral law regulates the voters, the modality to be registered as a voter, the electoral campaign and the campaigning financing. It gives also the regulation for a candidate (or a party lists) to be elected. At the parliamentary elections, held on October 26, 2014, Tunisians had to vote for the members of the Assembly of People's Representatives, which held legislative powers and was composed by 217 members.

On the general view of the North African and Middle East countries, Tunisia seemed to be the happiest and the healthiest one. In this country were established freedom and democracy; the Islamist parties demonstrated their ability to mediate within the political practice and especially within religious values and rules of coexistence according to the text of the new constitution. The latter in fact has consolidated the country's traditional role of forerunner of the social and gender achievements, overtaking almost all of the Arab-Islamic countries.

The reality is that in the last four years, Tunisia has experienced a transition much longer than expected, since the victory of the Islamic party Ennahda triggered a political-ideological polarization that the power-sharing government with two secular parties (the so-called Troika) was unable to mitigate. This Troika also was unprepared to deal with the country's economic, social and security challenges. The transition process was longer than expected also because the country has experienced almost daily popular mobilization, with the addition of two political assassinations, two government crisis and the consequent intervention of civil society organizations that had effectively controlled the political forces among the national dialogue. And only in this context,

Tunisia arrived to the final approval of the Constitution and the preparation of the necessary conditions to carry out the legislative and presidential elections. The positive outcome of these elections, has given oxygen to Tunisian citizens. Tunisia is a small country, but the particular trajectory of its transition drew the attention of the Gulf, probably more than expected, and the attention of the European Union, which gave a strong support, deploying a copious team of observers.

Election observation, according to the Declaration of the Principles for International Elections Observation, is necessary to guarantee the right of democracy. A genuine democratic election is the expression of sovereignty; and achieving a democratic election means reaching the ultimate aim of democracy.

Electoral observation, as explained in the last chapter of the thesis, is an essential European Union activity, aimed at promoting democracy, human rights and the State of Law, in all the world. It contributes to reinforce democratic institutions and citizens' confidence in the electoral processes; it also helps to deject frauds, intimidation and violence acts. Furthermore, the election observation consolidates other important EU foreign policy objectives, particularly the construction and maintenance of peace. Electoral assistance has been part of the foreign policy of several countries and donor countries have contributed to the improvement of numerous electoral process. Right after the fall of the Berlin Wall in 1989, was developed the Electoral cycle Approach, used for the first time in 2005<sup>4</sup>. This approach defines that elections are composed of a number of integrated building blocks, with different stakeholders interacting and influencing each other. Election observation allows to evaluate an electoral process in all of these interactions and on the basis of the international standards. Besides performing election observation missions, the European Union is one of the largest global player in the field of electoral assistance and funding. This dual form of EU election support contributes significantly to the promotion of governance and development objectives.

During the legislative and presidential elections held in Tunisia last fall, the mission deployed by the EU was directed by Ms. Annemie Neyts-Uyttebroeck and it was composed by about one hundred observers from European Union, Switzerland,

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<sup>4</sup> The electoral cycle approach was used in 2005, during the missions of Sierra Leone and Nigeria, deployed by the European Union.

Norway and Canada. The EU EOM mission, few months after the end of the voting period, published a Final Report regarding the final assessment of the entire elections process in terms of compliance with international standards for elections.

The aim of the thesis is to come to a full understanding the meaning of the legislative and presidential elections, which in addition to the new constitution are symbols of Tunisia's process of transition. Present-day Tunisia demonstrate the willing to constitute a modern State, representing a unique case in the North African and Middle East countries. My interest in the election field and in the election observation process, comes from the belief that the right to vote and to stand for the elections are essential human rights. I believe that the elections are a process of encounter between modernity and traditions. According to the etymological meaning of the word *democracy*, I believe that the achievement of this concept would give power and voice to all the citizens. The concept of democracy is not crystallized in one version or in a single concrete translation, but it has found its historical expression in various forms and applications, all characterized by the fulfillment of giving to the people an actual decision and practical power. In the specific, I owe my passion for the Election Observations to a workshop I had last year in Venice, organized by Professor Trampus at Ca' Foscari University, in which I had the honor to meet Dr. Annalisa Milani, an election observers for EU and OSCE, who has helped me to deepen my research. I decided to talk about Tunisia because during the same workshop I also met Hafidha Chekir, a women's rights activist in Tunisia, Founder of the AFTD, Professor of law and member of the High Instance for the achievement of the objectives of the revolution, political reform and democratic transition.

Although the challenges are not over, the identity of the country leads us to be optimistic, confirming Tunisia as the only case of success of the Arab Spring.

# CHAPTER 1

## TUNISIA'S BACKGROUND

### 1. Territory

Tunisia occupies a strategic position on the Mediterranean coast of North Africa. With an area of 163 610 kmq<sup>5</sup>, this is a small African country and it has nearly as much land boundary as its coastline. Tunisia lies between two large neighbors: Algeria to the west and Libya to the southeast. Together with Morocco and Mauritania, these five countries are known collectively as the Maghreb.

Tunisia was once a lush, green region, home to large mammals such as lions and elephants. Deforestation and desertification have led to an increase in arid regions, particularly in the country's center. Despite this history and its small size, Tunisia is endowed with great geographic and climatic diversity. Four distinct geographic divisions—the mountainous north, the high central plains, the low central plains, and the desert in the south—support ecosystems that vary from moist forests to sand seas. In the north a coastal Mediterranean climate of mild, rainy winters and hot, dry summers exists. This gives way to drier, more extreme weather in the interior plateaus and the desert south, which merges into the great Sahara. The majority of Tunisia's 10.7 million people live in urban areas along the Mediterranean coast. Those who live in the less hospitable interior have adapted by building underground cave homes and hilltop *ksour* (granaries).

#### 1.1 Geographic Division

In the north, two mountain chains extend from the Atlas Mountains of Algeria: the Northern Tell and the High Tell (or the Dorsale). The Dorsale marks Tunisia's highest peak, Jebel Chambi, at 1 544m<sup>6</sup>. This high ridge divides the country into two climatic regions: the mild and rainy Mediterranean north and the arid desert south. Tunisia's

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5 Calendario Atlante De Agostini, *Tunisia*, p. 1084

6 Encyclopædia Britannica Online, *Tunisia: Land: Relief*, 2014, <http://www.britannica.com/EBchecked/topic/609229/Tunisia#toc46597>

only permanent river, the Medjerda, divides the Northern Tell from the Dorsale. The Medjerda valley, northeast of the Dorsale, gets plenty of rainfall, and the clay soil makes it a fertile farmland for olives, wheat, grapes, citrus, jasmine, gum, and pistachios. The Cap Bon peninsula protrudes toward Italy from the northeastern corner of this region.

To the south of the Tunisian Dorsale lies a hilly region called the Haute Steppe (High Steppes) in the west, and the Basse Steppe (Low Steppes) in the east. The sandy soil is dotted with aromatic shrub. The region is populated with sheep and goat farmers, and nomads who find adequate feed for their camels<sup>7</sup>.

The low central plains connect the high plains with the coast. North to south, the plains run from Sousse (the Gulf of Hammamet) to Sfax (Gulf of Gabès). West to east, the plateaus give way to the humid coastal strip known as al-Sāḥil (in English: *shore*). Al-Sāḥil is home to most of Tunisia's olive plantations. It is densely populated and has several islands in the Gulf of Gabès, including Jerba and Kerkenna.

Just at the south of the central plains, lie saltwater wetland and oases that border Tunisia's desert. The wetland, which were once an extension of the Mediterranean sea and it's known with the name of *chotts* or *shatts* (in English: *salty lake*), sets Tunisia's lowest point at 17 m below sea level<sup>8</sup>. Date palms grow abundantly among the higher *chotts*. The oases of Tozeur and Douz are gateways to the Sahara. One of the Sahara's vast sand seas, the Grand Erg Oriental, stretches west to east from Algeria to Libya.

## 1.2 Major Cities

Tunisia's urban population has grown rapidly since the 1970s<sup>9</sup>. Cities now house close to two thirds of the country's 10.7 million people<sup>10</sup>. A typical Tunisian city has a *medina*—an Arab-built, walled and gated old town, with buildings that are hundreds or thousands of years old—and a *ville nouvelle*<sup>11</sup> of European colonial boulevards and

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7 Encyclopædia Britannica Online, *Tunisia: Land: Relief*, 2014, *op.cit.*

8 Encyclopædia Britannica Online, *Chott El-Jarid*, 2014,  
<http://www.britannica.com/EBchecked/topic/301412/Chott-El-Jarid>

9 World Bank Indicators, *Urban Population (% of Total) in Tunisia*, Trading Economics, 2012,  
<http://www.tradingeconomics.com/tunisia/urban-population-percent-of-total-wb-data.html>

10 Encyclopædia Britannica Online, *Tunisia: People*, 2014,  
<http://www.britannica.com/EBchecked/topic/609229/Tunisia#toc46603>

11 In English: "new town"



architecture. City outskirts contain wealthy suburbs and working-class ghettos. With the exception of Kairouan in the interior, Tunisia's major cities (and their economic and social advantages) are concentrated north and east along the Mediterranean coast<sup>12</sup>. The Tunisian Revolution of 2011 interrupted much city commerce, especially tourism. Unemployment, high prices, and increasing religious concerns continue to inspire social protests and labor strikes, which sometimes lead to unannounced facilities closures and temporary city curfews.

## **2. Economy, Energy and Environment**

Tunisia has a well-diversified economy, although it remains dominated by only a few large sectors. The economy depends heavily on mineral exports, especially petroleum and phosphates, a growing manufacturing sector that has received much investment, and agricultural products. Tunisian economy is characterized by a limited availability of natural resources. The country produces most of the energy consumed, but the resources for export are scarce. This condition make Tunisian economic system more dependent with European countries relationships. These are in fact very important for Tunisia, given the trade relations, investments and tourist flows that keep help the national economy in relatively good conditions. Tourism in fact is a significant source of revenue and foreign exchange<sup>13</sup>.

The tertiary sector contributes to almost 62% of the total GDP of Tunisia and is therefore the dominant sector. Agriculture accounts about the 8% and industry the remaining 30%. In the services sector emerges tourism, which relies on the natural beauty of the country (especially the coast) and on the remarkable archeological heritage, contributing to about the 20% of GDP.

After a brief experiment with socialism in the 1960s, Tunisia shifted its economic doctrine toward a mixed planned market economy. However, the economy fell into crisis in the early 1980s, the result of an over alliance on oil revenues, foreign aid, and labor remittances. In the mid-1980s a comprehensive program was introduced to liberalize the economy, which helped restore Tunisia's international credit standing,

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12 Encyclopædia Britannica Online, *Tunisia: Settlement Patterns*, 2014,  
<http://www.britannica.com/EBchecked/topic/609229/Tunisia/46602/Settlement-patterns>

13 *Ibid*

stabilize public finances, reduce budget deficits and inflation, improve trade balances, and increase foreign and domestic investments. Public-sector reforms, deregulation, and privatization have also been implemented. The program has not been without its social costs, however, as unemployment and poverty levels rose. Nonetheless, the country's per capita gross national product has continued to grow steadily<sup>14</sup>.

The economy recorded during Ben Ali's era sustained growth, with an average rate of about 5%, despite the international crisis of 2008-2009. potentially, the country is still able to develop; however, Tunisia failed to attract significant foreign direct investment, especially in relation to other actors in the area. In addition, during 2013, the growth has fallen for the first time below 3%, as a result of the political crisis.

The high unemployment rate (about 17%), especially among young people, is the one of the major structural problems. To this we need to add the great economic and infrastructural disparity between the coastal zones located in the north, and the inland areas on the south, whose development has been clearly overlooked by Ben Ali's dictatorship era. In these southern areas were in fact started the 2011's revolution.

The most important business relationships in Tunisia are those with the European Union. France, Italy and Germany are the three top trading partners, both in term of exports and imports. The trade balance is negative, partly because of oil imports, which are almost the 15% of total imports. A large proportion of Tunisian entrance is represented by the remittances from abroad.

### **3. Defence and Security**

Although Tunisia was judged one of the most stable countries in the region, the fall of the regime following the riots in early 2011, showed that the internal dynamics and the lack of civil liberties had helped create a potential instability, not easy to control.

From the internal point of view, the challenges and the greatest threats to stability and security, are a result of the developments of the post-Ben Ali's dictatorship era, where the country has been plagued by a lack of security and by a lack of a well-defined new institutional model. The state of insecurity has been due to a number of factors, for example the armed militia whose have sowed chaos and fear among the population;

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<sup>14</sup> Encyclopædia Britannica Online, *Tunisia: Settlement patterns: Economy*, 2014, *op.cit.*

the police forces, which expanded significantly under Ban Ali.

From the internal point of view, the challenges and the greatest threats to stability and security resulting from the developments of the post-Ben Ali, since we have not yet defined a new institutional model and that the current policy framework is made uncertain by the proliferation the claims by all forces remained on the sidelines during the years of the regime. Of particular relevance is the phenomenon of political Salafism, emerged in the three-year transition period, which caused many problems to the provisional government. The contrasts are often degenerated into open clashes with secular movements and security forces, which have caused many injuries and some victims. During 2013, however, to take on even more importance emerged mold jihadist terrorism. Tunisia, like other countries in the North African wing, is a potentially fertile territory for the proliferation of groups linked to Islamic terrorism and, in particular, to al-Qaida in the Islamic Maghreb (AQIM). Terrorism has returned to cause fatalities, attacks in Tunisia, especially against military targets in the mountainous area of Jebel Chaambi, on the border with Algeria. There appeared even suicide bombers, as occurred at the end of October 2013 in the resort town of Sousse. Although in the latter case the attack has only caused the death of the aggressor, is worrying the use of this form of terrorism directed against civilian targets and also in urban centers.

In the months after the riots of 2011, moreover, has exacerbated the problem of migration to the Italian coast. The Tunisian coast have become the starting point for refugees from many parts of Africa, especially from the Horn of Africa and neighboring Libya (because of the civil conflict erupted in that country). To handle the traffic (including freight), criminal organizations from both sides of the Mediterranean. This prompted Italy and Tunisia to implement a coordinated program to handle the emergency.

#### **4. Religion and Ethnicity**

Tunisia, with its 10 million inhabitants, is the less populated country in the all Maghreb area, after Libya. Unlike the latter, however, Tunisia is very homogeneous both in terms of ethnicity, and for the presence of scarce tribal and religious divisions. In this country, 98% of the population are Arabic-speaking Sunni Muslims, while the descendants of

Barbers, Phoenicians, Roman, Spaniards, Turks and others have intermarried and assimilated into a shared society and culture<sup>15</sup>.

Ethnicity is typically mixed and most everyone is “Arab-Berber”. In the far south or in the hills near the Algerian border there are a few Berber groups, retain a distinct ethnic identity.

Another ethnic group that exists as a trace culture today is the Jews. The presence of the Jewish community is important especially for the historical point of view: Jews in Tunisia, today about 1500, live mainly on the island of Djerba, where there is one of the synagogues, Ghriba, and one of the oldest Jewish community in the world.

Although the 1959 constitution is suspended, provisions pertaining to fundamental rights, including religious freedom, are guaranteed by the new Tunisian Constitution. In fact, the 2014 Constitution, in its first article declare that “*La Tunisie est un Etat libre, independat, et souverain, l'Islam est sa religione, l'arabe sa langue et la Republique son regime*”<sup>16</sup>, confirming what was previous stated in the preamble of the constitution itself, where the state seeks to “remain faithful to the teachings of Islam”<sup>17</sup>. In addition, laws and policies generally protect religious freedom. As I said, 98% of Tunisians are Sunni Muslim. Islam is one the principal world religions and one of the three faiths that emerged from the Middle East. Its holy book is the *Quran*, which followers believe was revealed to the Prophet Muhammad in the early seventh century. Sunni Muslim adhere to the *sunna* (teachings) and *hadith* (sayings) of Muhammad, who is the last of the prophets of the monotheistic tradition of *Abraham* (Ibrahim). The faith teaches charity, observance of prayer, fasting, and ethical conduct<sup>18</sup>. Followers are asked to perform a pilgrimage, if possible, to Mecca, the birthplace of Muhammad and the location of the holiest of Islamic sites, the Kaaba.

The Islamic law is called *Sharia* (literally: “the straight road”), which governs, for Muslims, the whole human activities. This topic will be treated in depth in the following pages, because, as we will see later, *Sharia* has been one of the main subject of debate, during the drafting of the new Tunisian Constitution.

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15 United States Department of State, *Tunisia 2013 International Religious Freedom Report*, available on <http://www.state.gov/documents/organization/222527.pdf>, accessed on January 2015

16 Constitution de la Republique Tunisienne, *Article 2*, PDF, <http://www.jurisitetunisie.com/tunisie/codes/constitution/const1005p.htm>

17 Constitution de la Republique Tunisienne, *Preambule*, PDF, *op. Cit.*

18 A. Bausani, *L'Islam. Una religione, un'etica, una prassi politica*, garzanti editore, Milano, 2013, pp. 37-68

## **5. History**

In this section i will analyze the events that have marked the history of Tunisia. These events are only a brief summary, helping to understand current events in this territory, and contextualizing its historical development. The next chapter will instead analyze in detail the historical events starting from the early 19<sup>th</sup> century to the present, for having a more complete picture of what has been Tunisian historical, social and cultural transformation.

### **5.1 Ancient History**

Tunisia lies on historic paths of migration, invasions and trade. It has been populated since prehistoric times: the human presence is documented since the Paleolithic. Its first know inhabitants were barber tribes. Synthesizing millennium of history of Tunisia must remember the confrontation between the two ethnic groups of sedentary Berbers and Arabs nomads, occurred between the twelfth and fourteenth centuries. The relationship between these two cultures, in terms of political power, was always unbalanced in favor of the sedentary culture. Phoenician traders from the coast of Lebanon were the first migrants to encounter the indigenous people of Tunisia's coast. In 814 BC Carthage was founded by them and after the Punic Wars Carthage came under the Roman conquest where Tunisia enjoyed a period of great prosperity, developing agriculture and urbanization.

At the end of IV century BC, Carthage reached its maximum power, controlling the maritime trade in the Western Mediterranean, owning Malta, Western Sicily, Sardinia, Corsica, Balearic Island and Andalusia. The period between 264BC and 146 BC, was a period of war against Rome, known as the three Punic Wars, at the end of which the Carthaginians were defeated and Carthage was destroyed, making that territories, called Province Africa, the first Roman colony beyond the Mediterranean, with capital Utica. This area knew a great prosperity based on the production of grain and oil, and for its role in the slaves trade. Christianity came early in these lands (I century), where it was strongly opposed. However this faith spread faster in these areas than in Europe and the Church was regularly constituted by the middle of the III century: Carthage

became one of the capitals of the Western Christianity. In 439, ten years after crossing the Strait of Gibraltar, the Vandals Genseric occupied firstly Carthage and then they established an extended reign from Ceuta to Tripoli. In September 533, Belisario, the general of the Roman Empire, defeated the Vandals, starting the 150 years of Byzantine rule. The Vandals were deported to East as a slaves but, the Byzantines, were not able to integrate the Berbers and their culture in the institution of the Eastern Empire, causing a warfare.

## 5.2 Islamic Dynasties

In the middle of the seventh century, in this territory began the penetration of the Arabs, with their religion, Islam. It took six expeditions<sup>19</sup> to tear the country from the Byzantines and settle there permanently, breaking even the resistance of the Berbers. During the third one, in 670, Arab invaders founded Qayrawan (frenchified in Kairouan).

With the conversion of the Berbers to Islam (702), the conquest became politically irreversible and the ancient Province Africa became *Ifriquya*, in the language of the new rulers. Despite the Berber people had adopted the religion of the invaders, was never willing to accept the rule, so as to join in mass *Kharigism* and start a series of riots that lasted until the arrival of the Ottoman Turks.

After the Aghlabid dynasty, subjected to the Sunni caliphate (IX century), the Ifriqiya region saw the birth (909) the Shia Fatmid dynasty, who founded the Arab city of Mahdiyya (current Mahdia), their first capital in 921. This dynasty will occupy Egypt too.

In the first half of the XII century, the coastal cities were occupied by the Kingdom of Sicily. In 1159-1160 the region fell under the rule of the Almohad, Berbers from Morocco and Algeria, which unified all the Maghreb. However, already in 1228, the Berber dynasty of the Hasfids, became independent and will reign until the XVI century, when, in response to the great pressure of the Kingdom of Spain, the Ottoman Turks conquered the territory.

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<sup>19</sup> The first expedition was in 647; the second in the 661; the third in the 670; the fourth in the 688, the fifth in the 695 and the sixth in during the years 698-702.

In 1574, Muslim Turks assimilated Tunisia into the Ottoman Empire. This conquest transformed Tunisia and the make-up of its population, with subsequent waves of migration from around the Arab and Ottoman world, including significant numbers of Spanish Muslims and Jews at the end of the 15th century. However, the Ottomans will always be few and forced to delegate the administrative power to local notables, reserving military authority.

### 5.3 From Arab Centre to French Protectorate

At the beginning of the 16<sup>th</sup> century, the Spanish were competing with the Turkish Ottoman Empire for the control of the Mediterranean. However, neither the victorious expedition of Charles V (1535), nor the one made in 1573 could subtract Tunisia to the Turkish conquest. By 1587, Turks established districts across the Maghreb, in which local authorities (*bey*) become increasingly powerful. Armies of janissaries maintained order and collected taxes while navies of pirates collected ransoms and slaves. Trade eventually replaced piracy as Tunisia's main source of revenue, although European powers (and the young United States of America) paid protection money to the bey of Tunis for immunity from piracy until the early 1800s<sup>20</sup>. The Tunisian beylicate, or the central government, spent much of the 19th century in fear of foreign intervention. Actions toward preventing a wholesale takeover included the abolition of slavery, and the Arabic-speaking world's first, and short-lived Constitution of 1861<sup>21</sup>.

### 5.4 Colonization Era

African and Asian colonization by European powers began actually in the 17<sup>th</sup> century when were created the Indian Trading Companies, based in Netherlands, France and England. These companies were intended to enlarge the area of the economic intervention beyond the oceans. However, only in the 19<sup>th</sup> century the economic hegemony was transformed into real subjugation and conquest. The first authentic expedition with the purpose of a political and military subjugation, and then the

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20 RINEHART R., "Chapter 1: Historical Setting," in *Tunisia: A Country Study*, 3rd ed., ed. Harold D. Nelson (Washington, DC: American University, 1988), pp.22–25.

21 RINEHART R., *op. cit.*, pp. 25–28.

colonization of an area in the Arab-Islamic Middle East, was the French one in Algeria in 1830. The next phases of the colonial expansion saw in 1839 the British occupation of southern Yemen (with the control of the Suez Canal); in 1881 the submission of Tunisia by French; in 1882 the submission of Egypt by the Great Britain; in 1904 the beginning of the British protectorate on Kuwait; in 1912 the imposition of the French protectorate in Morocco and finally the occupation of Libya by Italy after a war with the Ottoman Empire<sup>22</sup>.

The Europe of the 19<sup>th</sup> century must be considered as most powerful from the military point of view and more advanced from the economic and institutional point of view. Its power consisted in her own economic, technological and military superiority, as a result of the industrial revolution and capitalism.

People of the Middle East and their cultures, faced a difficult dilemma: they had to choose between bowing to the European scientific and technological superiority; adapting to it at the price of abandoning, or deeply modifying, their traditions of civilization; or seeking a “third way” in which Islam and the ancient Middle Eastern culture could find a way to live together and interact with European civilization.

During the 19<sup>th</sup> century, Maghreb, especially Tunisia and Morocco, faced some phases of recovery and affirmation before the submission of the French colonial control. Under the reign of *Ahmad Bey* (1837-1855), Tunisia had almost completely freed from the Ottoman control. Between 1857 and 1860, in the country, had been approved firstly a “basic agreement” that guaranteed the equality of subjects before the law and the inviolability of person and property; and secondly a constitution (the first in the Arab-Islamic world) that, at least in theory, limited in any way the powers of the sovereign. Between 1873 and 1877, the government was led by *Khayr al-Din (kheireddin)*, a skilled reformer, enslaved young but brought up in France. He realized that the kingdom could survive only if it had an army, an adequate administration and an efficient public finance. He tried to promote a series of modernizing reforms that, as expected, aroused the hostility of both the conservatives and the Europeans. He was therefore resigned and Tunisia regressed to an autocratic and corrupt system<sup>23</sup>.

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22 M. Campanini, *Storia del Medio Oriente Contemporaneo*, Società Editrice il Mulino, Bologna, 2006, pp. 20-22

23 M. Campanini, *op.cit.*, p. 32



## 5.5 French Protectorate

The history of French colonial experience in Tunisia began in 1881 with the French protectorate and ended in 1956 with Tunisian independence. The French presence in Tunisia came five decades after their occupation of neighboring Algeria and brought less social disruption than occurred in the last one. It formally began on May 12, 1881, when the French forced the bey of Tunis to sign the Treaty of Ksar Said, also known as the Treaty of Bardo. The terms of the agreement gave France responsibility for the defence and foreign policy decisions of Tunisia. The military occupation was stated to be temporary; nevertheless Tunis became a French protectorate. In the 1883, the French gained control over Tunisia's domestic affairs as well in the Treaty of Marsa (La Marsa Convention).

The general reasons that led to the loss of independence of the country were at least three: a) the debt load of governments toward European powers, particularly France, which gave the settlers the pretext to intervene in the internal affairs of African states to defend their economic interests; b) the military weakness, that made them powerless against foreign interference; c) the frailty of the reform movements that were not able to put up a serious resistance when Tunisia, and Morocco, were invested from the European aggression.

The countries of North Africa in fact, lacked the necessary infrastructure, productive and institutional, for the chance to enter in the global market and to turn to their advantage the participation in those exchanges and interrelations. The French administration placed the Europeans settlers' interests first and subjected Tunisia to reforms that were not in the interests of the Muslim population, bringing them into destitution.

An important feature of the Tunisian and Moroccan colonization, in contrast to neighboring Algeria, was that these countries were not colonies in the strict sense of the meaning, but only protectorates. Formally, the sultan continued to reign in Morocco and the *bey* in Tunisia. However, in reality these rulers were completely powerless. French power occupied key positions in government and as a result, the French plenipotentiary headed both internal and foreign policy.

Another important feature, was placed in the different attitude that France had

towards their subordinates. In Tunisia was pursued a pragmatic and flexible political campaign which did not cause burning hostility by the inhabitants, at least until the First World War. After all, the formal sovereign was a Muslim; Europeans bought, more than expropriate, land parcels; and there was a cooperation with the *ulama'* in the administration of justice. This approach was different in Morocco, where the French took advantage of the clear distinction between Arabs and Berbers to apply the principle of *divide et impera*.

The establishment of the French Protectorate accelerated the state formation and Tunisian state administration was reorganized and strengthened. The French were taking advantage of their influence in the administration, trying to ensure the Protectorate government's control of policing and military functions. In doing so, they also extended the ability of the government to intervene in the life of every Tunisian family.

French contribution to Tunisia's development was greatest in the field of education. Despite qualitative limitation, the French established a bilingual system of Arabic- and French-language instruction, which enabled Tunisia's elite to acquire bilingual cultural and language skills.

First World War was a watershed for the Middle East. People of the region were directly and heavily involved. This had in some cases significant social consequences, which fueled claims of independence.

The most important consequences of the war were political. On one hand the prospect of the disintegration of the Ottoman Empire, allied with the central powers of Germany and Austria-Hungary, fostered colonial expansion, not only of France and Great Britain, but also of Russia (and Italy). In the so-called Constantinople Agreement, made in 1915, to Russia was even promised the annexation of Istanbul and the Straits control. This agreement, in fact, was a set of secret assurances made by the Triple Entente during World War I. France and Great Britain promised to give Constantinople, the capital of the Ottoman Empire, and the Dardanelles, to Russia in the event of victory<sup>24</sup>. Entente Governments aspired to an "Asian" Middle East, subordinate to spheres of

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<sup>24</sup> It was never carried out due to the failure of the Dardanelles campaign and the threat Britain saw in Russia. The agreement was revealed by the Bolsheviks in 1917, making public British diplomatic intentions and encouraging the passing of the Balfour Declaration. Kemal Ataturk used his knowledge of the agreement to regain Constantinople for the Turkish Republic, risking a war with the Allies.

influence: Russia at north, Great Britain at south and France at “centre”, corresponding to Syria and Mesopotamia, ending with the city of Mosul. This partition was made purely for an enrichment of these powers through colonial exploitation of local resources. These decisions were plotted in the most absolute indifference to the needs and the aspirations of local people, having serious repercussions on the credibility of the West, especially by the Arabs.

Tunisia was the first Maghreb country to be influenced by modern nationalism. This feeling started at the end of the 19<sup>th</sup> century, when in 1888, Bashir Sfar, established an Arabic newspaper, *al-Hadira*, to publicize their Salafiyist ideas for modernization and social change that respect the centrality of Arabic and of Islam in Tunisian culture.

In 1905 the Young Tunisia movement was established by members of the young, European-educated, professional middle class of Tunis, emulating the Young Turk movement of the decaying Ottoman Empire. The Young Tunisian demanded a better education, a combination of French and Arab cultures, and Tunisia access to government and sought to modify but not to overthrow French colonial rule.

The Liberal Constitutional, or Destour Party<sup>25</sup>, was organized in February 1920 by *Shaykh Abdelaziz al-Thaalibi*, also one of the founders of the prewar Young Tunisian movement. The Destour called for a greater emphasis on Arab culture and Islam and criticized the French for introducing an estranged cultural order. This party was composed only of middle-class urbanity and functioned as an essentially bourgeois pressure group. The party provided an ideological foundation for opposition to French colonialism.

In March 1934 these young men founded the Neo-Destour Party. The principal force behind this new party was a French-educated lawyer, Habib Bourguiba, who eventually led Tunisia to independence. He adopted a populist brand of nationalist consciousness, having inherited from the Young Tunisian a strong faith in French liberalism and in its economic and cultural innovations, and from the “old” Destour the banner of anti-colonialism. The Neo-Destourians were the first Tunisian secular nationalists. The party was committed to both national independence and economic development and it was able to create, with the contribution of the UGTT trade union (Unione Générale

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<sup>25</sup> *Destour* means “constitution” in Arabic

Tunisienne du Travail), a mass movement despite occasional French attempts to suppress it. After the II World War, France was weakened and tried to promote a co-sovereignty Franco-Tunisian, which does not, however, question the sovereignty of the European power. Nationalists refused the compromise and in 1952 broke out intense demonstrations and protests. This movement did not resort into violence until 1954, when groups of guerrillas began to operate in the countryside, paralyzing French troops. Preoccupied with insurgencies in Algeria, Morocco, and Indocina, the French government under Pierre Mendès, France finally restored full internal autonomy to Tunisia on June 3, 1955. Less than a year later, on March 20, 1956, Habib Bouguiba signed an agreement where the French formally granted Tunisia independence.

## 5.6 Independent Tunisia

With the independence, nationalists had to deal with some problems. The first one was the form of the government. The *bey* had not contributed to the liberation and for this reason the Constituent Assembly, settled immediately after the independence, abolished the monarchy and established a Republic. Habib Bourguiba became the president of this new government in 1957, and he's "reign" lasted until 1987. In its early years, the government conducted some acts of modernization and the new-elected president was able to impose a series of reforms aimed at the secularization. In 1956 was promulgate a Personal Status Law, which replaced the Islamic law in the field of the family law and similar questions (one of the effect of this replacement was the abolition of the polygamy), and, as a consequence, the religious courts were abolished. In 1958, was created a ten-year educational program, aimed to fight against illiteracy (Today, Tunisia is one of the Arab-Islamic countries with the highest literacy rate).

An effect of this modernization was, however, the autocracy. A new Constitution, promulgated in June 1959, established, on one hand, "Tunisia as an Islamic republic within the greater Maghreb, with Arabic as its official language and presidential form of government<sup>26</sup>". On the other hand, that constitution, guaranteed to the president, highly broad powers. On November 8, 1959, Tunisia held its first elections under the

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26 Constitution du 1er juin 1959, *Preamble*, PDF, <http://democratie.francophonie.org/IMG/pdf/Tunisie.pdf>

new Constitution. President Bourguiba ran unopposed, and all ninety National Assembly candidates were backed by the Neo-Destour. Thus, by 1959 Bourguiba and his Neo-Destour Party had placed their indelible imprint on the Tunisian political system.

The years after Bourguiba's elections, were highlighted by a series of internal and external crises, and by the regime's shift to socialist economic policies dominated by the state. In 1964, the foreign-owned lands were expropriated, which caused a worsening of the relations with France. However, Tunisia adopted a pro-Western orientation, developing prudent relations with the Communist-bloc countries. In 1970, the new Prime Minister Hadi Nouria promoted a liberal-oriented economic policy, that was accompanied by a consolidation of the authoritarian character of the regime. This political liberalism came to an end at the 1974 PSD<sup>27</sup> congress, where the delegates unanimously acclaimed Bourguiba party president for life and called for a constitutional amendment to make him president of the country for life as well. In December 1974, in fact, the National Assembly voted by acclamation to permit Bourguiba to remain president for life. This measure made the Prime Minister Nouria, the automatic success in the event of the president's death or incapacity.

After a period of growth, the second half of the seventies was marked by some economic difficulties, social tensions, and important new political actors emerged. The PSD continued to be politically and ideologically unit, while losing much of its early effectiveness as a vehicle of mass mobilization. Bourguiba and Prime Minister Nouria continued to expand the private sector of the economy, dismantling most of the nation's cooperatives. Under these conditions, popular awareness and participation ceased; the regime became less tolerant and more tied to a single ideological tendency; and there was the establishment of two formations of progressive orientation: the Movement for the Popular Unity (MUP) and the Movement of Socialist Democrats (MDS), which joined the Communist Party of Tunisia (PCT) in opposition to the illegal regime.

The early eighties, saw some halting movement toward the creation of a multiparty political system. More important was the continuation and intensification of political trends that had emerged in the middle and the late seventies, with the emergence of

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<sup>27</sup> PSD: *Destourian Socialist Party*

the PSD rival groups.

In 1980, Prime Minister Nouria was replaced with Muhammad al-Mzali, a former minister of education, and his government moved in the direction of political liberalization. In the same year the National Assembly amended the electoral code to permit two candidates to compete for each seat in parliamentary elections. At a special PDS congress in 1981, Bourguiba declared that non-PDS candidates would be permitted to participate in legislative elections, scheduled for the end of the same year. Although it was a multiparty elections, the Popular Front won 95% of the votes.

In subsequent years, the political and economic crisis deepened and radicalized the confrontation between the government and the opposition of Islamic fundamentalists. In 1987 the elder Bourguiba was declared unfit to govern for health reasons and his domination of Tunisia's politics end. He was replaced by General Zine al-Abidine Ben 'Ali, by then minister of national security.

Ben Ali and the Party approved the PDS's name change to the Constitutional (Destourian) Democratic Party (RCD) and legalized a wide array of political parties, and he pushed through constitutional amendments in July 1988 designed to limit the president's term of office. Despite these openings, however, Ben Ali declared new electoral laws, creating a single-ballot-majority formula. As a consequence, during the national elections of April 1989, small parties found difficult to compete and Ben Ali won 99% of the votes, and the RCD won all the seats in the National Assembly, and the same happened during the municipal elections in 1990 (he won 80% of the votes). Consolidation of his power has proceeded apace. In October 1991, elections were held in nine vacant constituencies and the six legal opposition parties boycotted them and, as a result, RCD won all the seats. In the March 1994 presidential elections, Ben Ali won an overwhelming majority and his opponents claimed his victory as a result of election irregularities.

In 1999, Ben Ali was re-elected for his third term in a plebiscite and he obtained the same result in the elections of 2004 and 2009. Between the end of 2010 and the beginning of 2011, political repression, along with rising food prices, corruption, and high unemployment among Tunisia's educated younger generation, ultimately led to revolt. On 17 December 2010, a young man in the provincial town of Sidi Bouzid set himself on fire after his cart was confiscated. The self-immolation triggered nationwide

protests against the Ben Ali regime. Subsequent events became known in Tunisia as the “Sidi Bouzid Revolt,” and internationally as the “Jasmine Revolution.” On 14 January 2011, Ben Ali was forced to flee the country after a month of escalating street protests. By March, official government sources reported that 78 protesters died and 100 were injured during the demonstrations<sup>28</sup>. Despite the government’s tight restrictions on internet use, social media appear to have been a primary organizational tool of the protesters<sup>29</sup>. The strong protest and the revolution itself forced President Ben Ali to resign and leave the country by temporarily giving the power to Prime Minister Mohamed Ghannouchi. Following this departure, an interim government, consisting of official opposition members and no one from the Ben Ali regime, conducted the election of a new Constituent Assembly in October 2011. In December the assembly adopted an interim constitution and elected Moncef Marzouki interim president. In 2012, Ben Ali was tried in *absentia* and sentenced to life in prison for his role in hundreds of civilian deaths. Some of his allies received lighter sentences, triggering protests. The search continues for national assets hidden in foreign real estate, yachts and planes, and bank accounts.

As of 2012, Tunisians were debating their religious identity. Conservative Islamists (labeled “Salafists” in many media reports), newly freed from government restrictions, are protesting against what they view as the secularism of universities and media. A key figure for Tunisia’s Islamists is Rachid Ghannouchi, the long-time head of the Ennahda political party who spent years in exile before the Jasmine Revolution. Defenders of cosmopolitan tradition are calling for the government, currently led by moderate Islamists, to curb the violent protests of religious fundamentalists. Government leaders have suggested that provocateurs, criminals, and ousted members of the former regime are often behind the escalation to violence of those protests that disrupt daily life, requiring the action of law enforcement officials and curfews.

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28 AMNESTY INTERNATIONAL, *Security Forces in Tunisia Must Be Held Accountable for Killing Protestors*, 2011, <http://www.amnesty.org/en/news-and-updates/report/security-forces-tunisia-must-be-held-accountable-killing-protesters-2011-03>

29 PERKINS K., *A History of Modern Tunisia*, second edition, Cambridge University Press, Cambridge, 2014, pp. 222-232

## CHAPTER 2

### TUNISIAN DEMOCRATIC TRANSITION

#### 1. From Ben Ali's Regime to the *Arab Spring*

##### 1.1 Ben Ali Presidency

Zine Al Abdine Ben Ali became President of the Republic of Tunisia on November 7, 1987, after he easily convinced doctors that his predecessor Habib Bourguiba was unable to fulfill the duties of his presidency. Habib Bourguiba retired in the city of Monastir where he passed away thirteen year later, at the age of 97.

The transition happened in a very pacific ways, according to the Article 57 of the previous Constitution, which declare:

“In case the Presidency of the Republic becomes vacant on account of death, resignation, or total incapacity, the President of the National Parliament immediately is invested temporarily with the functions of the Republic for a period of at least 45 days and at most 60 days. He takes the constitutional oath before the National Parliament, and during its absence, before the Bureau of the National Parliament<sup>30</sup>”

As Head of State, Head of Government and chief of the only one political party still active, Ben Ali received a huge power, consolidated by the fact that only few Tunisian citizens were mourning the loss of the previous President. He was well aware of the need to take advantages on this situation, in order to bring a new order in that political and economic chaos. Ben Ali immediately proclaimed himself “spiritual son” of Habib Bourguiba, wanting to continue the pro-Western policy of his predecessor. To represent the transition to a new leadership, the PSD<sup>31</sup> was renamed Democratic Constitutional Rally (in French: *Rassemblement Constitutionnel Démocratique* – RCD). The reference to the Constitution was still linking the party to its predecessors, but the rest was referring to an idea of a broader and egalitarian institution than the old parties, Destour, Neo-Destour and Socialist Destour. The first RCD congress, in 1988, invest Ben

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30 Constitution du 1er juin 1959, *Article 57*,

31 Socialist Destourian Party (in French: *Parti Socialiste Destourien*)



Ali with complete control of the party and, by extension, the state. The political bureau was reduced from 22 to 7 members, all declared supporters of the new president. Heidi Baccouche, a veteran of the party, became vice-president of the RCD and Prime Minister.

On the one hand, Bourguiba loyalists were soon marginalized in both the party and the government. On the other, Ben Ali freed thousands of political prisoners (including Ghannouchi) and other MTI members, and he encouraged opponents of Bourguiba who had gone into exile to return to Tunisia, assuring them that the new government was determined to promote a political pluralist environment capable of accommodating the RCD and its rivals, both secularists and religious.

It must be said that, in these years as president, Ben Ali actually started a weak process of democratization. He abolished the presidency for life; he established a maximum age of 65 years to submit the candidacy for the presidential elections; the mandates of the Head of State were limited at three and for five years; finally he partially legalized the associations and political parties.

Like most members of the intellectual community, Ben Ali had little sympathy for the Islamic movements view, but he believed that it constituted a greater potential threat outside the political tent than within in. Demonstrating his willingness to seriously deal with the MTI, Ben Ali accommodated some of its symbolic demands, publicly affirming Islam as the state religion, authorizing Tunisian radio and television stations to broadcast the call to prayer and legalizing an MTI student organization.

In the fall of 1988, MIT representatives, along with senior government officials, leaders of political secular parties and other important national figures, were invited in deliberation to formulate a statement of political philosophy and objectives on which everyone could agree in advance of the first elections of the post-Bourguiba era, scheduled for the beginning of the following year.

Ben Ali launched the National Pact during the first anniversary of his presidency. It recognized the centrality of the Islamic and Arab heritages of Tunisia, the same patrimony described by Bourguiba. The document called for closer ties between Tunisia and the rest of the Arab world, and referred to the importance of the movement of Islamic reform and modernism, but also expressed an appreciation of the Personal Status Code, which was declared inviolable.

In this way, the MIT became a signatory of the National Pact accepting the content and making a major concession. The government, for its part, offered a modest bestowal to the entire spectrum of the opposition, accepting the proposal to address the shortcomings of the past through political pluralism, respect for human rights explicit guarantees of basic freedoms.

The National Pact appear to offer the MIT its first opportunity to enter the political arena. In order to conform itself to the electoral laws, which were prohibiting religious terminology in the names of political parties, the organization changed its name and became the *Renaissance Party*, well-known as *Ennahda*, and applied for political party status. However, when the legislative election campaign began (April 1989), Ennahda and other opposition parties were not ineligible to offer lists of candidates. On the other hand, within the five secularist parties, only one had an organisation capable of presenting an organization able to challenge Ben Ali's party. The RCD had a crushing victory, gaining almost the 80% of the popular votes and winning all parliamentary seats<sup>32</sup>.

The first year of Ben Ali's presidency, neither foreign policy nor economic, received great attention, but following the RCD victory in the 1989 elections, the government intensified the implementation of the planned adjustment of the end of the Bourguiba's era. The impact of the World Bank requirements to revive Tunisian economy was not good for the middle classes and the workers, which continue to react with anger, supported by the actions of Ennahda Party. However, the 1987-1991 plan presented by the new Prime Minister Hamid Karoui, managed to stop the economic downturn and achieve a healthy annual growth rate. The plan was also a major modernization process of the country, which he reach a common prosperity, unlike other Arabic and African countries.

In the Arab world, Tunisian government devoted more effort than in the past, trying to reach stronger relations with the neighboring countries, especially with the oil-importing states belonging to the Arabian Peninsula. The famous *petrodollars* could have been a huge opportunity to attract investment for the country development projects.

Nonetheless, in the wake of the events of the Iraqi invasion in Kuwait in the summer of

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32 PERKINS K., *A history of modern Tunisia*, p. 195

1990, Ben Ali refused to respond to the call of Saudi Arabia for the creation of a multinational military force, which also included European and American troops. Tunisia did not condemn Iraqi actions and insisted about the fact that only the Arab States should resolve the issues of the Arab World. Although this position caused annoyance within the Gulf States and it was applauded by Tunisian citizens, it was frowned upon by that powers which were traditionally closer to Tunisia, such as France and United States.

Meanwhile Ben Ali sent a ministerial delegation to Iraq trying to stimulate a negotiation between the opposing factions, without success. The outbreak of the Gulf War in January 1991 generated a large-scale protest that the government had closely and carefully monitor, in order to avoid that opponents took the opportunity to take control of the masses and use them to press the government to take a very pro-Iraq position. This time Tunisia paid a heavy price for its political decisions during the crisis. European tourism in fact fell by 36%, while the United States retaliated by cutting assistance funds, which went from 30 to 8 million dollars a year. Donations from the Gulf States fell a hundred million in 1990 to three of the following year, while Kuwait stated that it would no longer want to restore diplomatic relations with Ben Ali's country.

The Gulf Conflict left Tunisia in a climate of social and political tension and Ennahda Movement turned against the government.

At the end of 1990, a group of Islamist militants were arrested on charges of planning a terrorist attack that included a plot to assassinate Ben Ali. The latter, realizing the gravity of the situation, began to direct its security forces in a ruthless repression against Ennahda Movement and its supporters. When at the 1991 legislative elections the Islamists won a significant share of votes, the current government decided to outlaw the party, while hundreds of its members were prosecuted and imprisoned. Afraid of this, the majority of Tunisians turned a blind eye to the abuses committed by the authorities, while the leaders of the other political opposition parties were pleased to witness the collapse of their strong rival, and they started to eliminate any element that might cause annoyance to the government.

In that period, there was the knowledge that no opposition party would have been survived in open conflict with the government, or would have been hoped to prevail in

the election against the RCD. In the presidential election, there was never advanced a pluralism demand. The government in fact, rejected the candidacy of Moncef Marzouki, head of LTDH<sup>33</sup>, and the only persons who came forward to compete against Ben Ali. Marzouki was arrested on charges of defamation, because he asked for a greater political freedom and for the legalization of Ennahda Movement. In this way, President Ben Ali ran unopposed for his second term.

The 1994 election's outcome, underlined the impressive RCD power, demonstrating how the traditional party-State interconnection were even more reinforced. Ben Ali became highly powerful and his power was reinforced by the formation of a closer elite. He encouraged the defence of progressive and social programs and the disdain for the Islamic political agenda. Among his followers there were lot of learned and cultured women. The President strengthen youth participation to develop his future voters.

Also the second half of the 90s was signed by the govern commitment to maintain this fake pluralism, despite the opposition was already limited and weak. A constitutional referendum was held in Tunisia on 2002. The amendments to the constitution would abolished the three-term limit for incumbent presidents and raise the age limit of a sitting president from 70 to 75. These changes were reportedly approved with a 95,59% voter turnout.

Neither the 2004 not the 2009 presidential and parliamentary election held the slightest promise of meaningfully altering the political landscape, and the weak and fragmented opposition proved unable to achieve what, historically, only the Neo-Destour had accomplished.

Starting from the second half of 2000s Tunisian situation was unsustainable on different areas: Ben Ali's regime was not able to repress its opposition anymore because of the sharing of information (thanks to new technologies); on the one hand students and journalists' blogs achieved a more active role in the area of communication and protests organization, on the other, even the visual media started to annoying the regime.

At the start of 2008 we can find the first protests, made by the worker class which were protesting because underpaid. The hatred was incited within the citizens when, during some rallies, the police bumped into them, opening the fire directly on the

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33 LTDH: *Ligue Tunisienne des Droits de l'Homme*

participants.

From this moment the protests started to spread rapidly in other cities on the South of the country, complaining poverty, unemployment and terrible life conditions. The spark which caused the beginning of the Tunisian Revolution arrived December 17, 2010, provoking the outbreak of what would have been the beginning of the Arab Springs.

## 1.2 Tunisian Revolution

Starting from the 17 December 2010, a series of street protests had upset several cities in the central and southern Tunisia.

As already said, the spark that had started everything, was something that immediately became the “movement's most iconic event<sup>34</sup>”: the suicide by self-immolation of Mohamed Bouazizi, a twenty-six-years-old vendor in the governorate of Sidi Bouzid, a city in the central zone of the country. With this act, the young vendor was protesting against the requisition of his products by the authorities, convincing him that “the authorities' overzealous enforcement of municipal regulations and their demands for bribes were hindering him from earning a livelihood and set him on the desperate course that left him critically burned by an act of self-immolation that led to his death in a Tunis hospital few weeks later<sup>35</sup>”. His actions came to symbolize the frustrations of million of Tunisians, which were dealing with the difficulties of everyday life and their disgust toward the government. With this event, the protesters carried on and in the surge of the events, severely dealt by the police with the use of weapons and lethal bullets, the protests expanded from the interior to the coastal regions, paralyzing everything at the beginning of the new year.

The repression was violent; the police killed more than three hundred of people in those days and the days of 8 and 9 of January will be remembered as the “black weekend”. The effect of the violence used for repression amplified and radicalise the insurgency, which assumed a political feature. The protests was fueled, on the one hand, by the *chebba* (young) Tunisians, who used the Internet to organize sit-ins and demonstrations; and on the other hand by the political opponents and intellectuals

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34 PERKINS K., *History of modern Tunisia*, p.222

35 *Ibid*

which were the glue between young people and workers. On January 10, trade unionist, intellectuals, students and unemployed people, emphasized their protests in almost every town of the country.

The same day President Ben Ali tried to appease the protesters, driven by the increasing dangerous environment. The leader showed himself on national television, promising new jobs, new parliamentary elections, and raising wages. However, he declared he did not have any compassion for the victims of the protests, calling the protesters “blameable of acts of terrorism”; not obtaining the desired effects. Trade unionists declared a general strike and the insurrection continued despite the tightening of repression. An important detail for the success of these events was the military's refusal to intervene on the riots suppression. The army will remain neutral, intervening only to protect and defend sensitive points (bank, public offices etc). Subsequently, with the declaration of the state of emergency, the army took an active role as guarantor of public order, protecting again the sensitive points and taking a real fight against presidential militias.

On January 13, 2011, Ben Ali appeared again on national television, talking in Tunisian Arabic, trying to get closer to its citizens. He declared that he had understood the protests, he would have condemn the use of weapons for the repression, and he promised to arrest and punish those responsible. He also promised freedom of the press and expression, the freedom of networking and the democratic transition, reporting that he would have been announce new presidential elections and refrain from applying. Not even this time the protests faded. The scene of blood and violence involving the region of Thala<sup>36</sup>, happened in the evening of the same day of the speech, induced the departure of the President and his family. Ben Ali was forced to take refuge in Jeddah (Saudi Arabia), following a refusal of protection by Malta and France, and the Italian warning that he would not be allowed to enter its territory<sup>37</sup>.

Tunisia, with its revolution, was the pioneer of the *Arab Spring* and the only Arabic country which began a renewal within its society and modernization of institutions, in order to evolve toward a democratic model of society.

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36 AL-JAZEERA, *The massacre behind the revolution*, 2011, <http://www.aljazeera.com/indepth/features/2011/02/2011215123229922898.html>

37 BBC News Africa, *Tunisia: President Zine al Abidine Ben Ali played out*, 2011, <http://www.bbc.co.uk/news/world-africa-12195025>

## **2. Post-Revolution and 2011 elections of the National Constituent Assembly.**

After Ben Ali departure, there have been put in place institutions to ensure the democratic transition, providing the country a democratic institutions and recognize to Tunisians the rights they have claimed in the name of human dignity, equality and social justice.

The first offices were created to deal with the political reforms, the corruption investigations and violations of the human rights during the revolutionary period. But these couldn't stop the protest movements, especially within young people, which they kept asking for the departure of the government and for the abrogation of the Constitution. The authorities were forced to give the country a brand new constitution. For this reason, it was necessary prepare the conditions for the creation of the new constitution through the institution of the national Constituent Assembly.

Tunisian transition was difficult since the beginning, because of the ambiguity of the Article 57 of the previous Constitution, related to the vacancy of the President.

The creation of the *Higher Authority for Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition* (in French: *Haute instance pour la réalisation des objectifs de la révolution, de la réforme politique et de la transition démocratique*), was essential to define in which context the parties, the associations and the social structures had to act after the President departure. This Authority had to fill the institutional vacuum created after the dissolution of the Parliament, adopting legal texts, fundamental for the beginning of the transitional process. The Authority was created on March 15, 2011 through the constituent Law n. 2011-6 of February 16, 2011<sup>38</sup>; and according to this Law, it was in charge of examine the legislative texts relative of the public organizations; and to suggest the necessary reforms in order to pursuit the revolution objectives. The role of this Commission was essential because was this Authority to create the laws relative the National Constituent Assembly elections, through the Decree-Law n. 35-2011<sup>39</sup>; and relative to the constitution of the

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38 Loi Constituante n° 2011-6 du 16 Décembre 2011 portant sur l'organisation provisoire des pouvoirs publics, <http://www.legislation-securite.tn/fr/node/30479>

39 Décret-loi n° 2011-35 du 10 Mai 2011, relatif à l'élection d'une assemblée nationale constituante, <http://www.legislation-securite.tn/fr/node/30432>

*Independent High Authority for Elections* (in French: *Instance Supérieure Indépendante pour les élections* or *ISIE*), through the Decree-Law n. 27-2011<sup>40</sup>.

## **2.1 Creation of the Independent High Authority of Elections (ISIE)**

The Institution of the Independent High Authority of Elections (ISIE) marked a break with the country's institutional past, where the elections were monopolized by the Minister of the Interior and by Ben Ali himself.

The ISIE is an independent entity and it defines by itself its operations and its procedural norms. Its provided with jurisdictional personalities, it has financial and operational autonomy, and its budget its procured by the State.

According to the Article 2 of the Decree-Law n.27-2011, its mission is to prepare and control the all electoral process through:

- the application of the Decree-Laws inherent to the national constituent assembly elections
- the proposition of the electoral boundaries, needed to be fixed, for the achievement of the objectives of the revolution, the political reform and the democratic transition;
- the provision of the electoral calendar
- the creation of the electoral lists
- the guarantee of the right to vote for every citizen
- the reception of the applications for the elections
- the observation of the electoral campaign to ensure the equality between the candidates
- the organizations of campaigns to explain the voting system and for encourage participation of the citizen
- the control of the electoral process during the voting day, the supervision of the vote and of the electoral counting
- the regulation of the possible disputes received and the resolution of queries on the basis of the Decree-Law of the National Constituent Assembly
- the deployment of the observers and controllers for the Tunisians polls
- the allocation of foreign observers representing the international organizations and associations
- the communication of the preliminary electoral results and the final and official ones
- the preparation and publication of a final report concerning the whole elections process.

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<sup>40</sup> Décret-loi n° 2011-27 du 18 avril 2011 portant création d'une instance supérieure indépendante pour les élections, <http://www.legislation-securite.tn/fr/node/30434>



The ISIE is arranged with a Central Committee, composed by 16 members; and some regional committees (IRIE), which are needed for local governorates and for the diplomatic representatives to manage the votes abroad. It also has administrative, technical and financial offices under its authority. For being an ISIE member a citizen has to be a voter, that is he (or she) has to have the proper civil and political rights; has to have experience in the elections field; has to be competent, impartial and fair; has to give the full availability for the mission; the citizen must not have been in charge with RCD during the previous 10 years; and he must not have been involved in the solicitation of the ousted president to stand for the 2014 presidential elections.

The sixteen members of the Central Committee are elected by the Higher Authority for Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition (HIRORRPTD), and this has to choose between the lists of candidates submitted to it by the representative of the legal professions and by the candidates in other professions. According the Article 5<sup>41</sup> of the above-mentioned decree, the ISIE central committee is composed as follow:

- Three (3) Judges, chosen from a list of six judges, including three of them suggested by the Tunisian Magistrates' Association and other three suggested by the Magistrates' Union;
- Three (3) lawyers, chosen from a list of six lawyers named by the national order for Tunisian lawyers;
- One (1) Judicial Officer, chosen from a list of two judicial officer suggested by the National Council of Notaries ;
- One (1) Judicial Officer, chosen from a list of two judicial officer suggested by the National chambers of bailiffs ;
- One (1) public accounting, selected from a list of two experts suggested by the National Council of Chartered Accountants.
- One (1) member of the specialized press and media, selected from a list of two candidates suggested by the Trade union of Tunisian journalists ;
- Two (2) selected candidates from the list given by the non-governmental organization that are working in the field of the human rights;
- One (1) member representative of Tunisians living abroad, chosen by the applications submitted by the competitors;
- One (1) member specialized in computer science, chosen by the applications submitted by the competitors;
- Two (2) university professor, chosen by the applications submitted by the competitors.

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41 Décret-loi n° 2011-27, *op.cit.*

The same Article assure that HIRORRPTD members would have try to respect the principle of male/female equality, and thanks to this Commission, the 2011 elections for the formation the National Constituent Assembly, were correct according to the law.

## **2.2 National Constituent Assembly Elections**

The Decree-Law n. 35-2011, relative to the elections of the members of the NCA, gave to all the Tunisian citizens, even those living abroad, the right to vote and the right to stand as candidates; with the exceptions of the Tunisians who where in some way responsible for the structure of RCD, the RCD minister members who belonged to the successive Ben Ali's governments after 1987, and the Tunisians who had called for the his re-election in 2014.

This Decree-Law has its basis, according with its preamble, on the break with

“the old regime base on the arbitrariness and the contempt for the will of the people, by the grab of power and the falsification of the elections”

and in accordance with

“the principles of the Tunisian revolution aimed to established a legitimacy based on democracy, freedom, equality, social justice, dignity, pluralism, human rights and the peaceful alternation in power”.

The members of the National Constituent Assembly were elected “by universal,free, direct and secret ballot in accordance with the principles of the democracy, equality, pluralism, honesty and transparency<sup>42</sup>”.

These principles are based on the administration and the national media neutrality, on the electoral campaign transparency in reference to the financial sources and the allocation of these funds, on the equality between the candidates and on the respect of the voters and candidates physical integrity. Furthermore, according to the decree-

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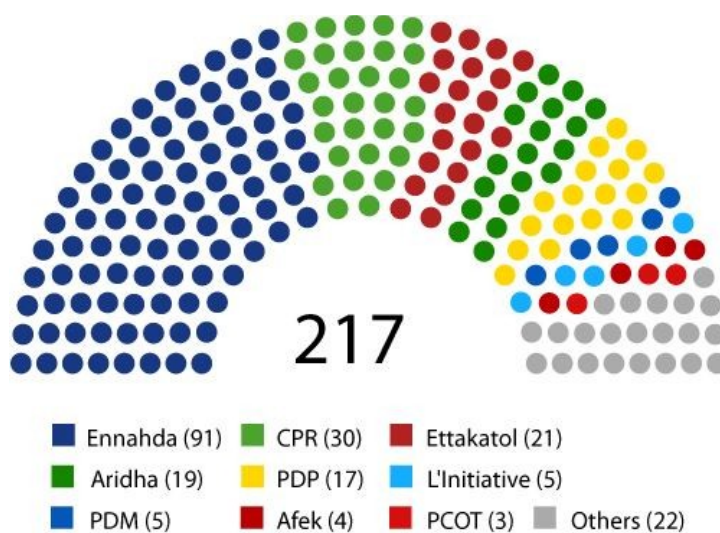
42 Decree-Law n. 35-2011, *Article 1*

law, are also forbidden the inciting-hatred propaganda; the intolerance and discrimination based on the religion, on the belonging with a region rather than another, and on the affinity to tribal community.

The rule of the vote reflected a system of proportional representation in blocked lists. These lists had to be gender-equal and alternate, as provided by the Article 16<sup>43</sup>.

The voter had to choose only one list and there were not the possibility to remove candidates or modify the classification. This method facilitated and supported the seats distributions within a big number of parties, including the ones independent (or less important). However, during the submission of applications, ISIE had to deal with the huge number of electoral lists. In fact, 1517 lists were reported for 217 seats<sup>44</sup>.

**Image 2.1, Disposition of seats within the National Constituent Assembly**



*Source:* Wikipedia, Tunisian Constituent Assembly election, 2011

43 Article 16: “Applications are submitted on the basis of the principl of equality between men and women. The list that does not reach this standard will be rejected, except in the case where there is an unequal number of seats reserved for certain consituencies”

44 Total number of seats: 217 (Tunisia, 199 – Abroad 18)

Total number of circonscription: 33 (Tunisia, 27 – Abroad, 6)

Total number of lists: 1517 (Parties, 828 – Independents, 655 – Coalitions, 34)

The high number of lists has caused the dispersion of voices and the loss of positions for some lists and for some candidates present in more than one electoral list.

The results were announced after counting began on October 25, 2011. Ennahda party won a plurality in the elections with 89 seats, followed by the Congress for the Republic (29 seats), Popular Petition (26 seats), Ettakatol Party (20 seats), the Progressive Democratic Party (16 seats). The remaining seats were distributed at a rate of less than 5 seats for the other 11 lists, with one seat each.

### **2.3 NCA Structure and Functions**

According to most of the scholars in this field, the Constitution is the mirror of the national collective identity. It has a qualitative skill and for this reason is different from the ordinary laws.

Furthermore, constitutional policies have the duty to achieve the greatest possible approval, dealing with the eventual disputes between majority and opposition during the constitutional draft. The Constitution generates Democracy. It represents the identity soul of people and for this reason the text has to be adopted legitimately.

It is necessary in this case, focus on the role of the National Constituent Assembly. In fact, it has the full powers during the whole period of its mandate. Constituent power is an absolute power per definition; as a result the Assembly has to a full popular legitimacy and it must be provided with legislative, executive and judicial powers. The purpose of the Assembly is drafting the Constitution, in addition to the appointment of the new interim government and the election of an assembly with full powers.

The main National Constituent Assembly functions were regulated by the new interim government, thanks to the constituent Law n. 2011-6 of December 16, 2011 *Loi constitutionnelle n° 6-2011 du 16 décembre 2011, relative à l'organisation provisoire des pouvoirs publics*, on the provisional organization of public authorities. This law explains the primary objectives of the Assembly, in charged with drafting the New Constitution, according to the preamble of the above-mentioned law, and reaffirmed by the Article 3, inherent to the constitutional power and to the modality to adopt the constitutional text:

“The National Constituent Assembly adopted the draft of the Constitution article by article, by an absolute majority of its members. It then proceeded to its adoption by the two-thirds majority of members and, in the absence of this, by the same majority at the second reading within a period not exceeding one month from the first reading. Alternatively, the constitution draft will be submitted in its entirety to referendum for its adoption, by the majority of its voters<sup>45</sup>”

Even the ordinary legislative activity is regulated by the law n. 6-2011, which distinguish this activity between fundamental laws (which require, for the adoption, an absolute majority by the Assembly) and the lower-rank laws, which needs the majority of the present voters, as long as it reaches the one-third quorum.

The superior nature of the Assembly became more apparent in relations between the executive and judiciary powers. In the first case, the Assembly has the power to tight control the Head of the State and his government. Each member may raise questions to the executive and the Prime Minister has an obligation to give answers within thirty days. In the second case, although the judiciary is defined as an “independent body”, the National Constituent Assembly is in charged to establish its composition and its powers by adopting a law.

This is the context that has defined the boundaries within which the National Constituent Assembly found itself carrying out its political and constitutional actions, aware that it must represent and preserve the civil society.

### **3. New Constitution**

On January 26, 2014, the National Constituent Assembly adopted the text of the new Tunisian Constitution. This was the end of a difficult democratic transition process, began with the election of the National Constituent Assembly members in 2011, and which put an end to the 23-years dictatorship ruled by Ben Ali. As I explained in the previous chapter, Tunisia owned its own independence on March 20, 1956. Just three years after the independence there was the creation of the first Tunisian Constitution, which remained in force until 2011. During this year, and after

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<sup>45</sup> Loi constitutionnelle n° 6-2011 du 16 décembre 2011, relative à l'organisation provisoire des pouvoirs publics, *Article 3*

the revolution, the Constitution was repealed by the Decree-Law 12 March 2011.

Before analyzing the legal reform, it is essential to examine how the Islamic law works in the country.

In the Islamic country, every law is a divine essence because its source is the *Sharia* (literally: “the straight road”). *Sharia* is composed by the Quran, which followers believe was revealed to the Prophet Muhammad in the early seventh century, and by the Sunna which include the *hadith* (sayings) of the Prophet. These two sources are followed by *ijma* and *qiyas*. The first of these terms, *ijma*, in Arabic refers to the consensus or agreement of the Muslim community and various schools of thought within Islamic jurisprudence define this consensus to be that of the first generation of Muslims only (other schools of thought say that this is the consensus of the first three generations of Muslims). The second term, *qiyas*, is the process of deductive analogy in which the teachings of the *hadith* are compared and contrasted with those of the Quran, in order to apply a known injunction to a new circumstance and create a new injunction.

As a result the Islamic doctrine allowed Allah as the only legislator and the Mujtahidun (or mufti), is recognized as an Islamic scholar who is competent in interpreting *Sharia*.

It's important to say that not all the constituent elements of the Islamic legislation have divine and immutable features. In fact, *Sharia* acknowledges only the Quran and the Sunna, because they are divinely inspired sources. The *ijma* and *qiyas* have origins from a human concept and they can change according to some particular circumstances. In the Islamic law, there is the need to point out which regulation has immutable and divine features (for example the Oneness of God is a dogma), and which one has been made for particular circumstances and it can be changed or repealed.

A practical example can be the Wedding. This, in the Islamic law, is a “consensual” act. The Qadi<sup>46</sup>, in this case, has only to certify the coexistence of the five fundamental elements<sup>47</sup>.

This example shows that in the Muslim Law, the presence of a “civil element” permits the modification or the adjustment of a certain legislation.

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46 A *qadi* is a judge ruling in accordance with the *Sharia*. Qadis traditionally have jurisdiction over all legal matters involving Muslims. The judgment of a qadi must be based on *ijmah*.

47 Consent, *Mahr* (bride gift), Witnesses, Prenuptial Contract Conditions, and, after the contract signature, the *Walimah* (the public wedding celebration)

Now in the Muslim law, the problem is to determine who can hold the legislative power, because according to Islam this power belong only to God, who articulated his wishes through the Prophet Muhammad, and through the latter to all the human being.

For century, the Muslims had related the immutable supremacy to the *Sharia*, that is to say the unconditioned God's will. However, the institutional evolution brought new tendencies to the Islamic Right: the modernity tried to change *Sharia* to adapt it to the modern world, placed men's will before God's will. For this reason the reform process find always obstacles, because the reformed law suggest a deep secularization.

Starting from the 19<sup>th</sup> century, most of the Arab-muslim country started to codify the Islamic Law. This process, also with the popularization and the imposition of the new West-oriented jurisdictional models put through a deterioration of the Islamic system.

President Bourguiba was one the first who brought modernity in the country with the creation of the Constitution of the newborn Tunisian Republic. For Tunisian community, the idea of a new Constitution wasn't new. Shortly before the Independence, a Decree-Law of December 29, 1955, established a Constituent Assembly. A second Decree-Law (of January 6, 1956) established the general rules for the Assembly members elections. According to this law, all Tunisia-citizenship men (with an age of at least 21 years old), were referred as valid voters. The candidates had to be at least 30 years old and had to be able to literacy. Furthermore, a resolution of March 1, 1956, established the number of the electoral districts (18) and the number of the Assembly Seats (98).

After the official independence, the Constituent Assembly took office in the palace of Bardo, and started to draft a new Constitution that it has, as its central purpose, the establishment of the Tunisian Republic, with the appointment of Habib Bourguiba as a provisional president, pending the final draft of the Constitution itself.

The constitution was approved and promulgated by the Constituent Assembly on June 1, 1959; was signed by Habib Bourguiba through the law n. 59-57 and was published on the *Journal de la Republique Tunisienne*.

The text of the Constitution, composed by a preamble plus 78 articles, represented the second Constitution of the Tunisia modern history and its legal rulings were the most modern in the all Mediterranean area and in the Middle East. This Constitution was the fundamental Chart of Tunisia for more than fifty years, until when its application was

suspended after the Tunisian Revolution and after election of a new National Constituent Assembly, in charged to draft a new text.

### **3.1 Drafting of the New Constitution**

The constitution is the fundamental regulatory act which defines the nature, the shapes, the structure, the activities and the fundamental rules of a Country. The Constitution is the fundamental Law of the State. The main goal of this law is the achievement of a consensus around a text that must aim to reconstruct the plurality of visions.

In Tunisia this problem was accentuate after the departure of Ben Ali. In fact, we could have seen a division between those who would have preferred a secular government and who wanted a religious government. One of the most difficult task concerning the NCA was to maintain the legitimacy earned with the previous elections. The draft of the Constitution was presented four times to be judged (the last one during July 2013). These four constitutional drafts were subjected to the debate of the deputies, of the political parties, of the civil society and of the citizen. The principal disagreement point were the nature of the State, the role of Sharia in the new set of rules, the formulation of certain human rights and freedoms, including the recognition of the universality of human rights as a source of the law and some particular aspect of the women rights; and the institutional shape of the country.

The Islamic Ennhada Party, strong of the majority obtained with the NCA elections, has had a very strong decision-making, but it wasn't exclusive. The civil society in fact was afraid that the political power of the party would have attract secular political parties, for example Ettakatol of the Congress for the Republic (RCD), on topic as the nature of the set of rules or the personal statement. However, Ennhada party had demonstrated and objective coherence.

### **3.2 The debate on the Sharia as source of law**

The debate focused on some controversial articles related to the religion of the State, Islam, within the new Constitution. This issue was on the one hand about the relation



with its institutional position in the public life, and on the other about the role of the Islamic law as a source of right<sup>48</sup>.

Ennhada Party had a central role in this debate. During its electoral campaign, the party stated several times that it would not try to place the call to sharia among the sources of the law in the new constitution. However, after the electoral victory, a group of more conservative members of the party, started to try to act differently. Among them, Sadok Chorou, declared that “the preamble has to mention the Sharia as the principal sources of the law<sup>49</sup>”.

This group saw in the Sharia an essential source of the law and they had presented a draft law, composed by the Article 10, which viewed sharia as an essential source; and by the Article 126 of the same draft, under which, according to the deputies, would have created an Islamic High Council, that would have been a constitutional independent authority, which would have had the main goal to release the Islamic *fatwa*<sup>50</sup>. During an interview, Sadok Chorou, gave more details of his project:

“the legislators have to refer to the three fundamental pillars: the Quran, the Sunna and the Ulema's advices (religious scholars) (...) The State religion is Islam, and considering that almost the whole tunisian people is Muslim, there will not be obstacles on the application of the *sharia*<sup>51</sup>”

The project created a heated debate among the various factions. The NCA president, Ben Jafar, threatened to resign if the proposal was accepted. In this way he would have been tearing apart any attempt to the democratic transition<sup>52</sup>.

Ghannouschi himself tried to calm down the situation, withdrawing the draft law and proposing an article in which was deny the possibility to promulgate laws against Islam. This article would have still define Islam as an identitary reference and as a normative law.

On the one hand, the Congress for the Republic Party, tried to defend Ennhada

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48 DEL PISTOIA,D., *Tunisia. Luci e ombre sulla Costituzione*. Osservatorio Iraq, 2014, ISSN: 2240-323X

49 Hafidha Chekir, 2014

50 In English: Advisory Opinion

51 Hafidha Chekir, 2014

52 LONGO P., *La nuova bozza costituzionale tunisina: un'analisi critica*, Dossier Euromediterraneo, *Il Corriere di Tunisi*, n° 119, 2013

position, and its representative Mabrouk Mbarek said that “the only religious reference has to be the Article 1 of the ancient Constitution, interpreted as a Tunisian Arabic-muslim-identity declaration<sup>53</sup>”. On the other hand, Mbarek understood later the dangerous proposal:

“Mention the Islamic values within the fundamental laws, is like open the Pandora’s box. The content is too vague, and depends entirely on an interpretation that no one can guarantee today.”

At the end, the conclusion of the debate was to leave unchanged the first Article of the 1959 Constitution, which already had the consensus of all the Assembly members. This Article declare that Tunisia is “a free, independent and supreme State. Islam is its religion, Arabic its language and the Republic is its regime<sup>54</sup>”.

### **3.3 The debate on the universality of the Human Rights**

In the first two Constitution drafts, the issues on the universality of the human rights was completely ignored. Under the pressure of the Human Rights movements and Organizations, this subject was introduced in the third draft, published on April 22, 2013, where the preamble declared:

“based on the teachings of Islam and its objectives characterized by openness and moderation, of noble human values and universal principles of human rights, to the extent that they can be reconciled with the cultural specificity of the Tunisian people; inspired by our cultural heritage accumulated throughout our history, from our enlightened reformist movement, founded on the elements of our Arab-Muslim identity, and the acquisition of universal human civilization, and from the attachment to the advantages that our people have been able to achieve<sup>55</sup>”.

This paragraph is strongly ambiguous. In fact, the *universality* was regarding the

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53 Hafidha Chekir, 2014

54 Constitution du 1er juin 1959, *Article 1*

55 VV. AA. *Tunisia: The Third Draft Constitution of the Tunisian Republic*, PDF, <http://www.article19.org/data/files/medialibrary/3771/Tunisia-Constitution-Third-Draft-Final-analysis.pdf>

principles of the human rights and not the human rights themselves. The term universality refers to the human rights attributed to the human being, both male and female, on the basis of equality and without discrimination within the laws, because these rights are universally recognised as enshrined in the UN General Assembly. On the other hand, when we discuss the specificity or the cultural relativism, we refer to the society traditions and values without having any legal effect.

The different and typical cultural identities are the centre of the debates on the universality of human rights, to which they are compared. In this case, the cultural sphere appears as a breeding ground for the struggle between universality and particularism, because as it is in the name of traditions, religious sensibilities that has exacerbated or strengthened, and that cultural diversity has challenged the universality of Human Rights.

The comparison between universality and cultural specificity becomes wider especially during important international conferences on human rights, when starts the conflict between the supporters and the opponents of these two concepts; but also among those who want to find a compromise in order to bring the two concepts closer to detect their complementarity.

It has to be noticed that, according to the World Conference on Human rights held by the United Nations in Vienna (June 1993), a huge step was made for the relation and the interdependency between universality and specificity of the human rights, in particular of the women rights.

The main result of the conference was the Vienna Declaration and Programme of Action, in which the conference reached a compromise which was a satisfaction for both the proponents of the Universal Declaration, and for the defenders of cultural relativism (or cultural specificity), as the final statement declares:

“that the promotion and protection of human rights is a matter of priority for the international community, and that the Conference affords a unique opportunity to carry out a comprehensive analysis of the international human rights system and of the machinery for the protection of human rights, in order to enhance and thus promote a fuller observance of those rights, in a just and balanced manner<sup>56</sup>”.

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<sup>56</sup> *Vienna Declaration and Programme of Action adopted by the World Conference of Human Rights on 25 June 1993*, Par. 1-1, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>

However, regarding Tunisia, as other Arab-Muslim countries, the cultural specificities refers to the religion, which became a bulwark against the recognition of human rights in their universal, global and interdependent aspects. This is the reason why the cultural specificity risks to challenge not only the human rights, but in particular the universal principles which sustain these rights recognised in the third constitutional draft. The preamble of the fourth draft remove the condition of the respect of the cultural differences in terms of principles of the universal human rights.

### **3.4 The debate on women and minorities**

The debate on women and minorities rights was particularly passionate having as main subject the equality between men and women, and the specific status of the latter.

During the constitutional drafting, women rights issues have evolved but it was hindered by the reference to Islam as the State religion.

The first draft adopted the Articles that were open to a misinterpretation with Islam. The article 21, for example, was focused on women rights in the family, perpetuating the traditional division of the roles in which declare that “the women's favorite space is in the family”. This article gave to the State the role of guaranteeing the rights of the family as the natural and fundamental unit of the society; trying to assure the equality between the spouses. In the second section of the Article, the State has to offer the right conditions for the wedding.

The Article 28, of the third constitutional draft, has been the focus of some controversial. In this article was proposed the concept of “complementary” nature of women to men, which were replaced the definition of equality of the latter in her role within the family, tied then to an Islamic cultural perspective.

According to the more conservative thoughts, the notion of complementary is founded on the Prophet words, for which “women are men's sisters”, but in the rights sphere, this concept means a wrong distribution of roles within the genders. In fact, for Islam, equality means on the one hand that a man and a woman are equal in front of God; but, on the other hand, there is the idea that God had created men and women with a different nature and then complementary one to another. As a result, according to a particular interpretation of the term “equality”, women and man have similar rights,

complementary indeed, rather than the parity of the rights.

In the human rights field, the complementary is translated in a distribution of roles clearly defined, which can not be interpreted in term of equality, because "in Islam, equality means the right of Muslim women and Muslim men equal before God and the basic idea is that God created man and woman as being fundamentally different but complementary one to another".

This notion of complementarity is also adopted by Islamic feminists, who are seeking to re-elect the Islamic tradition and to release archaic prejudices to give women access to the public sphere and the rights one. However, this type of feminism, if different from the egalitarian and individualistic one, considered as belonging to the Western world.

Nadia Yassine, daughter of Sheikh Abdessalam Yassine, founder of the Moroccan Islamist movement, during the debate on the *Moudawana*<sup>57</sup>, had explained her theory:

"More and more people are asking the crucial issue: if the original texts, in this case, the Koran and the Sunna, are approving the inferiority of women. Or is it just our distance from these sources that made this obvious disadvantage against Islam? Not to take revenge on a male-dominated society. Here we return to a framework of complementarity, in which women and men are equal partners, with the prospect of a more equitable society. "

The Islamic feminism prefer the notion of equity instead the notion of equality, founding themselves on a biological difference. Men and women are different and they have different social destinies, because of them biological differences. And this concept inevitably leads to discrimination (women as eternal minority under male protection); contributes to the spread of a patriarchal ideology with stereotypes and the persistence of cultural norms, customs and traditions deeply rooted, discriminating women and seriously jeopardizing the consecration of the fundamental rights of them. This is the reason that led women and activists for the human rights to oppose themselves to this subject, and then the article was removed from the draft. The new Article 20 of the second draft established the equality between men and women in

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<sup>57</sup> The *Moudawana* is the personal status code in Moroccan law. It concerns issue related to the family, including the regulation of marriage, polygamy, divorce, inheritance and child custody. Originally base on the Maliki school of Sunni Islamic jurisprudence, it was codified after the counrty gained independence from France in 1956. its most recent revision, passed by the Moroccan parliament in 2004, has been praised by human rights activists for its measures to address women's rights and gender equality within an Islamic legal framework.

rights and duties. However, this project continues with the article 8, which supports the family and the State must protect and ensure the consolidation of it, and we are limited in Article 7 to call the State to protect the rights of women and to consolidate their profits without insisting on their promotions.

In the third draft, the equality between the citizens in rights and duties is guaranteed by the article 6, and the maintenance of the family unit is guaranteed by the Article 10. An addition that can be based on Islam as the State religion is given by the provision of the Article 79, according to which: “the President of the Republic was equipped with the exceptional ability to submit to a referendum the draft laws adopted by the Representative Assembly of People, which should be in contradiction with the Constitution on the basis of a decision of the Constitutional Court, and that relate to the rights and freedoms, or to the personal condition of human being or the approval of international treaties”.

Regarding women rights, as in the second project, the Article 42 limited the role of the State to guarantee and protect women rights and the conservation of the gains<sup>58</sup>.

On the fourth draft, one more time, equality between citizens is recognise in front of the law without discriminations.

Some scholars have doubts regarding the full recognition of women rights, because the Article 45 identify only the role of the State as guarantee of the preservation of gains, but it does not promote women rights, in fact, according to the article: “the State guarantees the protection of women's rights and sustain them conquests. The State guarantees equal opportunity between women and men assuming their responsibilities”.

All these issues found an answer in the last Constitution draft, adopted on January 26, 2014.

#### **4. The 2014 Constitution**

The final constitution draft was signed by NCA President on June 1, 2013. As I explained in the previous section, the draft was preceded by three other drafts. The 2014 Tunisian Constitution was approved on January 26, 2014 and it entered into force on

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<sup>58</sup> *Article 42* of the third draft: “the State guarantees women protection and support them conquests”

February 10, 2014.

The constitution was described as highly progressive because it has an unquestionable contribution on the blessing of the human rights.

According to the entire Second Chapter<sup>59</sup>, the Constitution declare lot of civical, political, societal, economic and cultural factors. It includes the right to the citizenship, the right to create political parties, the right to the active and passive vote, the right to personal and physical integrity, the right to freedom of movement and it covers the freedom of expression, the right of association, including the freedom to hold opinion. The constitution also defend the right to the health, the right of education, children's rights and preserve the status of the person with disabilities.

It recognise that no one can be arrested *ultra vires* and it guarantees the right to a fair trial. It prohibits the torture and the application of limitation period for this type of behavior. It guarantees the right of political asylum.

Regarding the limitations to these rights and freedoms, the article 49 says:

“The law determine the restrictions on the rights and freedoms guaranteed by this Constitution, and exercise, without affecting their essence. These restrictions can be decided only when it is necessary required by a civil and democratic State in order to protect the rights of the others, the public safety, the national defense, the public health or the public morality, respecting the principle of proportionality of the restrictions to the intended objective. Judicial bodies are responsible for protecting the rights and freedoms against violations. No amendment shall affect the rights and freedoms guaranteed by this Constitution<sup>60</sup>”

The Constitution provides strong guarantee for the women rights. The Article 21 established the gender equality between citizens of both rights and duties in front of the law, without discrimination.

The article 46 establish that “the State is committed to protect the acquired rights of women, support them and work to improve them. The state guarantees equal opportunities for women and men to assume their responsibilities in all areas.”

On the political rights, the article 34, section 2, declare that the State has to assure and guarantee the representation of women in the elected body and the Article 46 section

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59 Constitution de la Republique Tunisienne

60 *Ibid*

3 establish that the State is obliged to improve the parity between women and men in the elected councils.

In the Constitution there are other articles on the women rights, assuring, for example, that the work is a right for every citizen and there hat not be unequal wages between women and men<sup>61</sup>.

At the same time, the struggle against the violence against women, assumed a constitutional value, according to the last section of the above-mentioned article 46, in which “the State adopt the necessary measure to eliminate the violence against women”.

The chapter on the Judiciary power includes important guarantees about the judiciary independent. For example, the article 102 establish that “the judiciary is independent and it guarantees the justice, the Constitutional supremacy, the law sovereignty, and the protection of rights and freedoms”. The judges, in doing their functions, are subjected only to the authorities of the law and the Constitution, and according to the article 109, it is forbidden every interference with the justice operations.

Furthermore, the Constitution provide the creation of a Constitutional Court, which has the jurisdiction to annul laws not handled correctly with the Constitution. If there is any dispute in the courthouse, the parties have the possibility to contest the constitutionality of a law, according to the system defined by the Constitution. The latter also provide the institution of a national office of the human rights, with the purpose to guarantee the respect of them and to investigate on eventual violations.

Some articles of the Constitution, however, remain ambiguous and may be invoked for violation of human rights. To avoid this, the preamble maintain the universality of the principles of the human rights (and not the universality of the human rights themselves) and underline the commitment to the teachings of Islam.

The freedom of belief of conscience recognised in the Article 6, is supported by the prohibition of “undermining the sacred”, and by the interdiction and the fight against the accusations of apostasy and the incitement to hatred and violence. This article has some of the typical Islamic constitutionalism elements. The state, on the one hand, is identify as the protector of the religion (*ra'iyya*), and on the other, it assure the religious freedom and the worship, protecting the holy values (*muqaddasat*). This

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61 Constitution de la Republique Tunisienne



Article is subjected to a lot of interpretations.

The Article 7 defines the religion role in the State, which has to protect the family, identify as the basic element of the society.

The supremacy of the international laws is difficult in the New Constitution. The Article 20 establish that “the international treaty firstly approved by the Representative Assembly, and then ratified, have an above-legislative and an infra-constitutional rank”. The interpretation of this Article should not be compatible with the Vienna Convention on the Law of Treaties, which at the Article 27 of the same Convention it is declared that “a party may not invoke the provisions of its internal laws as justification for its failure to perform a treaty”.

This article 20 should not lead judges and legislators to ignore the international obligations of Tunisia, on the grounds that they are inconsistent with the new Constitution.

One more time, Tunisia confirmed itself as the principal Arabic country guarantee of the protection of the women rights. However, the National Constituent Assembly had completely ignored in the constitutional debates, the issue of national minorities and of the native people. In this meaning, the Assembly wasn't able to write draft a text that was representative of the cultural diversity of its own country, first of all, excluding its native people, the Berbers (amasigh), which had to undergo some assimilation policies, albeit not repressive, in complete violation of the principles of international law, including the principle of self-determination.

## **CHAPTER 3**

### **TUNISIAN'S ELECTIONS**

#### **1. Introduction**

Last fall, Tunisians marked the end of a three-year political transition with parliamentary and presidential elections. Tunisian party system has been deeply renewed and Tunisia has experienced a real flowering of new parties and independent lists covering a wide ideological spectrum. It has been explained in the previous chapter that Tunisia's democratic transition began in January 14, 2011, when President Ben Ali was ousted from the power following nearly a month of protests against his rule, demanding the president's removal, an expansion of political and civil rights, and an end to economic injustice. For much of 2011, an interim government worked closely with a "High Commission for the Realization of the Goals of the Revolution, Political Reform, and Democratic Transition" to manage Tunisia transition.

In October 2011, as we said, Tunisians elected its representatives to the National Constituent Assembly (NCA), a 217-member transitional institution tasked with writing a new constitution and laying the foundation of the future elections.

Tunisia's structural tendency toward fragmentation has had multiple countervailing effects. Many political parties, especially in the emerging democracies, tend to be weak, and institutionalized fragmentation has done little to encourage party maturation. This happened especially within the Tunisian left. In fact, several parties that won the seats in the NCA during the 2011 elections have dissolved, while other new coalitions have formed. These divisions marked the NCA debate for creation of the new Constitution, where members had competing visions of what Tunisian democracy should look like, debating questions we already explained in the previous chapter.

In January 26, 2014, the NCA finally passed the new constitution with almost unanimous vote, effectively completing its mandate and paving the way for the new parliamentary and presidential elections.

About the parties that existed before 2011 but have been legalized only after the revolution, the Mission noted that some of them is still managing its activities, like for

example, *Ennahda Movement*, winner of the 2011 National Constituent Assembly election, but also the *Congress for Republic* (CPR), founded by the former President Moncef Marzouki, and the *Communist Party of Tunisian Workers* (renamed *Workers Party* in 2012, which was featured on the lists of the *Popular Front* coalitions in 2014). Other parties, that had a legal existence until 2011, like *Ettakatol*, the *Republican Party*, and *Al-Massar*, had in the elections a freer political participation.

Among the parties created after the revolution, *Nidaa Tounes* (in english: *Call of Tunisia*), founded by Beji Caid Essebsi in June 2012, had quickly emerged as an important alternative to *Ennahda Movement*. *Afek Tunes* and *Al-Moubadara Party* (in english: *Initiative*) had also managed to get some imposition over the past three years. On September 30, 2014, the ISIE announced the electoral lists and the presidential candidates. The Authority validated 1.326<sup>62</sup> lists, where 1.229<sup>63</sup> were included in the Tunisian circumscriptions, and 97 abroad. About the presidential candidates, the ISIE announced 27 final candidacies (including one woman), of the 70 presented applications. Among these, there are the representatives of the major political forces, including Beji Caid Essebsi (*Nidaa Tounes*), Moncef Marzouki (CPR), Mustapha Ben Jaafar (*Ettakatol*), Ahmed Nejib Chebbi (RP), Hama Hammami (PF), and Hechmi Hamdi (*Current of Love*), but also independent candidates submitted their applications. Among the major political forces, only *Ennahda Movement* didn't present a presidential candidate.

During the electoral campaign period, the Independent High Authority for Elections launched an intense program concerning the voters awareness. The programme was addressed to three different components: the general public, through the medias and the display; the campaigning, through the social media; and the awareness nearby the central places, the markets and the educational institutions. The Authority also shared its teaching material with several civil society organizations, and it engaged private agencies to conduct its own operations in order to minimize the risk of politicization. The program focused on the National Assembly mandate, on the importance of the presidential elections, the voting procedures and the plea to political participation.

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62 The 1326 lists were divided: 361 independent lists, 804 partisan lists and 161 coalition lists.

63 In which, 735 partisan lists, 349 independent lists and 145 coalition lists.

## 2. The electoral process and the electoral law

The new Tunisian Constitution, as already said, was promulgated on January 27, 2014, and was adopted after 27 months of debate within the National Constituent Assembly. This new draft has brought significant advances, such as the strengthening of the independence of the judiciary, the gender balance in the lists and the entrenchment of the independent body for elections, ISIE, responsible for the organization and the supervision of the entire electoral process. The Constitution has imposed, in one of its transitional provisions, the holding of legislative and presidential elections before the end of 2014<sup>64</sup>. A new Electoral Law was approved on May 26, 2014. The legal framework provides satisfying bases for holding democratic election in conformity with the international standards. However, it were highlighted some inconsistencies, especially regarding the regulation of the electoral campaign, which has been very restrictive, or regarding the controversies about the sanctions for the electoral campaign and financing infractions.

After all, the Republic of Tunisia has ratified the main international instruments on Human Rights and in terms of Democratic Elections, and the Constitution recognizes international conventions that Tunisia has ratified, as infra-constitutional but having supra-legislative values.

On May 26, 2014, the NCA passed a basic law on Elections and Referendums<sup>65</sup>, by a vote of 132 to 11, with nine abstentions. This law stipulates the system by which Tunisians will elect members of Parliament and the President. The law contains 176 article divided in seven sections:

- Title I - General provisions
- Title II - Voters
- Title III - Candidates
- Title IV - Period of Elections and Period of Referendum
- Title V - Voting, Vote-Counting and the Announcement of Results
- Title VI - Electoral Offenses
- Title VII - Final and Transitional Provisions

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<sup>64</sup> Constitution de la Republique Tunisienne, Article 172

<sup>65</sup> *Loi Organique n° 2014-16 du 26 mai 2014, relative aux elections et au referendum*

According to this organic law “suffrage is universal, free, direct, secret, fair and transparent<sup>66</sup>” and “observers follow up with the electoral process and its transparency. The Authority regulates the terms and procedures of their accreditation<sup>67</sup>”. The first section also provide a list of the definition of the terms used in the law itself.

Section two establish voters' conditions. In order to be a voter, every individual has to be 18 years old, has Tunisian citizenship or Tunisian nationality, has full possession of civil and political rights, and he has to be registered on the list of voters. A Tunisian citizen can not be registered on the list of voters if he belong to military personnel, if it is a persons who have been given an additional sentence within the meaning of Article 5 of the Criminal Code, or if it is a person prohibited from voting by law because of obvious insanity<sup>68</sup>. The right to vote is legitimate by the 2014 Constitution and the electoral law does not impose any restrictions against the right and the international standards.

The voter register is manage by the *Instance Supérieure Indépendante pour les Elections* (ISIE). The Authority in fact, is the one to keep the Voter Register, seeking to ensure that it is “accurate, transparent, comprehensive and updated<sup>69</sup>”. Registration for voting is individual and voluntary. The voter list is developed by the Authority in each electoral constituency in relation to each municipality, and to each delegation or sector in the case of non-municipal areas.

The National Institute of Statistics estimates that in 2014 the Tunisian population ages 18 and over, amounted to approximately 7.5 million people. On the basis of this data, almost 70% of Tunisians (in voting age) would have enrolled the elections. The registration data were divided by gender and age groups, indicating the respective percentage: women constitute 51 % of the population, while only 46% were registered as voters. For their part, young people, between 18 and 21 years old, were about the 10% of the voting age population, but less than 5% of the registered votes, and Tunisians between 22 and 30 years old, constitute 24% of the population but only 20% of registered voters.

The President of the Republic is elected by a plurality vote, with the possibility of two

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66 Loi organique n° 2014-16, Article 2

67 *op. cit.* Article 4

68 *op. cit.* Article 6

69 *op. cit.* Article 7

rounds if no candidate receives the majority of votes (over 50%) in the first round. The People's representatives are elected by proportional representation on closed lists, with proportional distribution of seats at the height rate. These Members are elected in 33 electoral districts. Of the 217 seats, 199 seats correspond to the 27 electoral districts allowances lying within the national territory, the other 18 seats are reserved for 6 constituencies abroad. However the Electoral Law does not establish any criteria or procedures for updating the allocation of seats to the constituencies according to the demographic changes.

**Table 3.1, Seats assigned by electoral district**

Ariana	8	Sfax 1	7
Beja	6	Sfax 2	9
Ben Arous	10	Sidi Bouzid	8
Bizerte	9	Siliana	6
Gabés	7	Sousse	10
Gafsa	7	Tatouine	4
Jendouba	8	Tozeur	4
Kairouan	9	Tunis 1	9
Kasserine	8	Tunis 2	8
Kebili	5	Zaghouaun	5
El Kef	6	Arab World	2
Mahdia	8	America	2
Mandouba	7	France 1	5
Medenine	9	France 2	5
Monastir	9	Germany	1
Nabeul 1	7	Italy	3
Nabeul 2	6	<b>TOTAL</b>	<b>217</b>

*Source:* Tunisian Election Guide, Tunisia's Parliamentary and Presidential Elections

As show in the table, each of Tunisia's 24 governorates serve as one district, with Nabeul, Sfax and Tunis each divided into two. Districts abroad include: France 1, France 2, Germany, Italy, North America and the rest of Europe, and the Arab World<sup>70</sup>. The number of seats reserved for the electoral districts in Tunisia ranges from four to ten, and the number of those reserved for districts abroad ranges from one to five<sup>71</sup>.

**Image 3.2, Map of Tunisian electoral district**



Source: Tunisian Election Guide, Tunisia's Parliamentary and Presidential Elections

70 TAVANA D., RUSSEL A., *Tunisian Election Guide, Tunisia's Parliamentary and Presidential Elections*, October 2014, PDF, <http://pomed.org/wp-content/uploads/2014/10/Tunisia-Election-Guide-2014.pdf>

71 *Ibid*

The electoral administration is supervised by the Independent High Authority for Elections (ISIE), which, according to the EU EOM final report, demonstrated impartiality, transparency and professionalism. The responsables of the regional bodies for elections (IRIEs), showed good organization and strong civic engagement. The ISIE faced some “time pressure” because the very short time between the adoption of the electoral law and the elections (that, as already said, must be held before the end of 2014<sup>72</sup>).

The ISIE also ensure the transparency of the process in all its phases and ensure the traceability of results. The ISIE has published a number of relevant documents and data, such as prototypes of ballot papers, the polling lists and those of their members, as well as participation rates by central vote in parliamentary and first round of the presidential election.

Another example of the professionalism and competence of ISIE is the selection and the training of the polling station staff. The quality of the education of this workers reflect the Authority's efforts to reach the concerns of both political parties and civil society actors. The increase in the number of voters and the new limit 600 registered per polling station resulted in the need to recruit and train more personnel, and concluded the preliminary selection, IRIEs published the names of the chosen people, while allowing the political parties to seek replacement of the members regarded as supporters. The decision of the Authority provides the possibility for the lists to file petitions to replace members, but it also sets deadlines and it requires evidences to support these requests.

After the parliamentary and first round of presidential, ISIE proceeded respectively replacement of 2.5% and 1.2% of poll workers, for lack of jurisdiction, withdrawal, or because of indications or affiliate partisan sympathy.

Training programs for the poll workers were facilitated because the Authority provided a well-elaborated a *Polling and Counting Manual*, and providing outreach training sessions, as well as remedial courses and refresher courses<sup>73</sup>. The EU EOM observers testified the quality of these trainings, and observed that the last sessions for staff of

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72 Constitution de la Republique Tunisienne, Article 148

73 IFES, *A Comprehensive Approach to Supporting Elections in Tunisia*,  
<http://www.ifes.org/Content/Publications/Articles/2014/A-Comprehensive-Approach-to-Supporting-Elections-in-Tunisia.aspx>



just polling stations before the second presidential round were largely dedicated to enhancing the understanding of the votes validity criteria and present new measures to prevent any attempt to influence voters in the voting centers<sup>74</sup>. Article 110 of the electoral law, describes the electoral formula, or the method used to translate votes into seats:

“If there is more than one candidate list in a constituency, seats are first distributed on the basis of the electoral quotient. The electoral quotient is determined by dividing the number of valid votes by the number of seats allocated for a constituency. The list gets a number of seats that is equal to the number of times it has obtained the electoral quotient. Blank ballots are not counted when calculating the electoral quotient. Seats are allocated to lists in the same order of the list itself. If there are remaining seats that were not distributed according to the electoral quotient, they are distributed in a second stage on the basis of the largest remainder on the constituency level. If the remainders of two or more lists are equal, the youngest candidate prevails<sup>75</sup>.”

If each seat cannot be assigned on the basis of a full quota, remaining seats are allocated in descending order of the remaining votes. This method of seat allocation minimizes the “seat bonus” awarded to parties performing well and is considered one of the most generous in allocating seats to small parties.

The third chapter of the electoral law regards the dispositions about the candidates. For the legislative elections, the right to stand for the elections belong to all Tunisian nationality voters, with 23 years old and without any legal disqualification<sup>76</sup>. On the other hand, article 20 list who can not stand for the elections, that is the members of the judiciary, the chief of diplomatic and consular missions and the governors. The candidacy for the legislative elections has to be presented to ISIE, which is in charge to determine procedures and regulations of the applications.

The right to stand of the elections is guaranteed by the Constitution and the detailed conditions to submit the application are well-defined by the electoral law, and the ISIE's Decisions and these regulations are conformed with the international obligations and standards.

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74 EU EOM Final Report, PDF

75 Loi organique n° 2014-16, Article 110

76 Loi organique n° 2014-16, Article 19

## 2.1 Electoral Campaign

### 2.1.1 Campaign Environment

The electoral campaign is the set of propaganda activities carried out in favor of candidates, or lists of candidates, to win the trust of voters and convince them to give their vote. The term also indicates the period immediately preceding the elections. The means by which the activity of propaganda can be carried out are the speeches, participation in television or other media, putting up posters, delivery of gadgets, flyers and more.

Elections are a means to translate the general will of the electorate into representative government. To achieve this objective it is necessary that all parties and candidates should be able to put out their manifestos, concerning the eventual political issues and their proposed solutions, freely to the electorate during the electoral campaign. The electoral campaign period should normally be well defined and should commence after the valid nomination of parties and candidates, ending one or two days before polling. However, certain jurisdictions might not have any well defined campaign period. In fact, according to the International Elections Standards handbook:

“The legal framework should ensure that each political party and candidate enjoys the right to freedom of expression and freedom of association, and has access to the electorate, and that all stakeholders in the election process have an equal chance of success<sup>77</sup>.”

The legal framework should even ensure that there are no unreasonable restrictions on the right to freedom of expression, and that every party and candidate has equitable access to the media to undertake their campaign.

Regarding Tunisian elections, the electoral campaign is regulated by the Electoral Law n. 2014-16 on Elections and Referendums, Title IV. This section in fact, consists of all the Articles inherent to the electoral campaign. According to the first article of this section (Art. 50), the electoral campaign is declared open 22 days before the election day, and it is preceded by a period called pre-campaign period. For presidential elections, if a

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<sup>77</sup> INTERNATIONAL IDEA, *International Electoral Standards, Guidelines for reviewing the legal framework of elections*, PDF, [http://www.idea.int/publications/ies/upload/electoral\\_guidelines.pdf](http://www.idea.int/publications/ies/upload/electoral_guidelines.pdf), p55

second ballot is organized, the electoral campaign is declared open the day after the announcing of the first turn results. In each case, the campaign has to be closed 24 hours before the voting day.

The electoral campaign for the legislative elections took place from 4 to 22 October in Tunisia (from 2 to 20 October abroad). The presidential elections' campaign took place from the first to 21 November in Tunisia (from 30 October to 19 November abroad) and the one for the second turn of presidential elections took place from 9 to 19 December (from 7 to 16 December abroad).

The campaign has to comply with fundamental principles such as the neutrality of public administrative offices, places of worship, and the national media as well as transparency of funding, equality between candidates and non-incitement to violence, hatred and discrimination. The electoral propaganda was also prohibited within schools, universities, as well as in place of worship. In these places, was also forbidden to make speeches or lectures, to distribute advertisements or leaflets, or organize any activities to make electoral propaganda.

The Electoral Law, as already said, contains many prohibitions on the types of campaigning and locations where campaigning can take place. It was designed to ensure equality of access to public media for all candidate lists, which may use national and electronic media for campaigning. However the use of foreign media is prohibited except when it addresses out-of-country voting.

Another important term is the "Political Publicity". The Article 3 of the electoral law provides the definition of the most used terms in the text, and it defines this political publicity as "any free of charge and/or paid campaigning means using marketing methods and techniques in support of one candidate with the intent of obtaining voters' support", and it is prohibited by the Electoral Law during the entire election period<sup>78</sup>, except for partisan newspapers which may "conduct propaganda" in the form of publicity advertisement for its part or candidate list<sup>79</sup>, and also for presidential candidates which can use this type of propaganda only under the conditions stated by the ISIE.

The joint decision between the Independent High Authority for Elections (ISIE) and the

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<sup>78</sup> Loi organique n° 2014-16, Article 57

<sup>79</sup> *Ibid*

Independent High Authority for Audiovisual Communication (HAICA), dated July 5, 2015, decrees that candidate lists will be provided media coverage proportional to the number of candidate lists in that constituency. Candidate lists will each receive three minutes of free broadcast airtime on national radio and television stations.

On the occasion of the election campaign for presidential election, ISIE recalled, through explanatory notes, some provisions of the electoral law and the decision concerning the rules for the election campaign. Firstly, to the candidates was permitted to use the resources provided by their parties, with the condition that these were remunerated; secondly, the ban on foreign funding remains also applicable for the campaign outside the country. Finally, the ISIE was in favor of a relaxation of the law regarding the prohibition of the use of foreign media, such as allowing candidates to speak to foreign media provided the media contact is done spontaneously, non-repetitive and not conceals political propaganda<sup>80</sup>.

### **2.1.2 Campaign Finance**

One of the main characteristics of a democracy is the holding of multiparty elections. The availability of credible alternative choices depends on the existence of robust political parties. In turn, political parties require a secure base for financing their election campaigns and their routine operations. Thus it is an acceptable practice for a legal framework to provide for the campaign financing of parties and candidates. Laws relating to the financing of parties and candidates are sometimes found not in the electoral legislation but in separate laws. Basically there are two forms of funding of parties and candidates: public funding and private funding, with contributions sometimes coming from foreign sources.

Even the electoral campaigns finance is regulated by the dispositions of the Title IV of the Electoral Law, and as stipulated by this law, the campaigns have to be funded by private funding (where the funds don't come from the candidates or from the party itself), public funding, and/or self-funded<sup>81</sup>.

It is considered self-funded (Article 76 of the Electoral Law), a campaign financed by

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80 EU EOM, *Declaration Preliminaire EU EOM tunisie presidentielle*

81 Loi organique n° 2014-16, Article 75

the own resources of the lists of candidates or of a candidate himself. Concerning the public funding, the main forms of indirect public funding could be the free broadcasting media; various types of state payment and facilities made available to members of the legislature; the use of government facilities and public personnel etc.

The distribution of direct public funds for political parties or candidate may be based on several criteria. In Tunisia, each candidate list is allocated a grant as public assistance to electoral campaign funding. The public subsidy is not fixed across all constituencies, but is instead determined based on criteria including the size of the constituency, the number of voters and the cost of living. It ranges from 2,250 Tunisian Dinars (approximately € 1,000 [EUR]) to 5,850 Tunisian Dinars (approximately € 2,700 [EUR])<sup>82</sup>. The total amount of campaign expenditures allowed for each candidate list is five times the level of public funding they were provided. Any list that receives less than 3 percent of valid votes and/or does not win any seats must return the entire public subsidy. Half of the grant is provided seven days before the launch of the campaign, and the second half is disbursed within one week after the announcement of the final results of the elections, provided the campaign list presents evidence and transfer account ledgers to the Court of Accounts verifying that the first installment was spent on campaign expenses. The electoral law allows, but limits to 20 times the minimum wage, (approximately 6,000 Tunisian Dinars or € 2,700 [EUR]), private donations from individuals only. The Electoral Law prohibits foreign funding for electoral campaigns, except foreign funding that contributes to campaigns in overseas constituencies. Vote buying and anonymous donations are also prohibited.

The ISIE and the Court of Accounts, in coordination with the Central Bank and Ministry of Finance, are responsible for controlling campaign finance. All funds received must be divulge to the Court of Accounts within 45 days of the date of the final announcement of election results<sup>83</sup>.

Candidate lists must also publish their financial statements in a Tunisian daily newspaper within two months of the final results announcement. Candidate lists and parties found non compliant will face financial, electoral or penal sanctions depending

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82 IFES, *Elections in Tunisia, October 26 Parliamentary Election, PDF*, [http://www.ifes.org/~media/Files/Publications/White%20PaperReport/2014/2014%20IFES%20Tunisia%20October%20Parliamentary%20Election\\_FINAL2.pdf](http://www.ifes.org/~media/Files/Publications/White%20PaperReport/2014/2014%20IFES%20Tunisia%20October%20Parliamentary%20Election_FINAL2.pdf)

83 Loi-electorale n.2014-16, Artt. 89-100

on the violation, according to the Article 98 of the electoral Law.

The resources of the presidential candidates came from a modest share of public subsidy, for the sum of 80,000 TD (approximately € 36,800 [EUR]), allocated to all the applicants; and also from the private and self-financing. The government had set the overall ceiling for the campaign expenses for each round of presidential elections, to 10 times the amount of public subsidy.

## **2.3 Role of Media**

During any democratic election, the need for transparency and up-to-date information is paramount to the credibility of the vote. The preparations for a Media Center are immense and include a host of technical and logistical issues, such as developing public sector partnerships and staffing the Center.

Concerning the media and the press, Tunisia has a sufficient legal framework to guarantee and protect freedom of the press during the electoral period, and this framework, according to the final EU EOM report, has been largely respected.

The Independent High Authority of Audiovisual Communication (*Haute Autorité Indépendente pour la communication audiovisuelle - HAICA*), in charge and responsible to regulate the audiovisual landscape, which had an huge diversification during the democratic transition, has played a conciliatory and pedagogic role towards the media. It used also moderation in the exercise of its responsibilities, this impartiality toward political subjects.

The Authority was created during the democratic transition with the decree-law n. 2011-116 on November 2, 2011, on freedom of audiovisual communication and establishing the authority itself.

HAICA is a constitutional body charged with the organization of the audiovisual sector in Tunisia. It has consultative and regulatory powers and is led by a board of 9 members, appointed by the President of the Republic, some of them with a single six-years term, and one third of these members have a two-years term.

The audiovisual regulation need to guarantees the freedom of communication, the quality of the information, freedom of expression, the media pluralism, and the compliance with the ethics and professional ethic rules of this profession. This

regulatory function was necessary after the Tunisian Revolution in 2011. During the democratic transition and the election context, HAICA was responsible of the audiovisual landscape reform, to support the role of media as a space for democratic debate, and to guarantee the independence of broadcasters in relation to different powers and different interests of the parties.

The rules of the media coverage during the electoral process, are established by the electoral law, the decree-laws n. 116 and 115, the decisions made by ISIE and HAICA, and by some other recommendations, alerts and by codes of conduit. These rules obliged medias, public and private, in order to ensure a fair and impartial coverage of the candidates' activities.

For the election period, the Independent High Authority of Audiovisual Communication, released a guide of good conduct, which included the rules of media coverage during the legislative election period in accordance with the electoral law and regulations. During the whole electoral period, from July 5 until the announcement of the final ballot, the principles and rules for the media coverage were the impartiality and the respect of the rules and the ethics of the profession, especially the truthfulness of news and information, and the accuracy of the data necessary for understanding the events and then the distinction of form and content between facts and comments. It had to be respected the physical integrity of candidates and voters, their honor and their dignity, and it had not to be violated the candidates' privacy. It wasn't allowed the incitement to hatred, violence, fanaticism and there should be no distinction on the basis of religion, race, region of origin and gender. These principles and rules were defined by the electoral law, in the article related to the electoral campaign and the media coverage; by the decree-laws n.116 and 115; by the decisions made by ISIE and HAICA; and by some other recommendations, alerts and codes of conduit.

During the pre-campaigning period, from July 5 until October 3, 2014, the media had to guarantee the right to the media access for all political groups on the basis of pluralism and social, cultural and geographical participants' diversification, and ensuring at the same time equity between genders and generations. In these cases, pluralism means a balanced coverage to all political groups in accordance with the first paragraph of the Article 65 of the electoral law:

“the Independent High Authority of Audiovisual Communication guarantees the right of access to audiovisual media for all political groups during the pre-election phase or pre-referendum on the basis of pluralism.<sup>84</sup>”

The Electoral Campaign Period, starting from October 4 until October 24, 2014, was regulated by all legal texts related to the elections and especially by the Decision on the framework of general rules for audiovisual media and the conditions of their usage during the election period. In this period, media had to guarantee the right of access to the antennas of the audiovisual media to all the candidates' lists, on the basis of fairness, equity and pluralism. Related to this, it can be quoted the second paragraph of the Article 65, of the electoral law:

“the Independent High Authority of Audiovisual Communication also guarantees pluralism and diversity of the broadcasts during the electoral campaign and the eradication of obstacles to the principle of access to audiovisual media, on the basis of equality among all candidates or lists of candidates or parties.<sup>85</sup>”

The period of electoral *silence* (24 hours before each voting day), is defined by the Article 3 of the electoral law<sup>86</sup>, which provides the definitions of some important terms. According to this article, “the silence period covering the day of election silence and election day until the closure of the last polling station”. In this period are forbidden:

- all forms of political advertising
- all forms of media coverage of candidates or lists of candidates
- all upcoming emission of direct expressions
- all publications of results, before the closure of the last polling station.

As election day looms in any country, an election management body (EMB) faces increased scrutiny from local and international journalists and observers. What is more, EMBs are accountable to provide citizens with accurate information. The need for a transparent and credible information dissemination grows even more intense on Election Day and during the results tabulation process.

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84 Loi organique n° 2014-16, Article 65

85 *Ibid*

86 Loi organique n° 2014-16, Article 3



In a transitional environment like Tunisia, people started to expect certain things based on the conduct of early transitional elections. In 2011, international journalists were unsure if they could bring their transmission equipment, which was not allowed under the Ben Ali regime. In response, the ISIE established a specific office, to facilitate them, their equipment and their training.

During the presidential election, the media was given the same airtime for all the 27 candidates, and this was a challenge complicated but affordable.

However, during the legislative election campaign, they were required to evenly cover the activities of the 1.326 electoral lists, which led the media to suggest HAICA sufficiently balanced in their coverage. The law also prohibits the publication of opinion polls and political advertising in the media during the elections.

### **2.3.1 Effect of the Social Media on the vote behavior**

In this era, social media are becoming more and more popular among politicians as a tool for political messages broadcast and acquisition of votes. These social networking sites offer now real opportunities for innovative interaction and the use of these means of communication invaded the political arena. The role of social media is increasingly important especially in the orientation of political affairs. Social media, today connect the world almost instantly, disrupting the traditional ways of communication. Having an impact on social and political life, this kind of media are considered as election campaign tools by politicians and their organizations, help to spread political messages. Throughout the year 2011, the use of social media has experienced a very strong growth in all Arab countries, and this social networks are becoming universal in all aspects of the daily life of millions of Arabs. Social media effects are often discussed in the occurrences and achievement of the Arab Spring.

In Tunisia, after collecting self-declaration about the voting behavior of Tunisian voters, Facebook and YouTube were the most used means of information. Political leaders and their parties used these social network as effective tools for the campaigning.

The impact of social network during Tunisian 2014 elections was decisive. The main results of studies made by researchers are in favor of the important role of the social

media in determining the electoral decision of the Tunisian voters, especially among young people<sup>87</sup>.

## 2.4 Women's Participation

The new Constitution, has made significant advances in women's political participation. Article 21 states that "citizens are equal in rights and duties" and Article 46 urges the State to guarantee "equal opportunities between women and men in access to all responsibilities and in all areas." The latter Article also establishes that the state must strive "to achieve parity between women and men in elected councils." In this sense, the Electoral Act 2014 enshrines, the principle of alternation between men and women in electoral lists in parliamentary. The April 23, 2014 Tunisia gave up all reservations with regard to the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Tunisia became the first country in the region to remove any specific reservations to the treaty. It remains an important task of harmonization of national legislation (for example on family law) with the provisions of the new Constitution and CEDAW.

According to the ISIE, 46.19% of registered voters were women, while they represent more than half the voting-age population. The female enrollment has enormous disparities from one district to another and reached a national minimum of 39.4% to 40% Kairouan and Sfax 1. Of the nine board members of the ISIE, three are women. The electoral law has imposed the principle of equality under the rule of alternation between men and women on the lists (Art. 24). Thus, 4.527 of 9.549 parliamentary candidates were women (47.4%). However, only 148 lists among the 1,326 in contention had a woman at their head. The Union lists for Tunisia and El Amen Party recorded the highest number of women heads of lists (9). The districts with the highest percentages of women heads of lists were in Bizerte (19, 6%), in Grand Tunis (Tunis 1: 19.6%, Tunis 2: 28.9%), in Cap Bon (Nabeul 1: 27.8%) and the coast in general. In contrast, the proportion of women heads of lists was much lower in the south and inland, with minimums in Tataouine (no list of female head), Kairouan (1.6%), Siliana (2,

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87 BEN M'BAREK, JEDDI, ACHOURI, *Impact of social media on the behavior of Tunisian voters: 2014 elections*, British Journal of Marketing Studies, Vol.3, No.4, pp.32-44, May, 2015, PDF

6%), and Kasserine (2.9%). Finally, one woman was nominated among the 27 presidential candidates, the judge Kalthoum Kennou.

The number of women elected to the new Assembly of People's Representatives is 68 (31.3%). This increase in women's participation rather than 2011, is mainly because the two major parties obtained more than one elected in several constituencies. Therefore, women members in parliament are mostly of Nidaa Tounes (35) and Ennahda (28). The six remaining deputies belong to the UPL (2), the Popular Front (2), the current of love (1) and the Democratic Current (1).

Among the 27 presidential election candidates, stood out the name of the only female candidate, Kalthoum Kannou. Born in 1959 in Tunis, Madame Kannou Kalthoum not only was among the only three women to dare to practice their constitutional right in running for presidency, but she also was an activist against the dictator Ben Ali, standing by protesters' side during the Tunisian Revolution.

During an interview made by *Radio Shems FM*, she stated:

“The next Head of the State will have to take urgent decisions about security and diplomatic plans. My candidacy is a strong message to all Tunisians. It means that Tunisian women can compete with men in the political decision-making positions<sup>88</sup>”

Despite an innovative program on education and on the fight against terrorism, Kannou had only few possibilities and hopes of making it. In fact, even before the results announcement, political analysts considered her chances slim. Her candidature was considered by many as a proof of Tunisia's strong women's rights path, and “another milestone for its democratic success story, paving the path for future female leaders<sup>89</sup>”. Her presidential campaign was launched four day after the parliamentary election with the slogan *Yes We Kannou*, and at the end she won 0.56% of votes. Tunisian saw her candidacy as symbolic and historic for a country known as the Arab world's most progressive in terms of women's rights, considering Madame Kannou Kalthoum as an initiator, “she was down on the streets leading her campaign and speaking to all kinds

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88 BAYA.TN, *La juge Kalthoum Kannou dèpose sa candidature à la présidentielle*, <http://www.baya.tn/2014/09/20/la-juge-kalthoum-kannou-candidate-a-la-presidentielle/>

89 MIDDLE EAST EYE, *Tunisia's only female presidential candidates takes on 22 male contenders*, <http://www.middleeasteye.net/columns/tunisia-s-only-female-presidential-candidate-takes-22-male-contenders-796200876>

of people<sup>90</sup>”.

**Image 3.3, Presidential candidate Kalthoum Kannou casts her vote at a polling station in Tunis**



*Source: Times of Oman, Tunisian vote on presidential elections*

### **3. Legislative Elections**

Parliamentary elections were scheduled for October 26, 2014 and there were the first to be held under the new Constitution adopted in January 2014. In that case, the voters needed to elect members of the newly created Assembly of People's Representatives (*Assemblées des Représentants du Peuple – ARP*, in arabic: *Majlis Nuwaab a-shaab*). As specified in the Constitution, the Assembly held legislative power with the ability to pass both organic and ordinary law. Organic laws as defined by the constitution are those dealing with international treaties, defense of the nation, basic rights, election law, and other issues of a fundamental nature. Ordinary laws, on the other hand, include those relating to finance, taxation, the punitive system, and a

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90 Mosaique FM, <http://www.mosaiquefm.net/>

variety of other issues of administrative nature.

According to the new Constitution, and the Electoral Law, applying to the Assembly need some requirements. And these requirements, already detailed in the previous sections, have to cover both the main list and the complementary ones (which contain potential replacements). Both the lists have to be presented by political parties, coalitions or they can be independent applications. Most important, these lists have to respect the gender balance rule.

During the period from August 22, to August 29 the regional bodies for elections (IRIEs) had examined all the applications, and they rejected 188 lists, which did not respect the conditions required.

The ISIE took a very controversial decision, which was to decide not to accept applications from people who registered as voters in the extension phase (5 to 26 August). The Authority has motivated this decision arguing that the controversies of the electoral lists were not closed yet. The effect of this decision was however mitigated by the possibility of regularizing the listes through the replacement of candidates in that situation.

Representatives will be seated for five years, with no limit on the number of terms a representative may serve, and the Assembly also has the power to elect its own president<sup>91</sup>.

During these elections, was used a party-list proportional representation (list PR) system, with closed list, to elect 217 members, and this system represent very closely the one used to elect NCA members in 2011. Polling took place in one round, and each voter had to chose a single list.

The campaign period for the parliamentary elections officially began on October 4, in Tunisia and abroad. Electoral campaign, according to the article 50 of the Organic Law n° 2014-16, “begin twenty two days ahead of the voting day, and is preceded by a three-month long pre-campaigning Period (...) The campaign ends twenty four hours before the voting day.” The ISIE announced the final results on November 24.

No party won an outright majority in the newly-formed Assembly of People's Representatives. Attesting to the rapidly changing political scene in Tunisia, one of these parties, Nidaa Tounes, did not exist during the previous elections but it came in

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91 Constitution de la Republique Tunisienne, Article 65

first during the last elections, taking 86 of the 217 seats. It won 17 more seats more than Ennahda, an Islamist party which had been the largest force in the previous National Constituent Assembly. Two other parties won more than 10 seats: the Free Patriotic Union (UPL) and the Popular Front, which took 16 and 15 seats respectively. Another 15 parties entered parliament with less than 10 seats.

If there are any contentious of application the Trial Courts (*Tribunaux de première instance* – TPI) are responsible to analyse and judge the appeals against the decisions made by the IRIE. In the previous elections they received 133 appeals, mostly from the rejected lists. The Courts did not always interpreted in the same way the criteria required for the acceptance of the lists. However, the final results were that some appeals were canceled by the appellate chambers, which led to the final validation of 15 lists and the rejection of two lists.

Highlighted below are the major national parties and coalitions that have received the most support in the public opinion polls and during the elections themselves.

### 3.1 Nidaa Tounes

In the months following the NCA election in 2011, the most significant change in the Tunisian political party landscape was the emergence of the secular Nidaa Tounes<sup>92</sup> party. The party's foundation was announced when former prime minister Beji Caid Essebsi on April 20, 2012 launched his Call for Tunisia as a response to post-revolutionary “instances of disturbing extremism and violence that threaten public and individual liberties, as well as the security of the citizens<sup>93</sup>”.

The party describes itself as a “modernist” and “social-democratic” party of the moderate left. Its ideologies are *bourguibism* and secularism, emphasizing dialogue and consensus, as well as reform and modernization of Tunisia's socioeconomic landscape, establishing it as a big tent party for the moderate left. According to the party's platform, “Nidaa Tounes is a political movement with a popular, national spirit and a social-democratic orientation. It believes in the basic social rights of education,

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92 Nidaa Tounes official website, <http://www.nidaatounes.org/>

93 BUSINESS NEWS, *L'Appel de Tunisie de Beji Caid Essebsi*, 2012, <http://www.businessnews.com.tn/L%20Appel-de-Tunisie-de-B%C3%A9ji-Ca%C3%AFd-Essebsi,520,30641,3>

health, decent work for all, housing, culture, and sound environment, with a guarantee of these rights' realization on the ground<sup>94</sup>". The party posits itself at once as an extension of Arab-Islamic culture, the reform movement of Habib Bourguiba, Tunisia's trade union movement, and the Tunisian Revolution, and it has frequently been the target of accusations that its membership contains a large number of former members of Ben Ali's ruling RCD party.

During 2014 electoral campaign, Nidaa Tounes had a main slogan: bringing back the authority of the state. It aimed to save Tunisia's public institutions, in deficit and plagued by corruption and bad governance and it will do that through reform and adjustments. Among Nidaa's programmes are healthcare and education for all, better public transport, ect. The party's plans for tourism include developing the tourism infrastructure, especially in the isolated and undeveloped areas.

As we said before, according to the parliamentary elections results, Nidaa Tounes party came in first, winning 86 seats to 217<sup>95</sup>.

### **3.2 Ennahda Movement**

Formed in the early 1980s as an Islamic opposition movement, Ennahda Movement, also known as Rainassance Party (or only Ennahda<sup>96</sup>), stands as one of the country's oldest and most well-organized political parties. Persecuted by the former regime, many leaders lived in exile or were imprisoned until the 2011 Revolution.

In the 2011 Tunisian Constituent Assembly election, the party won 37% of the popular vote, and secured 89 seats, which placed it short of having an outright majority in the NCA.

Following the elections to the National Constituent Assembly in October 2011, Ennahda had formed a coalition government with two secular parties: the Congress for the Republic (CPR) and the Democratic Forum for Labour and Liberties (FDTL, Ettakatol). However, street protests over the murder of two prominent opposition figures by Islamist militants in February and July 2013, led two successive Prime Ministers from

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94 "Our Program for Ambitious Development in the Service of All Tunisians." Nidaa Tounes Social and Economic Committee, 2014, page 4

95 IFES Election Guide. *Tunisian Parliamentary*, 2014, <http://www.electionguide.org/elections/id/2746/>

96 Ennahda Movement official website, <http://www.ennahdha.tn/>

the Ennahda Movement, Mr. Hamadi Jebali and Mr. Ali Laarayedh, to resign.

The party stepped down in January 2014 in order to make way for the final drafting of a constitution by a neutral interim government, followed by planned elections based on the new constitution.

In the 2014 elections, the party didn't field a presidential candidate, and decided to focus its efforts only on winning the legislative elections in October. Ennahda Movement is liberal in its economic programs, stressing on fighting corruption, encouraging competitiveness, and regulating the market. It seeks a conservative democracy, religious conservatism and moderate Islamism. In general, it does not differ much from Nidaa Tounes. Like Nidaa, during the electoral campaign, the party promoted social programs, but it didn't focus on the healthcare. This socially conservative party wants to encourage small investors and improve the tourism industry. The party's campaign strategy is colored by its past experience: it must now convince Tunisians that, despite the failures that occurred during the two Ennahda-led governments, the party is deserving of re-election. By choosing not to run a presidential candidate, the party says it is signaling that it will preserve space for other parties to participate in leading the nation. In the 2014 parliamentary elections, Ennahda Movement won 69 seats to 217, with almost 28% of the popular vote<sup>97</sup>.

### **3.3 Free Patriotic Union**

This party was established in May 2011 as *Union patriotique libérale* and renamed to *Union Patriotique Libre* (UPL) in June 2011. It was founded and has been led by the British-Tunisian petroleum entrepreneur Slim Riahi, who had returned from London right after the Tunisian revolution in January 2011.

The party proposed free-market economy, a modern society and it rejects Islamism. It has been noted for its expensive and lavish electoral campaign. In fact, it has offered bus trips to party rallies to potential voters. As opposed to most other parties that rely on the voluntary commitment of their members, the Free Patriotic Union could afford to pay its candidates, and it was often been accused of "buying" candidates and supporters. The party, with its leader Slim Riahi, came into conflict with ISIE because it

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<sup>97</sup> IFES Election Guide. *Tunisian Parliamentary*, 2014, *op.cit.*



continued the advertising campaign, ignoring ISIE's ban of canvassing during the period of silence.

For the parliamentary election in October 2014, the party submitted lists to all 33 electoral districts. With 4.02% of the votes, UPL won 16 of the 217 seats in the Assembly of the People Representatives, becoming the third largest parliamentary group right after the two dominant Nidaa Tounes and Ennahda.

### 3.4 Popular Front

Formed in August 2012, the Popular Front is an alliance of small, leftist parties, established to be a “third political axis, in opposition to the Troika.. and Nidaa Tounes<sup>98</sup>”. The founding parties of the Front included the Workers' Party, the Democratic Socialist Movement, the Baathist Movement, the Vanguard Party, the Tunisian Green Party, as well as others. The Popular Front is led by Hamma Hammami, known as a communist activist and leader of the Workers' Party.

Several of the parties that formed the Popular Front, successfully gained seats in the 2011 parliamentary elections and the coalition played a significant opposition role in the national dialogue process.

In the 2014 legislative elections, the Popular Front faced some difficulties in determining its electoral lists. During the platform<sup>99</sup> presentation, Hammami declared, “The dream (of the revolution) was shattered when the Troika, the former government coalition dominated by Ennahda, took power. Safety, economy – everything – deteriorated and the dream of a new Tunisia went up in flames. Together we can rebuild that dream and make it a reality.<sup>100</sup>”

Under the slogan “Tunisia of labor, Tunisia of hope,” the party’s platform aims to create a progressive culture, achieve social justice, and establish a modern education system<sup>101</sup>. During the 2014 electoral campaign<sup>101</sup>, the Popular Front also put emphasis on

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98 BABNET TUNISIE, *Tunisie: Naissance d'une nouvelle coalition de gauche: le front populaire.*, 2012, <http://www.babnet.net/cadredetail-53094.asp>

99 Front Populaire Party Platform: <http://front-populaire.org/?p=4735>

100 KAPITALIS, *Front populaire: Haro sur l'évasion fiscale, la contrebande et la corruption!*, 2014, <http://www.kapitalis.com/politique/24994-front-populaire-haro-sur-l-evasion-fiscale-la-contrebande-et-la-corruption.html>

101 *Ibid.*

reforming Tunisia's natural resource sector, and expanding the tourism one<sup>102</sup>.

This leftist party took the 3,7% of votes, winning 15 seats in the Assembly of the People's Representatives.

### 3.5 Conclusions

This legislative elections were the first conducted under Tunisia's new constitution, and we can say that they were “an historic step in the country's transition to democracy, (...) and they represent a fulfillment of the hope of the Arab Spring, both in Tunisia and the greater Arab world<sup>103</sup>”.

The whole electoral process was believable and transparent, and it allowed Tunisians to vote freely for the Assembly of People's Representatives. The legal framework provided a good basis for the holding a democratic elections and, as already said, the Constitution made lot od important democratic advances. The Independent High Authority of Elections (ISIE) was impartial, transparent and had a really good organization.

The voter registration campaign was promulgated by several week and had increased the number of voters of almost a million compared to the 2011 elections. In addition, the Constitution and the Electoral Law guaranteed the right to stand for election and did not imposed neither cases of exclusions nor discriminatory or unreasonable inconsistency. Over 1500 lists were submitted to the regional bodies, and finally 1326 were selected, and the parties, the coalitions and the independent lists were free to present their programs in relations to the electoral law dispositions regarding the electoral campaign.

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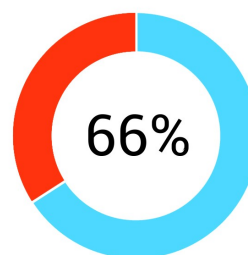
102 *Ibid.*

103 Carter Center Preliminary Statement on Tunisia's Legislative Elections, Oct. 28, 2014, PDF, p.1

### Graph 3.4, Results of the Legislative Elections

#### RESULTS

**Cast Votes:** 3,579,256  
**Valid Votes:** 3,473,239  
**Invalid Votes:** 106,010  
**Registered Voters:** 5,285,136

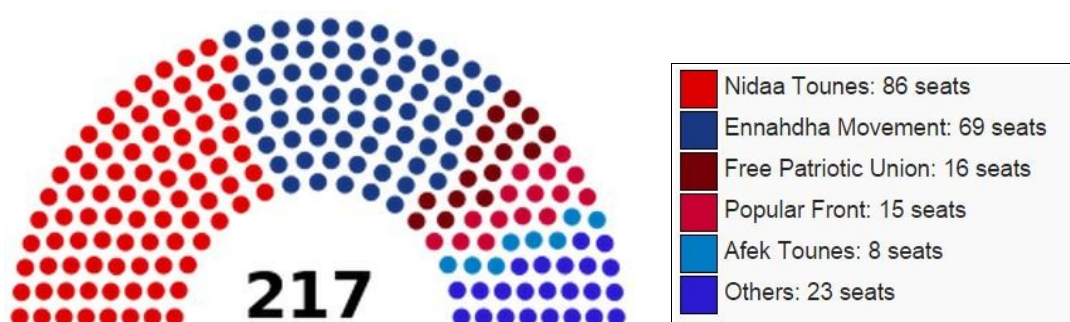


Source: Election Guide, Democracy Assistance & Election News, Tunisia Parliamentary Elections

The graph released by the IFES<sup>104</sup> Election Guide for Democracy Assistance & Election News, shows that more than half of the entire registered Tunisian voters went to vote (66%) and it was counted a really small number of invalid votes.

According to the final results released by the ISIE<sup>105</sup>, *Nidaa Tounes* took the lead in this elections, winning 86 seats and *Ennahdha Movement* came second with 69 seats, followed by Free Patriotic Union (16), Popular Front (15) and Afek Tounes (8). The table with the entire elections results can be find in the ANNEX 1, and the images below show the parliament seats distribution and the total number of Tunisian voters respectively.

### Graph 3.5, Tunisian Parliament Seats Distribution 2014



Source: Wikipedia, Tunisian parliamentary election, 2014

104 IFES: International Foundation for Electoral System.

105 ISIE.TN, PDF (in Arabic), 20 November 2014, <http://www.isie.tn/documents/D%C3%A9cision-Instance-sup%C3%A9rieure-ind%C3%A9pendante-pour-les-%C3%A9lections-relatives-proclamation-des-r%C3%A9sultats-d%C3%A9finitifs.pdf>

#### 4. Presidential Elections

After the parliamentary election, a presidential election was held in Tunisia on November 23, 2014. This was, according to the majority of the experts in this field, the first free and fair presidential election since the country gained the independence from France in 1956, as well as the first regular presidential election after the Tunisian Revolution of 2011 and the adoption of the new Constitution in January 2014. Voters had to choose from 27 candidates, where 26 were men and one was a woman. According to the article 40 of the Electoral Law n. 2014-16, "Every voter who is Tunisian by birth and whose religion is Islam has the right to run for the office of President of the Republic" and for being a candidate it is also required to be at least "thirty five years of age<sup>106</sup>" on the day of submission of the application for candidacy. Other conditions are, the sponsorship of the candidates by the citizens and the lodge of a reasonable financial bound. The right to submit an application for the Presidency of the Republic is also stated in the new Constitution.

During the 2014 presidential elections, seventy (70) individuals submitted for the presidential elections, but the ISIE determined only 27 of them to be eligible to run for the election, and the others were disqualified because, according to the Article 41<sup>107</sup> of the organic law n. 2014-16, some of the individuals were failing to obtain the necessary signatures of support, and some other failed to pay the necessary deposit, according to the article 42 of the same law<sup>108</sup>.

According to the new Constitution, the President, along with the Prime Minister, is the head of the executive branch. The President of the Republic is the Head of State and the symbol of its unity and he/she guarantees its independence and continuity. As the executive of the nation<sup>109</sup>, the President must formally approve all laws passed by the Assembly but he may contest the constitutionality of a draft law or return the draft to

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106 Article 40 of the organic law n.2014-16 and Article 74 of the Constitution

107 Article 41: "A candidate in the Presidential Elections should be endorsed by ten members of the Assembly of Representatives of the People, forty Chairpersons of elected councils of local community, or ten thousand registered voters distributed over at least ten constituencies with a minimum of five hundred voters per constituency. It is prohibited to endorse more than one candidate. The Authority regulates the procedures for endorsement and verification of the list of endorsers"

108 Article 42: "The candidate is to deposit in the Public Treasury of the Country of Tunisia the sum of ten thousand Dinars, refundable only if the candidate secures at least three percent of the number of valid votes."

109 Constitution de la Republique Tunisienne, Article 72

the Assembly for a second reading. The president is also charge with creating and implementing policy across the defense, foreign relations, and national security sectors. The president will oversee the National Security Council, serve as commander-in-chief of the armed forces, hold the ability to declare war, and reserve the ability to dissolve the Assembly of People's Representatives<sup>110</sup>. Under Article 44 of the Constitution of Tunisia, the president is also the commander-in-chief of the Tunisian Armed Forces.

Like representative in the Assembly, and according to the article 75 of the new Constitution, the president will be elected for a five-year term. However, a president may only be seated for two terms, and he (or she) may not serve as a political party official while seated.

In November 23, 2014, Tunisian voters went to vote their president and since no candidate won a majority during the first round, a second round took place on December 21, 2014, according to the second section of the above-mentioned Article 75:

“If no candidate obtains an absolute majority on the first ballot, there shall be a second round within two weeks of the announcement of the final results of the first round. Only appear in the second round the two candidates with the highest number of votes in the first round”.

On the first round, participation was high across the country. The High Independent Authority on Elections (ISIE) announced that voter turnout reached 64.6%<sup>111</sup>, and few days later the Authority published the official results, declaring that the two most voted candidates, Beji Caid Essebsi and Moncef Marzouki, reached respectively 39.46% and 33.43% of the votes.

During the second round, vote turnout reached the 59%, and the very next voting day, official results showed that Essebsi won the election, with 55.68% of the run-off vote<sup>112</sup>.

It is important to say that Tunisia's Ennahda Movement stated in the early September, that it would have not compete in the next presidential election. The Islamist party's

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110 Chapter IV of the Constitution “Le Pouvoir Exécutif”, Titre I: “Le Président de la République”

111 ISIE, *Resultats Presidentielle*, <http://www.isie.tn/resultats/resultats-presidentielles/>

112 *Ibid*

decision could be seen to reinforce its openness to the country's secularist opposition. Given Ennahda's impressive organisational capabilities, many were surprised to see that Ennahda had not put a presidential candidate in the elections, and according to Faisal Nasser, deputy head of the party's communication team, Ennahda didn't want to dominate the political system because "this period requires the participation of all the political parties"<sup>113</sup>. Ennahda was also all too aware of such dangers and understand that they "could destabilise the country's democratic transition", Nasser added. Some experts on Ennahda, believed that the party is playing a long-term game, trying to be able to spread blame around because they were thinking strategically about this "game", willing to make partners anywhere. Ennahda was not motivated by a straightforward desire to avoid conflict and be seen to be monopolising government posts. After it came to power in 2011 in a coalition known as Troika, perceived poor economic performance and security threats prompted a backlash against the party by some civil society group, with people turning out to the streets to protest. Even more important, mass demonstrations were sparked by the assassination of the two politicians a year before, with many calling for the government's resignation, and Ennahda step down from the power in favor of the cabinet of technocrats in December 2013. According to the experts, if Ennahda had considered to present a candidate for the elections, he would have been highly contested.

Highlighted below, there are three of the 27 presidential candidates in Tunisian elections. I decided to analyze in detail only these candidates, because they are the ones who have achieved the highest number of votes during the past elections.

#### **4.1 Beji Caid Essebsi**

Beji Caid Essebsi, ran as the presidential candidate for his political party, Nidaa Tounes. He is 87 years old and he is a veteran of the Tunisian political scene. Under President Bourguiba's rule, he served in various roles including Minister of the Interior, Minister of Defense and Minister of Political Affairs. Under Ben Ali's rule, Essebsi served as an elected representative in the Chamber of the Deputies and as the Chamber's president.

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<sup>113</sup> Faisal Nasser, interview for MEE: <http://www.middleeasteye.net/in-depth/features/why-ennahda-not-fielding-presidential-candidate-tunisia-1768171354>

After the 2011 Revolution, Caïd Essebsi returned to the government to serve as the interim prime minister until an elected government was seated.

Recently, he positioned himself and his party as “an alternative to Islamism<sup>114</sup>. (...) The fundamental difference between us and [Ennahda] is that we are in a democratic process, while the Islamists take their orders from God, not the people. Voters will decide between our project—part of modernity and the 21st century—and another project—religious<sup>115</sup>”. In response to this comment, Ennahda leader Rached Gannouchi explained Essebsi's rhetoric as being “under pressure from extremists on the left<sup>116</sup>”.

#### 4.2 Moncef Marzouki

Currently serving as the President of Tunisia, Moncef Marzouki has become one of the most recognizable figures in Tunisian politics. As president of the Tunisian Human Rights League (LTDH) and the founder of Congress for the Republic (CPR), Marzouki had established himself as a credible, pro-human rights opposition figure before the revolution. Marzouki ran on the last elections as CPR's candidate under the slogan “Victory, Nothing but Victory<sup>117</sup>”, and in announcing his candidacy he stated that his campaign would have been transparent, trying to distance himself from the “dirty money” of the former regime<sup>118</sup>.

#### 4.3 Hama Hammami

Hama Hammami is a well-known far-left activist, having been involved with the Communist Workers' Party for much of his life. He was imprisoned and tortured for his political activism during both Bourguiba and Ben Ali regimes.

Hammami ran on the presidential elections as the candidate of the Popular Front, and

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114 HUFFPOST MAGHREB, *En France, Béji Caïd Essebsi s'est posé comme 'l'alternative à l'islamisme'*, 2014. Agence France Presse. [http://www.huffpostmaghreb.com/2014/10/11/beji-caid-essebsi-electio\\_n\\_5970154.html](http://www.huffpostmaghreb.com/2014/10/11/beji-caid-essebsi-electio_n_5970154.html)

115 *Ibid*

116 BUSINESS NEWS, *Rached Ghannouchi : Sous la pression de la gauche extrémiste, Béji Caïd Essebsi prône la division*, 2014, <http://www.businessnews.com.tn/rached-ghannouchi--sous-la-pression-de-la-gauche-extremiste-beji-caid-essebsi-prone-ladivision,520,50116,3>

117 LA CROIX, *Tunisie: le président Marzouki candidat à sa réélection*, 2014, <http://www.la-croix.com/Actualite/Monde/Tunisie-le-president-Marzouki-candidat-a-sa-reelection-2014-09-20-1209207>

118 *Ibid*

his polling results ranged between four and six percent. He noted an immediate desire to reform the nation's security apparatus, as well as its foreign relations, specifically reestablishing diplomatic ties with Syria<sup>119</sup>. He also identified a number of dangers for Tunisia's political scene, including “the Islamists of Ennahda, but also terrorist groups financed from abroad by the oil monarchies of the Gulf, [and] on the other side, the forces of the former regime looking to profit from the failure of the Troika<sup>120</sup>”.

He has also expressed disapproval of the work of the World Bank and the International Monetary Fund and the recent “Invest in Tunisia, Startup Democracy” conference supported by the French government, referring to them as neoliberal institutions that benefit wealthy, capitalist countries.

#### 4.4 Conclusions

As already said, the 2014 presidential elections were the first free and fair since the country gained the independence from France, as well as the first regular presidential election after the 2011 Tunisian Revolution and the adoption of the new Constitution.

During this elections, Tunisian citizens renewed its commitment to democratic values in a peaceful and serene environment. The ISIE demonstrated its independence, impartiality and competence again, and its regional bodies also demonstrate their neutrality and high competence.

In the first round of the elections (November 23, 2014), Beji Caid Essebsi and Moncef Marzouki gained the most votes (39% and 33%, respectively), making it to the runoff. Hama Hammami came in a distant third at 8%. The table with the entire presidential elections results can be found in the ANNEX 1, and the percentage of votes reported during the election are shown in the previous graph.

After the run-off polls closed on the night of December 21, 2014, Essebsi won the 55.68% of the votes (and Marzouki 44.32%). The turnout was lower than the previous round, as shown by the graph below.

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119 LE TEMPS TUNISIEN, *Si je suis élu: Hama Hammami, candidat du Front Populaire à la Présidentielle*, <http://www.letemps.com.tn/article/86318/si-je-suis-%C3%A9lu-hama-hammami-candidat-du-front-populaire-%C3%A0-laprs%C3%A9sidentielle-%C2%ABnous-ne>

120 ON N'EST PAS DE MOUNTONS, *Hama Hammami: 'Il faut tout faire pour endiguer la montée du fascisme religieux'*, 2014, <http://fdg-info13.com/2014/10/14/hama-hammami-il-faut-tout-faire-pour-endiguer-la-montee-du-fascisme-religieux/>

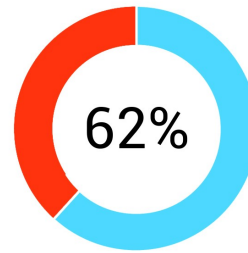


**Graph 3.6, Results of the Presidential Election (1° Round)**

RESULTS

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**Cast Votes:** 3,339,666  
**Valid Votes:** 3,267,569  
**Invalid Votes:** 50,088  
**Registered Voters:** 5,285,625



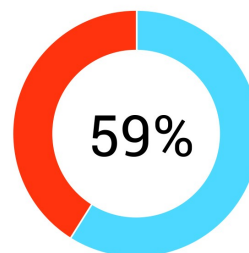
*Source:* Election Guide, Democracy Assistance & Election News, Tunisia Presidential Elections, 1° Round.

**Graph 3.7, Results of the Presidential Election (2° Round)**

RESULTS

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**Cast Votes:** 3,189,672  
**Valid Votes:** 3,110,312  
**Invalid Votes:** 79,360  
**Registered Voters:** 5,236,244



*Source:* Election Guide, Democracy Assistance & Election News, Tunisia Presidential Elections, 2° Round.

## 5. Domestic Observation

Domestic non-partisan election observer were also deployed in Tunisia during the legislative and the presidential elections. According to the Domestic Observers' Forum, enlarging EU support to domestic election observers, “domestic observers have a role to scrutiny of and support to the electoral process<sup>121</sup>”. Their work helps to reduce the level of election-related violence and manipulation of results, increasing transparency and assuring confidence in the “integrity of electoral process<sup>122</sup>”.

During the 2014 Tunisian Elections civil society played a very important role, deploying hundreds of domestic observers in the whole country. Training for the observers were organized by international organization concerning democracy, human rights and elections. One of the Tunisian observation groups, I Watch, recruited, trained and deployed hundreds of observers nationwide on Election Day. This local organization decided to use a different approach for practice in election observation exercises; an approach less expensive and addressed to everyone. Using the words of the representatives of the Organization:

“Election observation has become a costly, top-down and exclusive exercise that largely ignores citizen input and participation for legitimizing the process. I Watch aims to counter this through an inclusive and technologically innovative approach which could revolutionize election observation worldwide<sup>123</sup>”.

The youth-led organization in fact wanted to create a new kind of domestic observation providing a “new way of engaging citizens in the electoral process<sup>124</sup>” trying to increase citizen participation in public life. The organization, few weeks prior to Election Day, launched an *e-observation platform*<sup>125</sup>, looking like a social network. In this platform in fact, citizens could create profiles and register to be observers and by the Election Day, more than one thousand citizens signed up and they were accredited as I Watch

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121 DOMESTIC OBSERVERS' FORUM, Brussels, 14&15 July 2010, PDF  
[http://www.eueom.eu/files/dmfile/domestic-observers-forum-agenda\\_en.pdf](http://www.eueom.eu/files/dmfile/domestic-observers-forum-agenda_en.pdf)

122 *Ibid*

123 TECH CHANGE, *I Watch Trains Tunisian Election Observers Online*  
<https://www.techchange.org/2014/10/29/tunisia-election-observer-iwatch/>

124 *Ibid*

125 <http://www.e-observation.org/>

observers, previously trained with a series of videos to educate them on the goals of election observation.

Other Tunisian organizations that had played an important role in deploying election observers, were ATIDE (*Association Tunisienne pour l'Intégrité et la Démocratie des élections*), LTDH (*Ligue Tunisienne des Droits de l'Homme*) and Mourakiboun. According to ATIDE's preliminary statement, published on October 31, 2014, right after the legislative elections, the parliamentary elections were held in a context of democratic transition, aimed to create sustainable institution of the Second Republic of Tunisia. Despite the complex socio-political and security environment, the willingness of all parties focused on the establishment of conditions for a productive and transparent electoral environment. ATIDE also and trained a large number of observers who have followed and monitored the entire electoral process.

Another important missions were the Gender Election Monitoring (GEM) Missions. This mission was deployed by the Gender Concerns International (GCI) together with the Tunisian League of Human Rights (LTDH), the Tunisian Association of Democratic Women (ATFD) and the Association of Tunisian Women for Research and Development (AFTURD). This partnership began during the 2011 elections and is supported by the German Federal Foreign Office. The mission was composed by 10 international and 110 national female observers deployed across 22 governorates.

The mission main goal was to monitor the entire electoral process from a gender perspective, underscoring “societal and political challenges that must be overcome to ensure inclusive governance in the future of Tunisia<sup>126</sup>”.

According to the preliminary statement of the deployed mission, the importance of the mission is the fact that was an exclusive female observation team, and these elections provided a significant opportunity for Tunisian women to participate in the political structures. During the mission, the observers tried answer some particular type of questions, such as how many heads of polling stations are female; are there special facilities for pregnant women; or what is the number of female candidates in the elections. In other words:

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126 GENDER CONCERNS, *Preliminary Report: Parliamentary Gender Election Monitoring Tunisia*, [http://www.genderconcerns.org/article.php?id\\_nr=4021&id=Head%20of%20Gender%20Election%20Watch%20Tunisia%202014%20announces%20Preliminary%20Report](http://www.genderconcerns.org/article.php?id_nr=4021&id=Head%20of%20Gender%20Election%20Watch%20Tunisia%202014%20announces%20Preliminary%20Report)

“are women fully included as voters, polling official and candidates? If not, what can be done to improve on that in Tunisia’s future democratic process?<sup>127</sup>”

Even if there was a large women's participation, “gender parity is still a long way to achieve inclusive governance in Tunisia<sup>128</sup>”.

**Image 3.8, Sabra Bano, Head of the Gender Election Watch Tunisia 2014 mission**



Source: Gender Concerns, Sabra Bano, Head of the Gender Election Watch Tunisia 2014 mission announces the Preliminary Report of her mission that was comprised of 110 all-female international and domestic observers.

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127 GENDER CONCERNS INTERNATIONAL, *Preliminary Statement on the observation of parliamentary elections on October 26<sup>th</sup> 2014, Tunisia Gender Election Monitoring Mission*, PDF, <http://www.genderconcerns.org/pdfs/Gender-Election-Monitoring-Tunisia-2014-preliminary-Report.pdf>

128 *Ibid*

## CHAPTER 4

### INTERNATIONAL ELECTION OBSERVATION

#### 1. Introduction

“Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights<sup>129</sup>.”

According to the *Declaration of the Principles for International Election Observation*, genuine democratic elections serve to resolve peacefully the competition for political power within a country and are the central means to maintain peace and stability among political powers, people's will, and the legal framework, establishing the legitimacy of the govern. Achieving democratic elections is a part of establishing broader processes and institutions of democratic governance<sup>130</sup>.

These canons are recognized by human rights and other international instruments, including nongovernmental organizations, for whose, democratic election has become a matter of concern<sup>131</sup>.

International election observation expresses, in this field,

“the interest of the international community in the achievement of democratic elections, as part of democratic development, including respect for human rights and the rule of law. International election observation focuses on civil and political rights and is part of international human rights monitoring. It is conducted on the basis of the highest standards of impartiality and must be free from any personal considerations in conflict with impartiality, and its final purpose is to assess the entire election process in conformity with international principles and standards for genuine elections.<sup>132</sup>”

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129 Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, Commemorated October 27, 2005, at the United Nations, New York, PDF, p. 1

130 *Ibid*

131 *Op. cit.* p. 2-3

132 *Op. Cit.* p. 1

International election observation evaluates pre-election, election-day and post-election periods using a high range of techniques, and is conducted for the benefit of the people of the country holding the elections and for the international community<sup>133</sup>. International election observation is conducted by intergovernmental and international nongovernmental organizations and association, which are in charge to provide “an impartial and accurate judgment of the nature of election processes<sup>134</sup>”, aiming to benefit the inherent country's population.

Election monitoring purpose is to assess the conduct of an election process on the basis of national and international legislation and election standards. There are, in fact, national or international election observers.

Standard international election observation missions, are deployed by different international actors as, such as, United Nations (UN) and European Union (EU)<sup>135</sup>, and they monitor the entire electoral process. In addition to the international organizations monitoring elections, citizen organizations, or coalitions of organizations, also monitor elections in their own country. The most common type of domestic election monitoring comes by way of party poll-watchers, who are individuals that are looking out for the interests of their party. Finally, there are also numerous domestic nonpartisan observer groups in many countries.

From an historical and political prospective on the issue of Tunisian democratic transition, this section will focus on the election monitoring mission carried out by the European Union during the 2014 Tunisian legislative and presidential elections. To treat the whole course of the election process, I will analyze below the fundamentals and the methodology of the EU election observation missions.

## **2. The European Union and Election Observation**

The commitment of EU to support, develop and consolidate democracy, the rule of law and human rights is at the core of the EU identity. According to the Treaty on the

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133 Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, *op.cit.* p. 3

134 Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, *op.cit.* p. 1

135 Standard international election observation missions are deployed also by: OSCE, ODHIR, NDI (*National Democratic Institute*), IRI (*International Republican Institute*), TCC (*The Carter Centre*), UA (*African Union*) and so on.

European Union, EU “is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law<sup>136</sup>”. The promotion of democracy is at the centre of EU's *Common Foreign and Security Policy* (CFSP) and the EU provides extensive support to initiatives and programmes that seek to promote, develop and consolidate human rights, democratic institutions and the rule of law in partner countries. Since the early 1990s, a human rights clause has been included in all EU agreements with partner countries.

As reported from the EU Electoral Observation Handbook:

“Election observation is a vital component of European Union activities to promote democracy, human rights and the rule of law worldwide. Election observation can strengthen democratic institutions, build public confidence in electoral processes and help deter fraud, intimidation and violence. Election observation also serves to reinforce other key European Union foreign policy objectives, notably peace-making and peace-building. With these objectives in mind, the European Union has become a leading force in international election observation, deploying 60 EU EOMs to 41 countries<sup>137</sup>”

European Union election observation is internationally recognised and express the EU interest in promoting democratic elections within its policy of support for democracy. Every citizen has the right to participate in government and public affairs by voting or being elected at genuine periodic elections, on the basis of the citizens' fundamental freedoms and political rights. These include the freedoms of expression, association, assembly and movement. The right to participation and other related freedoms and rights are not achievable without the protections afforded by the rule of law.

Election observation is a very important tool that supports and controls, in fragile or dangerous realities, the correct performance of what is the realization of one of the fundamental democratic rights of every individual, and the European Union recognizes the election observation as one of its mandates.

A range of election observation activities have been supported by the EU since the first such undertaking, the deployment of an *ad hoc* election mission to the Russian

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136 Treaty on the European Union, [http://europa.eu/eu-law/decision-making/treaties/pdf/treaty\\_on\\_european\\_union/treaty\\_on\\_european\\_union\\_en.pdf](http://europa.eu/eu-law/decision-making/treaties/pdf/treaty_on_european_union/treaty_on_european_union_en.pdf)

137 EUROPEAN COMMISSION, *Handbook for European Union Election Observation*, Second Edition, 2008, preface.

Federation in 1993<sup>138</sup>. Since 2000 over 120 EU Election Observation Missions (EU EOMs) have been deployed to all continents (with the exception of the OSCE regions), following a long-term observation methodology to assess election processes according to international standards and best practices for genuine democratic elections.

## 2.1 Electoral Cycle Approach

As already explained, elections are an essential part of the democratic development and consolidation of every state, representing the means of increasing citizens participation in political life. “Casting a folded paper into the ballot box, pushing a button or touching the screen on an electronic voting machine<sup>139</sup>”, all represent a significant mechanism whereby citizens can influence their future.

Electoral assistance has been part of the foreign policy of several established democracies since the 1960s but already from the end of the World War II, the Article 21<sup>140</sup> of the UN Declaration of Human Rights provided the legal and moral justification for the UN work in supporting the accession to independence of non self-governing territories.

Donor countries and organizations, particularly the United Nations, the European Union and the Organisation for Security and Cooperation in Europe (OSCE), have contributed to the improvement of numerous electoral processes since the fall of the Berlin Wall in 1989. In this context, was developed the Electoral Cycle Approach by electoral specialists with an extensive field experience from the European Commission (EC) and the International Institute for Democracy and Electoral Assistance (International IDEA). This approach was used for the first time in 2005 during the missions in Sierra Leone and Nigeria. The electoral Cycle Approach was later officially adopted by the European Commission.

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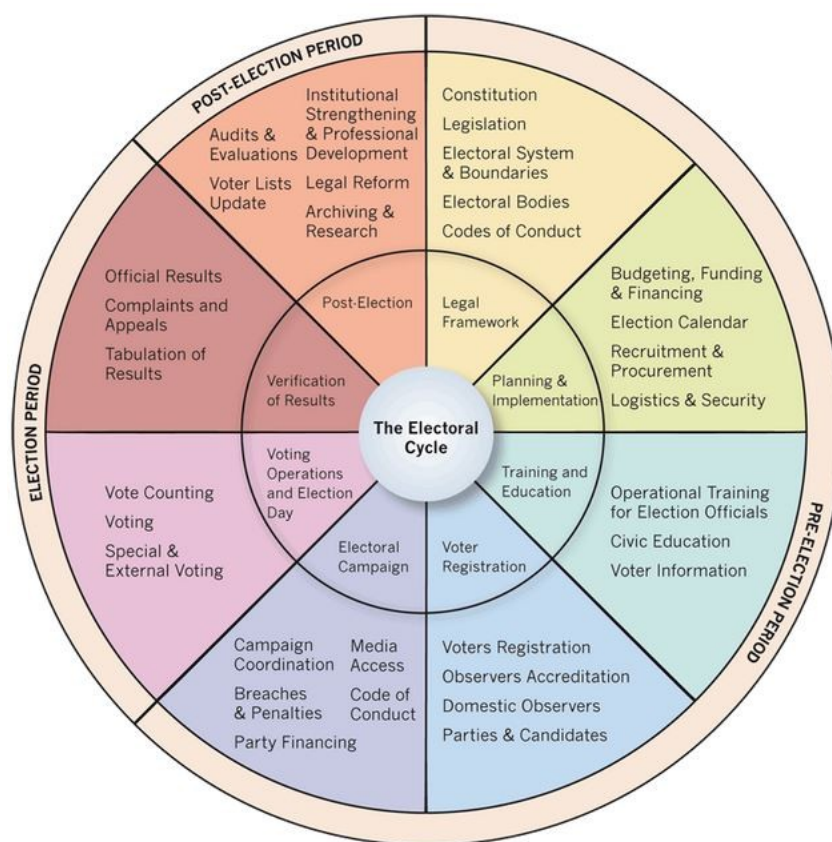
138 EEAS (European Union External Actions), *Election Observation Mission*, [http://eeas.europa.eu/eucom/missions/index\\_en.htm](http://eeas.europa.eu/eucom/missions/index_en.htm),

139 ISPI Working Paper, *The Electoral Cycle Approach: Effectiveness and Sustainability of Electoral Assistance*, PDF, [http://www.eces.eu/template/default/files/ECES%20Publications/ISP\\_%20WP\\_Sustainability\\_and\\_Effectiveness\\_of\\_Electoral\\_Assistance\\_The\\_Electoral\\_Cycle\\_Approach\\_Final.pdf](http://www.eces.eu/template/default/files/ECES%20Publications/ISP_%20WP_Sustainability_and_Effectiveness_of_Electoral_Assistance_The_Electoral_Cycle_Approach_Final.pdf)

140 Article 21: “(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.



**Image 4.2, The Electoral Cycle Approach: Effectiveness and Sustainability of Electoral Assistance**



Source: IDEA, International Institute for Democracy and Electoral Assistance,

Elections are composed of a number of integrated building blocks, with different stakeholders interacting and influencing each other. Electoral components and stakeholders do not stand alone. They are independent, and therefore the breakdown of one aspect can negatively impact on every other, including on the credibility of the election itself. The concept of the cyclical approach to electoral process and electoral assistance gained consensus among practitioners and development agencies. Its conceptualization was completed with the publication of the Electoral Cycle methodological Guide on Electoral Assistance<sup>141</sup>.

The ideal scenario from a governance development point of view is that at the

141 VV. AA. *EC Methodological Guide on Electoral Assistance*, European Commission, 2006, PDF, [http://eeas.europa.eu/eucom/pdf/ec-methodological-guide-on-electoral-assistance\\_en.pdf](http://eeas.europa.eu/eucom/pdf/ec-methodological-guide-on-electoral-assistance_en.pdf)

beginning of every new electoral cycle, which basically starts at the end of the previous one, a more refined and qualitative set of reforms should be programmed and supported. This in order to achieve the goal of accountable and professional EMBs which are able to guarantee respect for the democratic rules which are required for an election to proceed satisfactorily, regardless of political pressure. In this context all actors would be able to play their roles in the electoral process without interference.

An adequate understanding of the various components, stages and entry points of an ideal electoral cycle should also be used to better plan and respond to any sudden call for urgent electoral support and clarify from the outset what is achievable and needed in the short-term, as well as identifying what must be objectives of different, longer-term initiatives.

The recognition of the different needs and deliverable related to each stage of the electoral cycle is essential for appropriate program identification, formulation and implementation, as well as development agencies and stakeholder coordination.

## **2.2 Why to observe election?**

Election observation is a valuable tool for improving the quality of elections. Observers help build public confidence in the honesty of electoral process. Observation can help promote and protect the civil and political rights of participants. The main goal is to support efforts to strengthen democratic processes and institutions and to support the conduct of elections that meet international standards, are peaceful, and have credible results. On election day, credible and impartial observers can strengthen an electoral process by reassuring voters they can safely and secretly cast their ballots and electoral fraud will be detected.

According to the values of the European Union on the field of election observation:

“The purpose of EU election observation missions (EOMs) is to assist partner countries in holding elections of a high standard. In this context, the EU EOM conducts a comprehensive analysis of the electoral process and provides an impartial and informed assessment of the elections to strengthen the confidence of voters to participate freely.”<sup>142</sup>

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142 EUROPEAN COMMISSION, *Handbook for European Union Election Observation (Second Edition)*, 2008, PDF, [http://eeas.europa.eu/eucom/pdf/handbook-eucom-en-2nd-edition\\_en.pdf](http://eeas.europa.eu/eucom/pdf/handbook-eucom-en-2nd-edition_en.pdf)

Election observation demonstrates the international community's interest and support for elections that meet international standards as reflected in a variety of international public documents and declarations. It reinforces the efforts of civil society and domestic monitoring organizations in the electoral process and increases the credibility of their work and it provides an impartial assessment of the electoral process and, where relevant, recommends ways to improve the process in future elections. Furthermore, election observation assists election administrators, political parties, and civil society groups in developing tools and skills to peacefully resolve conflicts and discourage violence related to the electoral process; and finally it provides a foundation for peace-building and democratization initiatives in neighboring areas and throughout the world<sup>143</sup>.

### **2.3 Code of Conduct for EU Election Observers**

All EU observers are obligated to follow the EU code of conduct, which was established by the Council Decision 9262/98<sup>144</sup> and is included as Annex III of the 2000 EC Communication on Election Assistance and Observation (COM 191). This code is a set of principles and/or expectations that are considered binding on any person who is a member of a group such as an election management body, political party, or an election observation mission. The Code of Conduct is also in agreement with the Declaration of Principles for International Elections Observation, to which EU observers should also adhere.

According to the code, the observers have to respect the laws of the land, and they don't have any immunities as international observers, unless the host country provides so. They will be subject to the direction and management of the observer team leadership and they should be aware of the presence of the other electoral observation groups, and collaborate with them under the direction of the EU EOM leadership. Under the Declaration of Principles, in fact, all endorsing organizations guarantee to cooperate with each other in conducting international election observation missions.

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143 THE CARTER CENTRE, *Observing Elections*, PDF

<https://www.cartercenter.org/resources/pdfs/factsheets/elections-facts.pdf>

144 Council Decision 9262/98 – PESC 157 – COHOM 6 GUIDELINES - EU POLICY ON ELECTORAL OBSERVATION, PDF

Even more important, the Eu has supported the development of domestic non-partisan election observation in many countries. According to the Handbook for European Union Election Observation (p.12), “such support recognizes that domestic non-partisan observation can greatly enhance transparency as well as public confidence in the integrity of an election process”.

During their mission, observers have to maintain strict impartiality in the conduct of their duties, and they must not express any favoritism or preference in relation to national authorities, parties, candidates, or with reference to any issues in contention in the election process and they must not display or wear any partisan symbols, colors or banners.

They have to undertake their duties in a confidential manner, and they must not interfere with the election process, polling day procedures or vote count. Referred to that they may bring irregularities to the attention of the election officials but they must not give any instructions and base all their conclusions well documented. Considering that they are, as the word says, *observers*, they can not make any personal or premature comments about their observation to the media, or any other interested persons. However they should provide general information about the nature of their activities. During the participation and the contribution to the EU reports on the elections, they must comply with all national laws and regulations, and base their observation in accordance to the international standards for elections.

The Code of Conduct is highly important, in fact, in case of serious violation, the observer concerned may have their accreditation withdrawn and be dismissed from the EU EOM. The code focuses on the election-related aspects of observers' conduct and behavior.

In accordance with the provisions of the code of conduct, which requires observers to “behave blamelessly, exercise sound judgment, and observe the highest level of personal discretion<sup>145</sup>”.

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145 *Ibid*

## 2.4 Stages of an Election Observation Mission

EU EOMs are only deployed to countries where an invitation to observe had been received from the state and/or electoral authorities. The European External Action Service (EEAS), identifies a number of countries where an EU Election Observation Mission could be deployed, in consultation with the Council of Ministers and the European Parliament. The selection of priority country is necessary to make best use of human and financial resources available for observation missions.

The decision on whether or not to deploy an EU EOM is made by the Commissioner for External Relations, who consider the recommendations of an exploratory mission. In most instances, the EU has chosen to priorities countries holding presidential and parliamentary elections, although countries holding local elections and referendums can also be prioritized. According to the Handbook for European Union Election Observation:

“Countries are categorized as priority based on a range of factors, which include:

- constructive engagement through an EU EOM could results in an improved election;
- deployment of an EU EOM would complement and enhance EU democratization and/or crisis management and peace-building initiatives in the country;
- the presence of an EU EOM would demonstrate EU support for an important political process or democratic transition;
- a geographical balance is maintained among the countries where EU EOMs are deployed<sup>146</sup>”

Once a country is identified as priority, the second stage in the process is the deployment of an Exploratory Mission. This mission is sent to the country to assess whether deploying an EU EOM is “*advisable, feasible, and useful*”<sup>147</sup>. The exploratory mission should also advise on what conditions must be fulfilled by the host government in order for the EOM to be able to operate fully and credibly.

This mission is normally conducted between six and four months in advance for the scheduled election day, and usually lasts for two weeks.

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146 EUROPEAN COMMISSION, Handbook for EU Election Observation, p. 93, PDF

147 *Ibid*

Following the decision to deploy an EU EOM, the European Commission seeks to sign memorandums of understanding (MoU) with the state and electoral authorities of the host country. The memorandums set out the role and responsibilities of the EU EOM, of the EU observers, and the corresponding role and responsibilities of the host countries authorities.

Based on the report of the exploratory mission, the European Commission prepares terms of reference which provide the basis for the structure of the mission, concerning the timing of the mission, the provisional deployment plans, the composition and tasks of the EOM core team, the number of the observers and the budget.

After the decision to deploy a mission, the Commissioner appoints a chief observer (CO), normally a member of the European Parliament. The experts of the core team are chosen on the basis of their experience from a pool of experts that the Commission has chosen based on a call for interest posted on its website. Observers are appointed by the Commission from a selection of candidates proposed by the Member States.

The structure and size of the mission is based on the exploratory mission final report, which will propose an appropriate number of core team, LTO (long-term observers) and STO (short-term observers) positions, in relation to the geographical size of the country, its political significance or technical features of the election process and established criteria for determining field deployment.

Missions typically consist of the following positions:

- Chief Observer
- Deputy Observer
- Election analyst
- Legal analyst
- Political analyst
- Human rights analyst
- Media analyst
- Press and public outreach officer
- Observer coordinator
- Statistical analyst
- Operations expert
- Security expert
- Long-term observer
- Short-term observer

The number of the long and short-term observers in each missions largely depends on the size of the country and on the number of the polling stations that should or can be covered. These observers have to be deployed in accordance to different criteria, that is balanced geographical coverage, population centres, areas of specific relevance, logistical restrictions, and security restrictions.

During the observation period, regular meetings are held with election officials at national, regional and local levels; with political parties; candidates; civil society; and media throughout the country. The elections are assessed in conformity with international standards, regional commitments undertaken by the host country and national laws.

The EU EOM are usually deployed in the country about eight/six weeks prior to election day, with long-term observers arriving to witness the preparation of the elections at regional level about five to six weeks before polling. The short-term observers arrive shortly before the election day in order to increase the observation capacities of the mission, during polling, counting and aggregation of results.

A preliminary statement is then presented to the chief observer at a press conference shortly after the election day, which is based on the longer-term and short-term observation of the entire process. A final report contains the EU EOM's conclusions and the recommendations regarding the whole electoral process. This is delivered within a month of the EU EOM ending its activities on the ground. This report gives guidance for the electoral reforms and possible future assistance. An example of an indicative schedule of election observation activities is shown in the ANNEX 2.

### **3. International Standards for Elections**

International standards for elections stem from political rights and fundamental freedoms established by universal and regional treaties and political commitments. These provide a basis for the assessment of election processes by both international and domestic election observers<sup>148</sup>.

As a rule, international standards are sufficiently clear to enable an observer group to assess with whether they are being adhered to, and to assessing the compliance of an

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148 INTERNATIONAL IDEA, *International Electoral Standards*, PDF

election with international standards, an observer group should also assess its conformity with a country's constitution and domestic legislation. In short, the laws and constitution of a country should be in line with its international commitments, and an observer group should assess an election against the framework of both international laws and commitments and national legislation.

International standards can be divided in some categories, in fact, some of them can be adopted at international (and universal) level and others at regional level. The nature of the various standards forms that of legal obligation to political commitment.

These international standards are relevant and necessary because they contribute to uniformity, reliability and accuracy in election observations. They should be used to ensure non-discrimination and equality of access for all citizens. According with the citizens' right to participate to political life, the International Electoral Standards Guideline state that:

“the legal framework must therefore ensure that no identifiable societal group is excluded or marginalized from electoral and political processes. Such groups include women, ethnic minorities, citizens with disabilities, language minorities, internally displaced persons and refugees.<sup>149</sup>”

On the one hand, the primary sources for the international standards are the *universal instruments*. These have been developed and adopted within the UN, usually as a result of negotiation and diplomatic exchanges; and includes, for example, the 1948 Universal Declaration of Human Rights, the 1950 European Conventions for the Protection of Human Rights and Fundamental Freedoms, or the 1966 International Covenant on Civil and Political Rights.

On the other hand, regional instruments have been compiled and adopted within regional organizations, such as the African Union, the Organization of American States, the Council of Europe or the Commonwealth of Independent States.

These standards can also be divided in different typologies. They can be treaty standards which are contained in a treaty and this can be concluded at both international and regional level. Another type of international standards are the non-

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149 INTERNATIONAL IDEA, *International Electoral Standards*, PDF, p. 6



treaty ones, sometime also called “soft law” instruments. The main factor distinguishing non-treaty standards from legally binding commitments contained in the treaties is the intention of the drafters. Non-treaty standards can, however, be used as interpretative tools in establishing the contents of a particular treaty standard, and they can be considered to be indicative of emerging trends in international law.

As already mentioned, the main objective of an election observation mission, is to help to build public confidence in the honesty of electoral processes. Observation can help, promote and protect the civil and political rights of participants in elections. It can lead to the correction of errors or of weak practices. This is the reason why:

“the legal framework for elections should be so structured as to be unambiguous, understandable and transparent, and should address all components of an electoral system necessary to ensure democratic elections.<sup>150</sup>”

The term “legal framework for elections” refers to all legislation and other material or documents related to the elections. It includes the applicable constitutional provisions, the electoral law, and also any regulations attached to electoral law.

These standards relate to the following:

- the right and opportunity, without any distinction or unreasonable restrictions, for citizens to participate in government and public affairs through:
  - *Periodic Elections*: held at regular intervals, as set by law. The period of time between elections should be reasonable
  - *Genuine Elections*: refers essentially to a real choice for the voters and reflect the right of the people to change their government.
  - *Right to vote and stand for election*:
  - *Free Expression of the will of voters*: human rights and fundamental freedoms are upheld before, during and after the election. All citizens, parties and candidates must enjoy freedom of expression, association, assembly and movement. The election process should be free from intimidation, violence, administrative action, or fear of retribution.

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150 INTERNATIONAL IDEA, *op.cit.* p. 11

- *Fair Elections*: should ensure a level playing field for contestants, with equal treatment under the law and by the authorities. Laws should be non-discriminatory and implemented fairly. All candidates who wish to run should be able to do so. Public resources should not be used unfairly.
  - Universal and Equal Suffrage: all citizens who have reached qualifying age should have the right to vote, without discrimination. All voters should have access to polling station or other voting procedures.
  - *The right to a secret ballot*: voters mark their ballots alone, in the privacy of a secure voting booth, and in a manner that the marked ballot cannot be viewed before it is deposited in the ballot box and cannot later be identified with a particular voter. Any group voting, proxy voting, or voting outside of a polling booth compromises the secrecy of the vote.
- The freedom of expression;
  - the freedom of association;
  - the freedom of assembly;
  - the freedom of movement;
  - the freedom of discrimination;
  - the right to an effective legal remedy.

These international standards are explained more detailed in the European Commission publication *Compendium of International Standards for Elections*<sup>151</sup>. This compendium analyze and describe the relevant and regional instruments relating to elections, which includes a matrix that details, by each country, the membership of international organizations and status of ratification of universal and regional instruments relevant to elections.

### **3.1 Women and Minorities Participation**

An area of assessment that could be covered by and an EU Observers is the participation of women and minorities.

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<sup>151</sup> VV. AA. *Compendium of International Standards for Elections (Second Edition)*, European Commission, 2007, PDF, ISBN 978-91-633-1479-7

Women and men have an equal right to participate in all aspects of the public life. An election can not fully comply with international standards unless women, as well as men, can fully enjoy their political rights. Women's right to participate in elections include, in addition to being registered and voting, also to stand for office, to participate fully in a campaign, and to impart and receive information freely. Women should be well represented in candidates lists and political party positions. Women should also have equal access to positions in the election administration and as domestic observers. In considering the participation of women in elections, and EU EOM should examine the legal, social and cultural circumstances of a country. In some countries, for example, either traditions and laws may limit women's ability to be politically active. Every element of an electoral process can affect women differently from men.

There are lot of examples of the types of issues that will require an EU EOM to undertake a comprehensive assessment of how all there aspects can affect women.

As a consequence, an EU EOM's assessment of women's participation in an election should include reference to indicators of equality between women and men in the wider context, including levels of literacy, access to education and employment, and social norms of behavior, with particular reference to how these factors affect women's in political rights. This assessment will be especially important where equal rights and opportunities are guaranteed in law but are not enjoyed in practice.

Two important international instruments that guarantees women's participation in the election process, are the 1959 Convention on the Political Rights of Women<sup>152</sup>, and the 1979 Convention on the elimination of all forms of Discrimination against Women<sup>153</sup>.

Another area of interest concern the participation of minorities in elections. In countries where there are minority populations of different national, ethnic, religious, cultural or linguistic backgrounds, an assessment on an electoral process will consider the right and the opportunity for them to take part in the electoral process. This will employ a similar methodology to that used for assessing the participation of women in the electoral process. In particular assessing the right of all eligible citizen from

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152 VV. AA. *Convention on the Political Rights of Women*, PDF

[https://treaties.un.org/doc/Treaties/1954/07/19540707%2000-40%20AM/Ch\\_XVI\\_1p.pdf](https://treaties.un.org/doc/Treaties/1954/07/19540707%2000-40%20AM/Ch_XVI_1p.pdf)

153 VV. AA. *Convention on the elimination of all forms of discrimination against Women*,

<http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>

minority groups to be registered as voters and the right of candidates from minority backgrounds, to stand for office.

#### **4. Reporting**

The production of reports is a very important element of the work of the mission. All the information, in fact, has to be accurate and objective; based on credible sources which can be affirm with concrete examples. All these reports should make clear what was monitored by the observers during the mission, and they have to be concise and written in clear language.

There are three types of reports. Firstly, the *interim reports*, which provide a regular update and analysis of electoral developments. Secondly, the *preliminary statement*, which is the first post-election assessment by the EU EOM, and is usually issued at a press conference within 48 hours of the close of polling. This statement outlines the mission's preliminary findings and conclusions on the stages of the electoral process that have taken place, and the extent to which the mission considers the elections has so far been conducted in accordance with international standards for elections. Finally, there is the *final report*, which contains the mission's overall assessment to the election and is normally issued within two months of the conclusion of the electoral process. The report plays the most important and political function in providing the assessment of the election process. The final report is a public document.

#### **5. EU EOM Tunisia**

The mission deployed in Tunisia during the 2014 elections, has produced, according to the EU EOM regulations, three preliminary reports (one for legislative elections and the others for the presidential, both first and second turn), published right after each voting day, which are based on long-term and short-term observation of the entire process. Furthermore, the mission's overall assessment was described in the EU EOM Final Report. This is divided into sections, each regarding the assessment of the election process in terms of compliance with international standards for elections.

The report starts with a brief abstract, describing each sections and introducing the observed areas. In the abstract, the references to the new Constitution is always underlined, assessing that this Constitution is “the fruit of a consensus, laying its foundations on the dual economic and security crisis, within the political forces issues started with the 2011 National Constituent Assembly elections, including the three government parties of the Troika (Ennahda, CPR and Ettakatol) and almost all opposition forces”. The 2014 Constitution, as already said, has made significant progresses, such as the strengthening role of the opposition and the gender balancing within candidates' lists, and most important the creation of an independent body responsible for organizing and supervising the election (ISIE). According the EU EOM final report, the post-revolution new legal framework provides a good basis for holding democratic elections in line with international standards and good practices.

The European Union Electoral Observation Mission was invited by Tunisian government and by ISIE and its mandate was from September 17, 2014, to January 14, 2015. The mission was directed by Ms. Annemie Neyts-Uyttebroeck, member of the European Parliament, and it was composed by about one hundred observers from European Union, Switzerland, Norway and Canada.

To deal with the all electoral process, the preliminary stages, the voting period and the processing of the final results, in the next paragraph will be analyze the EU EOM final report, which gave some recommendations in order to comply the observation phases.

### **5.1 EU EOM Final Recommendations**

The EU EOM verified that the legal framework within which were held the legislative and presidential elections in 2014 was generally in line with the international norms and standards regarding the democratic elections. The Mission also concluded, according also to the three preliminary statements published shortly after each voting day, that the entire electoral process, led by the ISIE's effective, transparent and independent manner, was pluralistic and inclusive<sup>154</sup>. During the legislative elections, and the two rounds of the presidential ones, voters and candidates, media and civil

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154 EU EOM, *Tunisie, Rapport Final, Elections législatives et présidentielles 2014*, PDF, p. 3  
[http://eeas.europa.eu/eueom/missions/2014/tunisia/pdf/150313-rapport-final-moeue-tunisie-2014\\_fr.pdf](http://eeas.europa.eu/eueom/missions/2014/tunisia/pdf/150313-rapport-final-moeue-tunisie-2014_fr.pdf)

society organizations, had the opportunity to familiarize themselves with the new electoral rules and procedures.

The EU EOM considers that the legal framework used during the 2014 elections provides a solid foundation for future electoral processes. However, based on the observation and to adapt some of the provisions with international standards and principles for democratic elections, the Mission believed to give some recommendations<sup>155</sup>:

#### Revision of the Article 143 of the electoral law: the respect for the voters' will.

The Article 143 of the Electoral Law authorize the ISIE to cancel the results of list or candidates responsible for crimes relating to the electoral campaign and its financing, if these crimes affected the election results in a “substantial and decisive manner”. In this case, the ISIE has to proceeds with a new calculation of these results without counting the votes obtained by the lists whose results were canceled. As a consequence, the candidates belonging to these lists will be deprived of their seats, which are then allocated to other candidates lists.

According to the EU EOM, the Article 143 is not compatible with the international standards regarding the right to vote, in particular regarding the voter's will. It is certain that this campaign infraction must be subject to penalties commensurate with its gravity. Nevertheless, the penalties for such infractions shouldn't be the substitution of the will expressed by the voters who voted for the list, of the candidate whose results were canceled. In this case, the EU EOM considers that it would be more respectful for the voters (and for the candidates) to repeat the voting procedure in the polling stations where the infraction took place.

#### Appeal against the results of the second round of the presidential elections

The Article 147, allows the candidates who failed in the first round of the presidential elections to appeal against the results of the second round, even if their interest to act at this stage does not seem sufficiently justified. The Mission in this case believe that

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<sup>155</sup> EU EOM, *Tunisie, Rapport Final, Elections législatives et présidentielles 2014*, PDF, *op.cit.* p. 33-36

this Article could be the content of a legislative review in order to circumscribe the right to challenge the results of the second round only between the two final candidates.

### Campaign Expenditures

The electoral law charged the government to set limits on campaign expenditures, in order to foster a balance between the lists presented for the legislative elections or the candidates for the presidential ones. The establishment of the expenditure plafond is in conformity with the international standards for democratic elections, but the authorised sums must allow all the candidates and the parties to reach the electorate, giving the equal right to stand for elections. The EU EOM observed that the limits imposed during the 2014 process were too restrictive, even concerning the severe penalties imposed by law for exceeding this spending limits.

### Political Publicity

The electoral law forbid the political publicity for the entire electoral period, which cover the pre-campaign period (3 month before the electoral campaign), the electoral campaign and the period of electoral silence; and it defines it as an operation using the methodology and the techniques of the commercial advertising, addressed to a certain public and aiming to promote candidates, political parties, opinions, with the purpose to influence voters' behavior and choices.

According to the EU Observers, the prohibition the the political publicity, as stated on the electoral law, is excessively restrictive, and it may threaten and intimidate the candidates freedom of expression.

### Voters Registration

The *Centre National de l'Informatique* (CNI) plans to introduce a unique system for identify each Tunisian citizen data, using identity cards, passports and civil status. The CNI also proposed a comprehensive modernization of the Civil Status Registry, to

enable more rapid and effective upgrade. The EU EOM recommends that these projects should be accelerated and strengthened, since their implementation will make easier the systematic verification of the voter register, and the voter registration through internet systems.

#### Vote of Tunisian Abroad

The EU observers believed that the facilitation voting of the Tunisian living abroad could be a positive element of the electoral framework, which will reinforce the respect of the right to vote to all citizens. However, the Mission admitted that the current methods of voting abroad involve significant costs, and it might be useful to consider other practical methods to make this voting implementation more efficient, simpler and less costly. Postal voting could be an appropriate option. The EU EOM suggested two measures that could limit the verification difficulties generated with the registration by passports: first, the introduction of a unique national identity number would facilitate the identification of irregularities. Second, the inscriptions by passports may be limited. In order to enable every citizen to register with an identification card, Tunisian consulates could launch a campaign to facilitate access to identity cards for Tunisians living abroad, by establishing it as a single-tool voter registration.

#### Constituencies

The allocation of the seats in the Constituencies is fixed by the Electoral Law, but this does not specify the criteria of the procedures of this allocation. For future updates, according to the Mission, it would be useful to determine these criteria ahead, on the base of the demographic evolution of the country, to reduce the risk of results falsifications and to respect the principle of equality.

#### Media Coverage during the legislative electoral campaign

The Article 9 of the Decision made by ISIE and HAICA, aims to ensure equal coverage of all elections lists within the audiovisual media. Because of the high number of lists, the



respect of this Article was impossible. The Mission considers that it would have been useful to allow the media to follow actual criteria that reflect the real importance of parties and candidates, including for example, the results obtained in previous elections or the number the number of members of the Assembly.

#### Campaign Coverage Rules

Tunisian legal framework for the media coverage of the election campaign does not distinguish between public, private and cooperative media. According to the Article 3 of the electoral Law, all are considered “national media” and are subjected to the same legal obligations. The article 67 allows the ISIE and HAICA to intervene in the programming of the broadcast media during the campaign. This system was seen by several interlocutors as a temporary measure in the context of transition, that is before the consolidation of a pluralistic media landscape representing the main socio-political currents. It is the opinion of the EU Mission that the lack of distinction in the law between public and private media can be justified as a temporary measure. It would therefore be advisable that the Tunisian authorities opened a debate on the liberalization of the coverage of the campaign by private media, taking into account the specificities of the country's media landscape. The Mission stressed nonetheless that the precondition for such a reform would be a gradual implementation, through the granting of licenses balanced system and non-restrictive, "a pluralistic media landscape and integrates" as provided for in Article 127 of the Constitution.

#### Publication of opinion polls

The Article 172 of the Electoral Law establish the interdiction of the publication of opinion polls during the election period, which is 4 months before the legislative elections. This was a temporary measure linked to the lack of specific legislation for this area during the 2014 elections. To give a better protection of the freedom of expression and to ensure voter access to an essential source of information, it is opinion of the Mission that the future law on opinion polls should greatly reduce and regulate the period for which publication is prohibited.

## CONCLUSIONS

Democracy is a “system of government in which all the people of a state or polity are involved in making decisions about its affairs, typically by voting to elect representatives to a parliament or similar assembly; a system of decision-making within an institution, organization etc., in which all members have the right to take part of vote<sup>156</sup>”.

With the 2014 elections, Tunisia had to choose the composition of its new parliament and, in addition to that, the new political balance of powers that would have shaped and determined the next steps of the democratic transition. Undoubtedly, especially in the last four years, the majority of the scholars agreed that the country carried out lot of efforts toward a peaceful transition to democracy, and they defined Tunisia as “the sole successful case than the countries involved in the so-called Arab Spring<sup>157</sup>”.

Tunisia in fact is the only country belonging to the Middle East and North Africa, to pursue a linear process of political transition after the riots that affected the whole area in 2010-11. Although Tunisia's path towards democratization was not without obstacles and challenges, especially in the socio-economic and security areas, we can define its case as successful, in contrast to other Arab progressing transitions. After four years since the fall of Ben Ali's regime, the approval of the new Constitution was the prelude to the formation of a technocratic government, which led the country to the parliamentary and presidential elections, held in October, November and December 2014. These elections were held regularly, with no evidence of incidents or electoral fraud by any political party involved in the transition process. This result, beyond the electoral outcome, bodes well about the evolution of the Tunisian political and institutional situation, although some problems may still be a factor of uncertainty for the future<sup>158</sup>.

I had the opportunity to interview Tommaso Caprioglio, a legal expert of European

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156 Oxford English Dictionary, Democracy, <http://www.oed.com/view/Entry/49755?redirectedFrom=democracy#eid>

157 ISPI online, *Le quattro sfide della Tunisia in transizione*, Ottobre 2014, <http://www.ispionline.it/it/pubblicazione/le-quattro-sfide-della-tunisia-transizione-11470>

158 TORELLI S.M., *La transizione politica in Tunisia: opportunità e sfide*, Osservatorio di Politica Internazionale, PDF, gennaio 2015, accessed on 5 June 2015 [http://www.ispionline.it/sites/default/files/pubblicazioni/note\\_tunisia\\_012015pdf.pdf](http://www.ispionline.it/sites/default/files/pubblicazioni/note_tunisia_012015pdf.pdf)

Union who was in charge to monitor and support the good functioning of the Independent High Authority for Elections (ISIE). Since a new electoral law was recently adopted, his presence at ISIE was necessary to supervise the Authority management of the electoral process and to fulfill the need of a legal expertise. According to him, although the severe difficulties, a new electoral administration, the *Ramadan* and the little time available, the elections were a success, although there were some criticalities regarded the voters registrations.

This success was determined by different factors: the merging of the major political actors, all aimed to achieve an inclusive transition and the formation of a coalition government that has the main purpose to mitigate the domestic ideological dispute; the active civil society participation within the national dialogue; the formation of the technocratic government aimed to overtake the moment of crisis between the 2013 and 2014; the approval of the new constitution, which represent the base of the democratic transition path.

All these factors induce to be optimistic about Tunisia's political future. However, it has to be emphasize that the country still has to pass difficult tasks in order to be considered successful in its process of democratization. To sum up the challenges that the country is faced with, we can identify five trends that represent a wake-up call for Tunisia. All these challenges can be addressed through targeted policies by the new Tunisian government, and these can not be underestimated.

One of these challenges is the regional disparity. Although Tunisia is today more political free, the country is still affected by this problem. Regional disparities are the real socio-economic domestic worry and they are characterize by pronounced differences within the development levels between the coastal regions and the internal and southern ones.

Another challenge regard the economy, still weak and connect with the problem of the regional disparities. Tunisian economy presents structural weaknesses and these are emphasize by the high unemployment rate, especially among young graduates. The new government will have, in this area, to implement a new reforms system that will make Tunisian economy more competitive and in line to the high standards of its labor force and its infrastructures.

During the last year, one of the most worrying area is the one regarding the security

system, especially because of the emergence of forms of radical Islamist and Jihadist cells within the country. This, unfortunately, was the result of a double phenomenon: on the one hand, we have the expansion of Jihadist groups linked to *al-Qaida* in the Islamic Maghreb (AQIM), which is widening in Tunisia and became the main character of several attacks against security forces on the border with Algeria, causing dozens of casualties among Tunisians soldiers. On the other hand, there is an increasing radicalization trend among Tunisian elements themselves, who feel marginalized by a the transition process. This trend is identifiable among young Tunisians and mostly concentrated in the suburbs of big cities and in the less-developed area of the country. Another important data inherent to this issue is given by the so-called *foreign fighters*, who went to fight the jihad in Syria and Iraq. According to some estimates, the number of these fighter is about 3 000, higher than any other country.

The last government challenge is about the disaffection with politics. It is difficult to speak of a successful transition, if the data about the disaffection to the "new" policy give us the image of a Tunisia increasingly disillusioned. The fact that, despite the opening of the post-Ben Ali, the most important political positions are still occupied by people belonging to the old era, has unfortunately created a generation gap, dividing who believe in democracy and who does not.

The 2014 legislative and presidential elections represented in Tunisia a turning-point for the democratic transition. However, socio-economic and political problems persist, threatening a linear path of political transition.

### *Women's participation*

In the months after Ben Ali's departure, the interim government slowly made great progresses in human rights field and particularly in relation to the women's status. This was in fact a particular concern in a society in which women's emancipation always was at the center of political debate.

Already in 1956, under the power of President Habib Bourguiba, for example, was forbidden to use the Hijab in schools; Tunisian women gained the right to vote and the ability to request and obtain the dissolution of the marriage. In the same year was also

legalized abortion<sup>159</sup> and were launched campaigns in favor of contraception. These episodes and freedoms were unthinkable in other Arab countries. Since then, Tunisia have been able to enjoy more freedom than the rest of the Middle East. Even during the revolution, women played a very important role.

In short, Tunisia have made huge strides forwards in this field, considering that Islamic world considers woman as a citizen of the lower class, subject to man's will. After the Arab Spring, women in Tunisia began to develop new hopes that their activism can affect the election results. Standing for elections, Tunisian women had more opportunities to participate actively in politics, if compared themselves to other neighboring countries. However, some traditions and discrimination are struggle to be over<sup>160</sup>.

During this post-revolutionary period, Tunisian women gained more emancipation about their active participation in politics and above the elections. This was confirmed about the above-mentioned article 21 of the new constitution, which guarantees equality “without discrimination” between men and women. This is the first time that an Arab country enshrines gender equality in the Constitution, which is for Tunisian women, a real victory.

In relation to the 2014 legislative elections, women occupy 68 to 217 seats in the Parliament. This is, after all, a respectable share, due to the gender-parity clause included in the Electoral Law, which requires the alternation of men and women in the lists. However, Tunisia is still far from equality. To achieve this it would probably have been necessary equality also within list headers. For this reason, major women organizations asked the parties to respect, in addition to the “vertical parity within the lists, the horizontal parity between men and women list headers. Unfortunately this request did not have a positive outcome. The parties in fact contrive the excuses that they did not have a sufficient number of women prepared to assume the role of leaders. Indeed, to bring women in parliament were almost exclusively the two major parties, although in both cases women were still below the 50% of the elected attendants. In short, during Tunisian legislative elections, parties put women in their

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159 The abortion was legalised only for those women who had five children

160 PERRELLI L., *La tunisia al voto e le donne, tra emancipazione e violenze*, 2014,  
[http://www.corriere.it/esteri/14\\_ottobre\\_23/tunisia-voto-donne-emancipazione-violenze-c1e2c2ec-5abb-11e4-a20c-1c0cce31a000.shtml](http://www.corriere.it/esteri/14_ottobre_23/tunisia-voto-donne-emancipazione-violenze-c1e2c2ec-5abb-11e4-a20c-1c0cce31a000.shtml)

lists only because the law forced them, placing women in a lower position than men<sup>161</sup>.

Can we say that Tunisian women won the battle for parity?

When the executive body for the goals of the revolution, political reforms and democratic transition have voted the Article 16 in the *Decree-Law No. 35-2011* related to gender-parity, Tunisian women lived a great important moment in their lives. This moment was important for activists women, as for women around the world, especially those of the Arab World and the Mediterranean areas, feeling that a quantum leap had been achieved in Tunisia, related to the promotion of women and human rights.

Parity is an achievement of the revolution, it is a rehabilitation of citizenship or even regaining of citizenship for Tunisian women. Parity is an achievement of the revolution, it is a rehabilitation of citizenship or even regaining of citizenship for Tunisian women. It convinced politicians of the need to involve women in decision making bodies, let them participate actively to politics, side by side with men and let them defend their ideological convictions.

According to the Gender Election Watch Tunisia 2014 mission's final statement:

“As the presence of women in the parliament will be far from the gender parity practice, it is absolutely necessary that the new government considers to nominate a large number of women as ministers to compensate their low representation in the parliament. Gender parity is still a long way to achieve inclusive governance in Tunisia<sup>162</sup>”.

Discussion and communication. These are the fundamentals to improve the culture of Tunisian people. Greater openness would help even more the stabilization of the country, and using Sourour's words, a 24-years-old Tunisian student, “with the modern woman we have in common the freedom as with Islam the culture and traditions, which binds us to our past. We are in the middle and we are trying to find the right

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161 DE GIOVANNI U., *Elezioni Tunisia. “La nostra Primavera non è sfiorita”. Donne, giovani e associazioni commentano i primi risultati*, October 27, 2014, Available on: [http://www.huffingtonpost.it/2014/10/27/elezioni-tunisia-la-primavera-delle-urne\\_n\\_6055464.html](http://www.huffingtonpost.it/2014/10/27/elezioni-tunisia-la-primavera-delle-urne_n_6055464.html), accessed on: June 11, 2015

162 Gender Concerns International, *Gender Election Monitoring Mission, Preliminary statement on the observation of parliamentary elections*, October 26, 2014, PDF, available on: <http://www.genderconcerns.org/pdfs/Gender-Election-Monitoring-Tunisia-2014-preliminary-Report.pdf>, Accessed on June, 1, 2015

balance that will lead Tunisia to be a true democracy<sup>163</sup>”.

### *Young people*

As Tunisia approached its legislative and presidential elections, the Arab Spring birthplace had a lot to be proud of. However, election observers indicate that, as expected, the youth, the revolution's driving force<sup>164</sup>, remained reluctant to cast their vote. As already said, Tunisia's parliamentary elections has been defined as a success by both international and domestic observers. Considering the participation of Tunisian population, 69% of the registered voters cast their vote during the legislative elections. However, it is acknowledged that relatively few of the country's young cared to visit the polls. The trend of low youth participation was observed across the country, in both legislative and presidential elections.

But why is the *revolution's driving force* avoid the democratic right that they struggled so hard for?

To answer this, during my stay in Tunis (October-December 2014), I decided to submit to young Tunisians a number of questions about the election itself and their active participation in this highly important democratic event. I decided to send this interview via Internet<sup>165</sup>, according to the development and the general use of social media in the country, and to maintain the anonymity of the respondents, aged between the 18 and the 30 years. The charts below highlight the percentages related to the age and the gender of the respondents.

The trend of low youth participation was observed across the country and, according to Wissem Missaoui, director of youth programs at Search for Common Ground in Tunisia, “it was clear they were really not interested in participating<sup>166</sup>”.

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163 Sourour

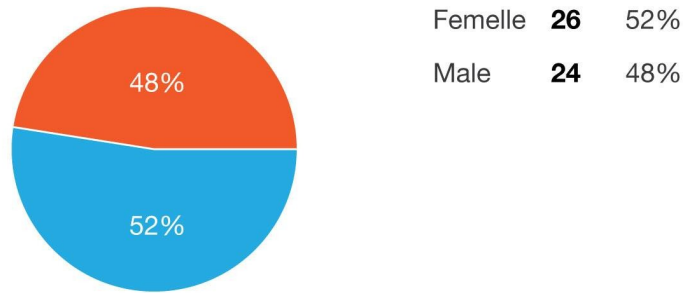
164 THE WORLD BANK, *Why Aren't Young People Voting in the Tunisian Elections?*, 2014,

<http://blogs.worldbank.org/arabvoices/why-aren-t-young-people-voting-tunisian-elections>,

165 [https://docs.google.com/forms/d/1cy9N9jQNwPWt4Yebv8LcTBq2S\\_p1jJGUHfOVvzrU3PA/viewform?usp=send\\_form](https://docs.google.com/forms/d/1cy9N9jQNwPWt4Yebv8LcTBq2S_p1jJGUHfOVvzrU3PA/viewform?usp=send_form)

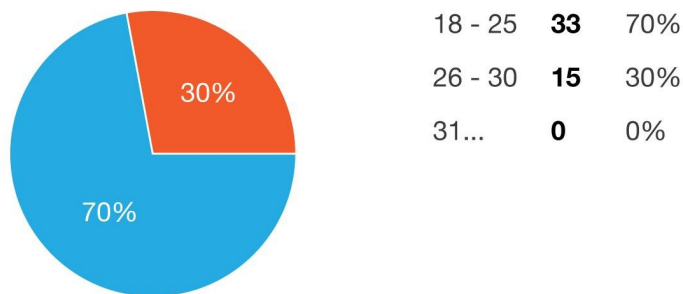
166 AL-MONITOR, *Tunisian youth skip presidential vote*, interview to Wissem Missaoui, November 2014, available on <http://www.al-monitor.com/pulse/originals/2014/11/tunisia-presidential-elections-low-youth-turnout.html>, Accessed 6 June 2015

**Image 5.3, Gender of the respondents**



Source: Interview

**Image 5.4, Age of the respondents**



Source: Interview

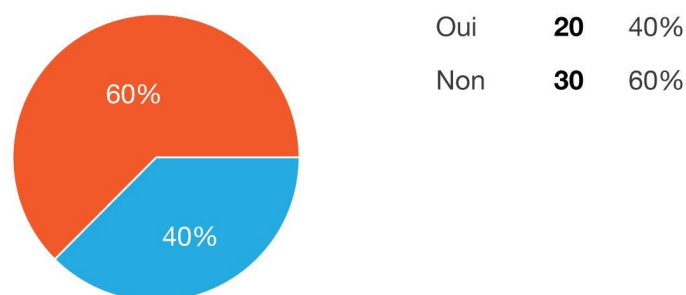
On the basis of the interview, young Tunisians are disappointed by politics. To the question “what is politics for you”, the responses were mostly negative. Lot of them, in fact, answered that young Tunisians do not have confidence on political parties or on candidates themselves; others believe that politics is not important and others consider it as unnecessary:



“Politics, for me, is the art of manipulating people. Is the meeting ground among different hypocrisies. Unfortunately, politics is a theatrical staging, pointless and unnecessary until it will implement reforms for young Tunisians”

Many Tunisians ages 18-30 have a sense of disillusionment, given by the high expectations they had following the revolution which, as already said, was sparked by youth frustration with economic marginalization and the high level of unemployment among them. Some of them do not believe in politics because they “feel that their revolution was stolen by political parties<sup>167</sup>”. At the question “do you believe in politics?”, more than half of the respondents gave negative answers, even declaring that politics is “scum”. Of course, there were also positive responses. For some of them, politics is the core and the basis of society; without politics “there is no future for young Tunisians<sup>168</sup>”.

**Image 5.5, Do you Believe in Politics? Interviews**



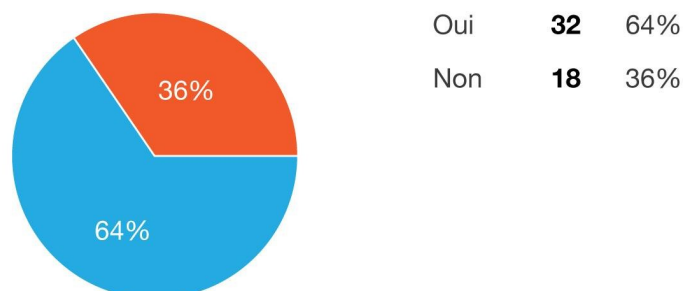
Source: Interview

According to the chart below, more than 60% of the respondents went to vote during the 2014 legislative and presidential elections, demonstrating that they still are the so-called *revolution's driving force*, aimed to, at least try to, change their future.

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167 INTERVISTA  
168 INTERVISTA

**Image 5.6, Have you participated in the last election? Interviews**



*Source: Interview*

In short, a percentage of young Tunisians do not believe in elections and in the changes achievable through the latter. Many people did not go to vote because they feel excluded, believing that “the revolution has been hijacked”. They feel rejected by the authorities, in relation also with political parties, that had claimed that they would have stood for youth empowerment, but the reality was different. Along with these university students and young unemployed persons, there is the percentage of the desperate young Tunisians, trying with all their powers to contribute to the political change in the country, unfortunately without positive results.

2014 was therefore a crucial year for Tunisia: in January the Constituent Assembly adopted the Constitution and in less than ten months has formulated a new electoral law and organized the first general election under the positive opinion of many international observers, defining these elections the first real democratic step after three years of political transition. The country has also overcome the assassinations happened in 2013 of Chokri Belaid and Mohamed Brahmi, historical opposition leaders; the political crisis of the late 2013 and the subsequent process of “national dialogue” that led to the formation of a technocratic government. The different political parties have formed a continuous game of effective protest and political and

legislative reformulation, in particular thanks to the action of mediator actors.

These results help to hypothesize a future scenario. The current Electoral Law in fact, promotes the coalition among different parties, and the percentage of Nidaa Tounes did not get a majority, opening the option of the alliance. The multi-party government in Tunisia has shown the major parties' willingness to compromise, but has also revealed division that present both risks and opportunities. This coalition was approved on February 2015 by the parliament, and includes secularists, Islamists and smallest parties.

The disaffection with the electoral *game* and with the democratic system in general had been confirmed by public surveys, even before the elections themselves. This feeling was already given by the succession of transitional governments and the strong pressure from the increasing activities of radical groups, such as Ansar Al-Sharia (Ast), a Tunisian jihdaist organization that was declared “terrorist” and illegal on August, 2013. Security was in fact one of the main priorities in the electoral campaign of the parties, together with the economical reconstruction. These are the main subjects that the future coalition has to manage, together with the transitional justice, and the re-composition of the administrative structure. Important economic and administrative reforms are the other main concerning points of the coalition, also strongly desired by international donors: in particular, the two first points on the governmental agenda are the restoration of the local authorities and the organization of municipal elections. The constitution provides in fact the *municipalization* of the entire Tunisian territory, that is the establishment of new municipalities, which will require a new organic law for the realization of a real political and fiscal decentralization.

In summary, the processes has dual nature. On the one hand there is a strong continuity with the previous regime, which is found in the residence of important exponents such as Caid Essebsi, to the continuity of the pre-2011 bureaucracy, to the reorganization of the police and the resolution of transnational justice.

On the other hand, it needs to be considered what this opening policy has led to the construction of a social-political fabric, concerning also the business and associational feature, which has to accept the presence of an Islamist mobilization and it has to be able to overcome the traditional struggle of *democracy versus Islam*.

An opening that we hope will be just the beginning of an ongoing political and cultural

process.

To conclude, although the challenges are not over, the identity and the measures took from the country leads us to be optimistic. Since now, Tunisia is confirming itself as the only case of success of the Arab Spring and to quote the words of the Tunisian writer Tahar Ben Jelloum, “the tree of the Arab Spring has given its first fruits”.

*Insha'Allah.*

## ANNEX 1

Summary of the of the 26 October 2014 Tunisian Assembly of the Representatives of the People election results.

Party, coalitions and independent lists	Votes	% Votes	Seats
Nidaa Tounes	1,279,941	37.56%	86
Ennahda Movement	947,014	27.79%	69
Free Partiotic Union	140,873	4.13%	16
Popular Front	124,046	3.64%	15
Afek Tounes	102,915	3.02%	8
Congress for the Republic	69,794	2.05%	4
Democratic Current	66,396	1.95%	3
People's Movement	45,839	1.34%	3
National Destourian Initiative	45,597	1.34%	3
Current of Love	40,826	1.20%	2
Repubblican Party	56,223	1.65%	1
Democratic Alliance	43,371	1.27%	1
Farmers' Voice Party		%	1
Movement of Socialist Democrats		%	1
National Front for Salvation		%	1
Independent lists		%	3
<ul style="list-style-type: none"> <li>• List of the Call of Tunisian Abroad</li> <li>• Lists for the Glory of the Djerid</li> <li>• List of the Rehabilitation</li> </ul>			
<b>TOTAL</b>	<b>3,408,170</b>	<b>100 %</b>	<b>217</b>

Source: Independent High Authority of Elections (Isie.tn)

**Summary of the 23 November and 21 December 2014 Tunisian presidential election results.**

<b>Candidates</b>	<b>Parties</b>	<b>Votes</b>	<b>%</b>
Beji Caid Essebsi	Nidaa Tounes	1,289,384	39.46 %
Moncef Marzouki	Congress for the Republic	1,092,418	33.43 %
Hamma Hammami	Popolar Front	255,529	7.82 %
Hechmi Hamdi	Current of Love	187,923	5.75 %
Slim Riahi	Free Patriotic Union	181,407	5.55 %
Kamel Morjane	National Destourian Initiative	41,614	1.27 %
Ahmed Nejib Chebbi	Republican Party	34,025	1.04 %
Safi Saïd	Independent	26,073	0.80 %
Mondher Zenaidi	Independent	24,160	0.74 %
Mustapha Ben Jaafar	Democratic Forum for Labour and Liberties	21,989	0.67 %
Kalthoum Kannou	Independent	18,287	0.56 %
Mohamed Frikha	Independent	17,506	0.54 %
Abderrazak Kilani	Independent	10,077	0.31 %
Mustapha Kamel Nabli	Independent	6,723	0.21 %
Abdelkader Labaoui	Independent	6,486	0.20 %
Larbi Nasra	Voice of the People of Tunisia	6,426	0.20 %
Hamouda Ben Slama	Independent	5,737	0.18 %
Mohamed Hamdi	Democratic Alliance Party	5,593	0.17 %
Mehrez Boussayene	Independent	5,377	0.16 %
Salem Chaïbi	Popular Congress Party	5,245	0.16 %
Samir Abdelli	Independent	5,054	0.15 %
Ali Chourabi	Independent	4,699	0.14 %
Mokhtar Mejri	Independent	4,286	0.13 %
Abderraouf Ayadi	Wafa Mouvement	3,551	0.11 %
Yassine Chennoufi	Independent	3,118	0.10 %
Abderrahim Zouari	Destourian Movement	2,701	0.08 %
Noureddine Hached	Independent	2,181	0.07 %
<b>TOTAL</b>		<b>3,267,569</b>	<b>100 %</b>

*Source:* Independent High Authority of Elections (Isie.tn)

**Summary of the 21 December 2014 Tunisian presidential election result.**

<b>Candidates</b>	<b>Parties</b>	<b>Votes</b>	<b>%</b>
Beji Caid Essebsi	Nidaa Tounes	1,731,529	55.68 %
Moncef Marzouki	Congress for the Republic	1,378,513	44.32 %

*Source:* Independent High Authority of Elections (Isie.tn)

## ANNEX 2

### Example of an indicative schedule of election observation activities.

A : Preparatory Stage	
<b>12-6 months prior to election day (E-Day)</b>	Consultation between the European Commission, the Council, and the European Parliament on priority countries
<b>6-4 months prior to E-Day</b>	<i>Exploratory mission</i> deployed to the country. <i>Decision on deployment</i> by the Commissioner for external Relation <i>Recrutiment</i> for the mission begins. Core team positions advertised. The European Commission informs Member States of the plannes EU EOM and invites nominations of candidates for LTO and STO positions. <i>Chief observer</i> appointed by the Commissioner for External Relations.
<b>2.5 months prior to E-Day</b>	<i>Observers</i> selected by the European Commission. <i>Implementing partner</i> contracted. <i>Memorandums of understanding</i> signed between the state and electoral authorities of the host country and the European Commission.

B: Deployment Stage	
<b>8-6 weeks prior to E-Day</b>	<i>Announcement of EU EOM deployment</i> by the Commissioner for External Relations <i>Chief observer and core team arrive</i> in country after a briefing from the European Commission and hold initial meetings. <i>Press conference</i> is held in the host country to formally announce the opening of the mission.
<b>5 weeks prior to E-Day</b>	<i>Long-term observers arrive</i> in country. They attend a briefing before being deployed in pairs to regional locations. <i>Observation of pre-election day environment</i> , including election administration, candidate registration, voter registration, campaign activities, the media and complaints.
<b>7 days prior to E-Day</b>	<i>Short-term observers arrive</i> in country. They attend a two-day briefing before being deployed in pairs to regional locations.
<b>E-Day</b>	<i>Observation of voting, counting and tabulation</i> by EU observers, usually including locally-recruited diplomats from EU Member States, and a delegation of Members of the European Parliament
<b>1-3 days after E-Day</b>	<i>Preliminary statement issued.</i> <i>Observation of the post-election environment</i> , including tabulation of results and complaints.



<b>3-6 days after E-Day</b>	<i>Debriefing of short-term observers and return to Europe.</i>
<b>10-15 days after E-Day</b>	<i>Debriefing of long-term observers and return to Europe.</i>
<b>2-4 weeks after E-Day (or the publication of final results, whichever is later)</b>	<i>Closedown of the mission. Core team departs.</i>
<b>3-8 weeks after E-Day</b>	<i>Debriefing of core team by the European Commission in Brussels.</i>

<b>C: Final Report Stage and Follow-up</b>	
<b>Up to 2 months after completion of electoral process</b>	<i>Final Report is presented in country by the chief observer, usually accompanied by the deputy chief observer. Organization of a round-table in the host country to discuss the report, in particular recommendations for the future.</i>
<b>3 months after conclusion of electoral process onwards</b>	<i>Follow-up technical advice and assistance may be provided by the European Commission, taking account of EU EOM recommendations.</i>

Source: Handbook for European Union Election Observation

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