

THE  
CARTER CENTER



NATIONAL CONSTITUENT ASSEMBLY  
ELECTIONS IN TUNISIA

OCTOBER 23, 2011

FINAL REPORT

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DEMOCRACY, AND PROTECT AND PROMOTE HUMAN RIGHTS WORLDWIDE.

# NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

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## FOREWORD

By *John Hardman*  
*President and CEO, The Carter Center*

Since gaining its independence from France in 1956, Tunisia has had just two presidents, Habib Bourguiba, who maintained power for 31 years, and Zine El Abidine Ben Ali, who took over from Bourguiba in 1987. Under Ben Ali, Tunisia was known as a police state with a leader who either suppressed or co-opted any opposition to his rule. At the time of his ousting in January 2011, Ben Ali had been in power for the entire collective memory of over 45 percent of the population. This one leader had an amazing impact on the political and social dynamics in the country for nearly a quarter of a century.

An unanticipated revolution sparked by the self-immolation of a young street vendor, Mohamed Bouazizi, in the central city of Sidi Bouzid on Dec. 17, 2010, served as a catalyst that changed the political dynamics. Web activists made use of advances in technology and social media outlets in order to disseminate videos and personal accounts

of the anti-Ben Ali protests—at first peaceful but later turning violent—that took place all over the country. The authoritarian regime was successfully overthrown when Ben Ali fled Tunisia on Jan. 14, 2011, and the movement spread quickly in a wave of dissent throughout the broader North Africa and Middle East region, sparking the historic Arab Spring.

The National Constituent Assembly (NCA) elections that took place on Oct. 23, 2011, gave voice to the Tunisian people to elect their political leaders in a transparent and democratic process for the first time since independence. The large crowds and enthusiastic yet peaceful voting environment were evidence of the pride that Tunisians took in participating in these historic elections.

The elections laid the groundwork for a new way forward led by the formerly banned Islamist Ennahdha Party and a coalition government involving the Congress of the Republic (CPR), Ettakatol, and independents. Moncef Marzouki, a former human rights activist who was exiled under Ben Ali, was elected president by the Constituent Assembly on Dec. 12, 2011. It was an exciting time as the Constituent Assembly began its work to draft a new constitution and move the country forward. At the same time, there were critical issues facing Tunisia that the new government must tackle, including unemployment and economic recovery from the past year. It will be up to new leaders to find solutions to the many social, economic, and political challenges impacting the country.

The elections and political process in Tunisia are an important test case for democratization movements throughout the region and provide a model for other countries for a successful transfer of power from authoritarianism to democratic governance.



Deborah Hakes

*Dr. John Hardman, president and CEO of The Carter Center, fills out a checklist in a polling station in Tunisia during the 2011 National Constituent Assembly elections.*



## EXECUTIVE SUMMARY

This is the Carter Center's final report on its observation mission for the 2011 Constituent Assembly elections in Tunisia. The Oct. 23 election to choose the members of the Constituent Assembly, the body that will draft Tunisia's new constitution and form its transitional government, was the result of a successful popular revolution through which Tunisians declared their desire to overthrow the existing authoritarian regime and build a democratically elected government. It represented the first elections of the historic Arab Spring and a significant break from a half-century of an oppressive system characterized by authoritarian control and political repression.

In January 2011, Tunisians rose up to protest the 23-year rule of President Zine El Abidine Ben Ali and call for a transition to democracy. Before the revolution, Tunisia had a strong one-party presidential system in which Ben Ali's party, the Democratic Constitutional Rally (RCD), dominated every major election. Electoral events, controlled tightly by the RCD and Ministry of Interior, were conducted within a legal framework designed to ensure political dominance and a highly disproportionate electoral system. The electoral context was also marked by the systematic abuse of human rights, restricted media, and widespread corruption at the highest levels.

The suddenness and speed of events that led to regime change in Tunisia brought about a completely new situation requiring the creation of specific systems of governance to handle the transition. The Independent High Authority for the Elections, or the *Instance Supérieure Indépendante pour les Elections* (ISIE), was created in April 2011 to organize Tunisia's first competitive elections. The Carter

Center received a letter of invitation from the ISIE to observe the electoral process in mid-July, followed by official accreditation in early August.

The Tunisian Constitution was suspended in March 2011, as existing laws were deemed inadequate in the postrevolution context. A new legal frame-

work was promulgated for the National Constituent Assembly (NCA) elections.<sup>1</sup> This framework consisted of the electoral law, several additional decrees-laws, and presidential decrees as well as decisions issued by the ISIE.<sup>2</sup>

The ISIE was mandated to prepare, supervise, and monitor the NCA elections and to

ensure that the electoral process was "democratic, pluralistic, fair, and transparent."<sup>3</sup> It was composed of

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*In January 2011, Tunisians rose up to protest the 23-year rule of President Zine El Abidine Ben Ali and call for a transition to democracy.*

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1 Decree-Law 14 on the temporary organization of public authorities (March 23, 2011)

2 The Decree-Law 35 on the election of the National Constituent Assembly was adopted on May 10, 2011, and was later amended by Decree 72 (Aug. 3, 2011). Decree-laws include Decree-Law 27 on the creation of the ISIE (April 18, 2011); Decree-Law 87 on the organization of political parties (Sept. 24, 2011); Decree-Law 88 on the organization of associations (Sept. 24, 2011); and Decree-Law 91 on procedures and modalities of control by the Court of Auditors of the financing of the election campaign for the NCA (Sept. 24, 2011); Decrees include Decree 1086 setting the dates for the elections (Aug. 3, 2011); Decree 1087 detailing the modalities of public financing and the ceiling for authorized expenses for the election campaign (Aug. 3, 2011); Decree 1088 on electoral constituencies and number of seats (Aug. 3, 2011); and Decree 1089 fixing the responsibilities of RCD members not eligible to be candidates (Aug. 3, 2011). ISIE decisions include setting the rules and procedures for the electoral campaign (Sept. 3, 2011); the decision setting the rules to be observed by the audiovisual information means throughout the electoral campaign (Sept. 3, 2011); the decision setting the conditions for the production and broadcasting of radio and TV programs related to the electoral campaign (Sept. 3, 2011); the decision laying down the procedures for appeal to the ISIE against decisions of the IRIE attached to diplomatic centers regarding voters lists (dated June 25, 2011, published Sept. 3, 2011); the decision relating to the election schedule, as amended Aug. 5, 2011, (Sept. 3, 2011); the decision regulating the special procedures to ensure that voters with disabilities are exercising their right to vote (Oct. 4, 2011); and the decision on the use of ink for the NCA election (Oct. 6, 2011).

3 Decree-Law 27, Article 2



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a central commission based in Tunis and 33 Regional Independent Commissions for Elections (IRIE) offices covering 27 constituencies in Tunisia and six constituencies abroad.<sup>4</sup>

Overall, Carter Center observers reported that election authorities carried out their responsibilities with a high level of dedication. In a relatively short time frame and without previous experience, election authorities drafted basic regulations and procedures, prepared for and carried out electoral operations, and built confidence among stakeholders.

IRIE members were appointed just a few days before the start of the voter registration period, thus facing the challenge of establishing their structure while simultaneously supervising registration operations. Although shortcomings were visible at times, The Carter Center acknowledged the sustained efforts by the ISIE to ensure a democratic electoral process.

In spite of these achievements, the efficiency of the election administration was often hindered by slow decision-making processes. Regrettably, the adoption of electoral procedures was often delayed by the ISIE, leaving an insufficient amount of time to conduct proper training and to ensure polling staff adequately understood procedures.

Working within an environment characterized by a mistrust of state institutions and a record of flawed elections, building confidence among stakeholders represented one of the foremost challenges faced by the ISIE. The Carter Center noted that the election authorities took steps to consult with relevant stakeholders such as political parties, civil society organizations, and the media throughout the process.

### VOTER REGISTRATION

The voter registration exercise began on July 11 for an initial period of three weeks and was later extended through Aug. 14. The Carter Center noted that the registration process was conducted smoothly, with more than half of the estimated voting population turning out to confirm their registration data. Nonetheless, important operational challenges remained for the ISIE, particularly in regard to the

allocation of voters to polling stations and the development of an outreach campaign to disseminate voter information to the public.

Public outreach efforts by the ISIE focused on basic information regarding the electoral process. Civil society organizations, often supported by international partners, undertook initiatives to reach the public and explain the significance of the process. The Carter Center regretted that the ISIE did not conduct more comprehensive voter education campaigns to provide the public with much-needed information to understand the electoral process.

### CANDIDATE NOMINATIONS

The candidate nomination period was conducted Sept. 1–7. The ISIE registered 1,519 lists, 54.6 percent of which were presented by political parties, 43.3 percent by independent candidates, and 2.4 percent by coalitions. The emergence of a large number of independent candidates represented a notable trend in the electoral process.

### CAMPAIGN

The pre-campaign period was marked by a controversial decision by the ISIE to ban commercial political advertising from Sept. 12 to Oct. 1.<sup>5</sup> While the decision was intended to level the playing field for



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*A sign put up by the ISIE encouraged Tunisians to vote.*

<sup>4</sup> Decree-Law 27, Article 5

<sup>5</sup> ISIE decision on rules and procedures for the electoral campaign (Sept. 3, 2011)



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all candidates in light of disparities in human and financial resources, it was released relatively late in the process. The enforcement of the ban was uneven and complicated by the lack of provisions clearly outlining penalties for violations and ambiguity as to whether the ISIE was entitled to regulate the pre-campaign period.

The campaign period opened on Oct. 1 and closed on Oct. 21. The Carter Center's observ-

ers attending campaign events throughout Tunisia assessed the campaign environment as generally positive and peaceful. Freedom of assembly was generally upheld, as candidates and audiences were able to gather freely.

The Carter Center recognized Tunisia's efforts to fulfill its obligation to ensure that effective remedies were available for the redress of violations of fundamental rights related to the electoral process.<sup>6</sup> The electoral law provided for electoral dispute mechanisms through judicial appeals at several stages of the electoral process, including the exhibition of the provisional voter list,<sup>7</sup> candidate nomination,<sup>8</sup> electoral campaigning,<sup>9</sup> and preliminary results.<sup>10</sup> However, some aspects of the adjudication process lacked consistency, failed to specify and publicize deadlines, or were not explained in sufficient detail.

### VOTING AND COUNTING

Polling was held on Oct. 23 in a peaceful and orderly atmosphere. The turnout for voters who participated



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*Citizens of all ages came out to vote in Tunisia's historic elections.*

in the active voter registration process was high, and a significant percentage of voters were women. While Carter Center observers reported long lines at polling stations and some voter confusion regarding their polling center assignments, voters were enthusiastic and the atmosphere of the day was festive.

For the vote-counting process, polling staff worked diligently in following the procedural manual; however, the process was slow and laborious due to a lack of experience, insufficient training on the counting process, and the high number of candidate lists.

The Center acknowledged that the tabulation process was conducted in a fairly organized manner. Due to a lack of clear procedures outlining results management and insufficient training of election authorities,

6 ICCPR, Article 2(3); UNHRC General Comment No. 32, para. 18

7 Decree-Law 35, Articles 12 to 14

8 Decree-Law 35, Article 29

9 Decree-Law 35, Article 47

10 Decree-Law 35, Article 72



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however, the process varied from region to region, particularly in the manner electoral officials worked to resolve potential inaccuracies in results protocols. In future electoral processes, election authorities should ensure that procedures regarding data processing are disseminated and explained to electoral stakeholders well in advance.

## RESULTS

The ISIE announced preliminary election results on Oct. 27 and published results at the district level by the number of seats won by parties and independent lists. The Carter Center expressed concern that detailed preliminary results disaggregated at the polling-station level were not released at the time (recognized best practice to increase transparency) but instead were published weeks after the announcement of final results.<sup>11</sup> The ISIE's decision to cancel several of political party *Al Aridha Al Chaabia's* lists sparked demonstrations, and the decision was later overturned. When final election results were released on Nov. 14 by the ISIE, they were generally accepted by stakeholders.

The Administrative Tribunal received a total of 104 requests for appeal on the preliminary results of the elections. The tribunal worked efficiently and transparently to adjudicate the cases and provide a timely and effective remedy to appellants. However, 50 percent of the appeals filed to challenge the preliminary election results were dismissed on the basis of procedural shortcomings, a significant rate indicating a lack of understanding regarding the appeals process.

## RECOMMENDATIONS

For future electoral events, The Carter Center recommends that the National Constituent Assembly (NCA) (1) create a permanent election management body (EMB) to support the effective administration of elections; (2) take steps to ensure that the legal framework and electoral calendar provide sufficient time for operational preparation; (3) ensure that electoral dispute mechanisms are accessible to all

electoral stakeholders; and (4) address gaps and inconsistencies regarding electoral dispute resolution, voter registration procedures, criteria for candidate nominations, and campaign finance regulations.

The Center also recommends that the future EMB (1) conduct a comprehensive and inclusive voter registration update exercise and explain its importance; (2) increase public outreach efforts early and at every stage of the process; (3) issue procedures well ahead of each electoral phase, particularly for polling counting and tabulation; (4) ensure that polling-center staff are adequately trained; (5) reduce the maximum number of voters allocated to each polling station while ensuring a more equal distribution of voters to polling stations; (6) streamline the process for accrediting domestic observers; (7) enhance communication between EMB headquarters and the regional branch offices; (8) improve communication with civil society, political parties, and voters regarding key decisions, procedures, and the electoral complaints adjudication process; and (9) publish disaggregated results promptly in order to ensure transparency and public confidence.

The Center also provides the following recommendations for political parties and civil society organizations: (1) increase voter and civic education efforts; (2) strengthen internal organizational management; and (3) incorporate women into political party structures and encourage them to take on leadership roles within political parties.

A detailed description of the Carter Center's recommendations to the NCA, the future EMB, and political parties and civil society organizations can be found in the final section of this report.

<sup>11</sup> African Union, Charter on Democracy, Elections and Governance, Article 3(4); EU, Handbook for European Union Election Observation, Second Edition, p. 83 and 86; International IDEA, Code of Conduct: Ethical and Professional Administration of Elections, p. 14; OSCE, Existing Commitments for Democratic Elections in OSCE Participating States, p. 73; OSCE, Guidelines for Reviewing a Legal Framework for Elections, p. 29; NDI, Promoting Legal Frameworks for Democratic Elections, p. 51



## ELECTION OBSERVATION METHODOLOGY

The Carter Center assessed the electoral process in Tunisia against the country’s national legal framework as well as its international obligations for genuine democratic elections. After the partial suspension of Tunisia’s constitution in March 2011, the country’s legal framework governing elections was put forth by the High Commission, a political reform authority created to lay the groundwork for Tunisia’s democratic transition. This framework included the electoral law and several additional decrees and decree-laws governing the organization of

political parties and associations, campaign financing, boundary delimitation, and conditions for candidacy.

Tunisia has ratified a series of international and regional human rights treaties whose provisions are relevant for the electoral process. These treaties include the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of Persons with Disabilities, and the African Charter on Human and Peoples’ Rights (AfCHPR), among

**Table 1: Tunisia—Status of Ratifications**

Treaty/Declaration	Status	Date
International Covenant on Civil and Political Rights	Ratified/Acceded	1966
International Convention on the Elimination of all Forms of Racial Discrimination	Ratified/Acceded	1966
Convention on the Elimination of Discrimination Against Women	Ratified/Acceded	1979 (with reservations) 2011 (full ratification)
Convention on the Political Rights of Women	Ratified/Acceded	1954
Convention on the Rights of Persons with Disabilities	Ratified/Acceded	2006
Convention on the Rights of the Child	Ratified/Acceded	1989
United Nations Convention Against Corruption	Ratified/Acceded	2005
Universal Declaration of Human Rights	Persuasive upon <sup>12</sup>	1948
Venice Commission—Council of Europe	Ratified/Acceded	2010
African Charter on Human and Peoples’ Rights	Ratified/Acceded	1981
Rome Statute establishing the International Criminal Court	Ratified	2011 (June 22)
International Convention for the Protection of All Persons from Enforced Disappearance	Ratified	2011 (June 27)
Optional Protocol to the International Covenant on Civil and Political Rights	Ratified	2011 (June 29)
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified	2011 (June 29)

<sup>12</sup> Nonbinding instruments such as declarations and resolutions can serve as evidence of state practice or “political commitments.” State practice can become the basis of binding customary international law when it is followed consistently over time (the period of time can be relatively short), where it is widely followed (but not necessarily universally), and

where there is evidence (which may be a matter of inference) that the practice is considered obligatory as a matter of law. Once accepted as customary international law, all states are bound unless they have expressed a valid objection to the norm, irrespective of any formal consent.



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others. Table 1 provides an overview of the relevant international treaties that Tunisia has acceded to, signed, or ratified.<sup>13</sup>

Carter Center observation missions are conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 37 election observation groups. The declaration lays out guiding

principles for the conduct of credible and professional election observation. In accordance with these documents, the Carter Center's evaluation of Tunisia's elections focused on civil and political rights and provided an impartial assessment independent of any bilateral or multilateral considerations. Through its reports, the Center also sought to analyze and provide recommendations for improving the electoral process.

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<sup>13</sup> Signing a treaty does not impose obligations under the treaty on states but obliges them to refrain from acts that would defeat the object and purpose of the treaty. By ratifying a treaty, states establish consent to be bound by the treaty. To accede to a treaty has the same legal effect as ratification but is not preceded by an act of signature.



## THE CARTER CENTER IN TUNISIA

The observation mission for the 2011 Constituent Assembly elections represented the Carter Center’s first engagement in Tunisia. The objectives of the Center’s observation mission were to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all Tunisians, and demonstrate international support for the country’s ambitious democratic transition.

A Carter Center assessment team first visited Tunisia March 10–17, 2011, to assess possible openings for Carter Center engagement in the electoral process and to determine whether a Carter Center presence to observe the elections would be welcomed. The team met with senior representatives of the interim government; the High Commission for the Realization of the Objectives of the Revolution, Political Reform, and Democratic Transition (hereafter referred to as the High Commission); political parties; civil society;

international nongovernmental organizations; and the diplomatic community. The team was welcomed across the board by all interlocutors and encouraged by many to engage quickly in Tunisia, as the electoral process was moving forward rapidly. The assessment

mission concluded that a Carter Center presence to observe the electoral process in Tunisia could play an important role in increasing transparency, supporting the legitimacy of transitional institutions, and encouraging key actors to conduct a credible

process. The Center also noted the importance of a successful transition to democratic rule and the example it would set for citizens in countries throughout the region.

Following the assessment mission, The Carter Center received a letter of invitation from the ISIE to observe the electoral process. The Center established a field office in Tunis on July 4 and received official accreditation to observe the NCA elections on Aug. 4. The Center maintained a presence in Tunisia from the beginning of the voter registration period through the electoral campaign period and polling as well as through the completion of the appeals process, announcement of final results, and formation of the transitional government. The Center will remain in Tunisia to observe and assess the administration of the transitional government and the work of the Constituent Assembly, including the development of internal bylaws and organizational structure of the assembly, the debate and drafting of a new constitution, and procedures for its adoption.

Beginning on July 23, The Carter Center trained a team of 10 observers to monitor the voter registration process and technical electoral operation preparations. Long-term observers (LTOs) attended three

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*The Carter Center trained a team of 10 observers to monitor the voter registration process and technical electoral operation preparations.*

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Hugo Passarello Luna

*The Carter Center was invited by the Independent High Authority for the Elections to observe the Oct. 23 National Constituent Assembly elections.*



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days of training covering their roles and responsibilities, security awareness, reporting requirements, the role of human rights in elections, and international democratic election standards. Observers were then deployed in teams of two, each covering four to five governorates. They submitted weekly reports throughout the mission on the political environment, election administration, quality of voter education regarding the registration process, the role of the media, campaign finance issues, and the participation of civil society groups in the process.

The Center’s five LTO teams visited 191 voter registration centers across Tunisia during the voter registration period. After meeting with election officials, political party representatives, and civil society organizations to assess the electoral and political dynamics, the mission released its first

statement, “The Carter Center Welcomes Completion of Tunisia’s Voter Registration; Highlights Additional Steps Needed To Ensure Successful Polling,” on Sept. 1, 2011.<sup>14</sup> The Carter Center found that

the voter registration process went smoothly, with more than half of the estimated voting population confirming their registration data, but noted that the ISIE was still facing several operational challenges in the months leading up to the election.

Throughout September and October, LTOs continued to collect information and provide weekly reports with updates on the progress of local and regional electoral bodies, participation by local civil society groups in voter education, rallies and campaigning during the electoral campaign period, media coverage of electoral preparations, the degree of freedom of assembly and expression for both parties and citizens, the security environment, and the participation of women in the overall process.

In Tunis, the Center’s core team monitored the consultations and decision-making processes of the High Commission, the political reform body tasked

with creating the framework for elections in Tunisia. The team also monitored key areas of the electoral process, including the operations of the ISIE, the creation of a voter list for the elections, the exhibition and challenges period, and the inclusion of political parties and civil society in the electoral process. Monitoring took explicit note of the human rights and political environment as well as the strength of the rule of law and inclusion of women and citizens of regions that had been marginalized in the past in the political process.<sup>15</sup> On Oct. 3, 2011, the Center issued its second statement, “The Carter Center Calls on Tunisian Election Authorities To Finalize Critical Procedures and Intensify Voter Outreach.”

On Oct. 18, the long-term observer teams were joined by 42 short-term observers, consisting of academic experts on the region, technical electoral

experts, and highly qualified representatives of civil society from across the region and abroad. The ISIE accredited a total of 65 observers from The Carter Center, including short- and long-term observers, the

leadership team, and expatriate staff from the field office and Atlanta. More than 25 different nationalities were represented in the observer delegation, and 23 observers came from North Africa and the Middle East region.

Observers underwent a two-day briefing and orientation period in Tunis covering the political background of Tunisia, an introduction to the Tunisian elections, and an overview of the political scene conducted by political party representatives. To highlight potential issues observers could encounter at polling

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*The Center’s five LTO teams visited 191 voter registration centers across Tunisia during the voter registration period.*

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<sup>14</sup> See Appendix D for full texts of all Carter Center statements cited in this report.

<sup>15</sup> Rural regions in the southern and central interior of Tunisia were marginalized and excluded from the political decision-making process during the Ben Ali regime.



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stations on election day, observers also participated in a role-play activity simulating polling procedures.

Observers were deployed in teams of two, covering all 27 in-country constituencies: Tunis I and II, Nabeul I and II, Ben

Arous, Ariana, Manouba,

Sousse, Zaghuan,

Kairouan, Monastir,

Mahdia, Sfax I and

II, Gabes, Medenine,

Tataouine, Kasserine,

Sidi Bouzid, Gafsa,

Tozeur, Kebili, Kef,

Bizerte, Siliana, Ebja, and

Jendouba. In the days leading up to the election, the short-term observers reported on the final day of the campaign period, which was characterized by large, festive campaign rallies held by the major parties, and also met with political party representatives, civil society organizations, and other key stakeholders to gain perspective on the political climate.

President Cassam Uteem, the former president of Mauritius and a member of the Club of Madrid, co-led the mission, together with Carter Center President and CEO Dr. John Hardman. They were accompanied by former First Lady Rosalynn Carter. The leadership team arrived in Tunis just after the short-term observer delegation and held a round of meetings that included discussions with the Tunisian Prime Minister Beji Caïd-Essebsi; the president of the Independent High Authority for the Elections, Kamel Jendoubi; leaders of major political parties; and international and Tunisian observation groups.

On election day, Oct. 23, the leadership team and observers visited 272 polling stations (4 percent of the total polling stations in Tunisia) and submitted over 360 checklists, the data from which was analyzed to identify major trends in the polling process. In spite of long delays in beginning the tabulation process, observers also were able to observe the tabulation process in most governorates during the night of Oct. 23 and the morning of Oct. 24. Tabulation was completed in the remaining centers in the Tunis area on the evening of Oct. 25.

President Uteem and Dr. Hardman presented the Center's preliminary findings on the Constituent Assembly elections at a press conference on Oct. 25, congratulating the Tunisian people on their enthusiastic and peaceful participation in the process while also commenting on procedural aspects that could warrant improvement in future elections.

The Center's preliminary statement, "Carter Center Reports Peaceful and Enthusiastic Participation in Tunisia's Landmark Elections," was released on Oct. 25, 2011. It indicated that Tunisians turned out to vote in genuinely competitive elections in large numbers and that the ISIE was perceived as impartial and succeeded in building confidence among key stakeholders. The electoral campaign was generally peaceful, with candidates free to assemble and get their messages to the public. However, Carter Center observers heard uncorroborated allegations of violations of campaign finance regulations.

Carter Center observers reported that voting took place in an orderly way with polling staff largely following procedures, but many voters who had not actively registered experienced difficulties in identifying the location of their polling station. Preliminary findings also indicated that although Tunisian women actively participated in many aspects of the electoral process, more outreach is needed in order to encourage female participation.

The vote-counting process was slow and laborious due to a lack of experience, insufficient training, and the high number of candidate lists, and tabulation was delayed due to the system of collecting voting materials. Candidate representatives and domestic observers were present in most polling stations and generally played a positive role in increasing transparency in the elections.

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*More than 25 different nationalities were represented in the observer delegation, and 23 observers came from North Africa and the Middle East region.*

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## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA



Deborah Hakes

*The mission was led by former President Cassam Uteem of Mauritius (center) and Carter Center President and CEO Dr. John Hardman. They were accompanied by former First Lady Rosalynn Carter.*

While the ISIE and civil society organizations reached out to voters to educate them on the electoral process, a more comprehensive voter education campaign was needed for the population to understand the electoral system and the mandate of the Constituent Assembly.

The Carter Center's preliminary statement on the elections reported that the voting process was marked by peaceful and enthusiastic participation, generally transparent procedures, and popular confidence about Tunisia's democratic transition.

Long-term observers stayed in Tunisia until Nov. 11 to observe the announcement of preliminary results and the appeals process and to monitor the postelection environment. The Center issued a statement on Nov. 10, 2011, "The Carter Center

Highlights Shortcomings in Tunisia's Post-polling Period; Outlines Issues To Be Addressed in Future Electoral Processes."

The Center will remain in Tunisia to observe and assess the governing of the transitional government and the work of the Constituent Assembly, including the development of procedures and organizational structure of the assembly, the debate and drafting of a new constitution, and procedures for its adoption. Also, the Center will follow preparations for the next election and/or possible referendum on the draft constitution. The output of the electoral processes in Tunisia could set an important and positive example for neighboring countries that will be responsible for drafting new constitutions and undertaking political reforms.



# HISTORICAL AND POLITICAL BACKGROUND

## ELECTORAL HISTORY AND POLITICAL BACKGROUND BEFORE 2011

Since independence, Tunisians have known only two presidents, Habib Bourguiba, often referred to as the father of independence, and Zine El Abidine Ben Ali, Bourguiba’s interior and then prime minister, who removed the first president through a “medical coup” in 1987. Before the January 2011 revolution, Tunisia was characterized by a strong presidential system and essentially a one-party system, with Ben Ali’s party, the Democratic Constitutional Rally (RCD), dominating every major election. Electoral events, controlled tightly by the RCD and Ministry of Interior, were conducted within a legal framework designed to ensure political dominance and a highly disproportionate electoral system. The electoral context also was marred by the abuse of human rights, a restriction of the media, and widespread corruption.

Before 2011, elections were characterized by a lack of competition due to the absence of political space and viable opposition political parties and candidates. For parliamentary elections in 2009, for example, the size of the legislature was designated at 214 seats per a presidential decree. Of the total seats, approximately 75 percent, or 191, were designated as multimember constituencies at the district level. The remaining 53 seats, approximately 25 percent, were designated a single national constituency. Seats were allocated using the party block vote system in which the list that obtained the largest number of votes in a district won every seat for that district, which greatly favored the majority party. Lists that won no seats in the

district were eligible to participate in the allocation of national seats.

For presidential elections, an absolute majority of the valid votes cast was required in order to be elected. Due to this electoral system and the suppression of opposition parties, Ben Ali ran for re-election unopposed in 1989 and 1994. In the 1999 and 2004 presidential elections, the opposition fielded candidates, but Ben Ali won 99 percent and 95 percent of the vote, respectively.<sup>16</sup>

Many political parties ostensibly served as artificial opponents endorsing the regime, and elections were effectively plebiscites for the system in place. During the Ben Ali era, there were eight legal opposition parties, although most did not function independently and had little hope of winning seats in the Parliament

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*Before 2011, elections were characterized by a lack of competition due to the absence of political space and viable opposition political parties and candidates.*

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Profile of Tunisia (National Institute of Statistics—Tunisia)	
Area	162,155 square km (62,608 square miles)
Population (July 2011)	10,673,800
Languages	Arabic (official), French
Life expectancy (2009)	74.5
Annual population growth rate (2009)	1.2%
Unemployment rate (2010)	13%
Work force (2010)	3,769,200

<sup>16</sup> Interparliamentary Union, “Historical Archive of Parliamentary Election Results: Tunisia Majlis Al-Nuwab (Chamber of Deputies)”



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or proposing a strong presidential candidate to run against Ben Ali. Although it enjoyed popular support, the Islamist opposition movement Ennahdha was outlawed by the Ben Ali regime and only returned to the political scene after his fall.

## REVOLUTION OF JANUARY 2011

The revolution of January 2011 brought a significant break from a half-century of an oppressive system characterized by authoritarian control and political repression. While social unrest was already tangible in the preceding years, the self-immolation of a young street vendor, Mohamed Bouazizi, in the central city of Sidi Bouzid on Dec. 17 sparked a political revolt that quickly spread across the country, culminating in citizens of all ages and social classes demanding an end to the dictatorial regime. Despite Ben Ali's concessionary speech on Jan. 13, in which he offered a democratic opening to opposition groups and vowed not to run for the presidency in 2014, the break between the people and government had been achieved, and Ben Ali fled to Saudi Arabia the following day.

Widely seen as the first uprising to have inspired and encouraged Arab Spring movements elsewhere in the region, the Tunisian revolution was organic in many respects, including its spontaneous nature. It was indeed a popular movement of citizens fighting against poverty, marginalization, and inequality and for justice and dignity, without discernible political or ideological leaders. The movement was also notably civilian: The army did not directly participate in the revolution but rather was broadly perceived as one of its key guarantors. Moreover, in comparison with neighboring countries, Tunisia subsequently experienced a largely peaceful transition to democracy, with relatively few victims falling to violence and an infrastructure that functioned efficiently in the interim period prior to the NCA elections.

## THE POSTREVOLUTION PERIOD

The suddenness and speed of events that led to regime change in Tunisia brought about a completely new situation requiring the creation of specific systems of governance to handle the transition. Under Article 57 of the constitution, which addressed the eventuality “of vacancy of the President of the Republic because of death, resignation, or absolute incapacity,” Foued Mebazaa, the speaker and head of the dissolved Parliament, became interim president. He asked Mohamed Ghannouchi, prime minister at the time, to form a new government. A political reform commission, the Ben Achour Commission, also was appointed by the government in January with a mandate to draft the code under which elections for a new president would be held.

The weeks following the fall of Ben Ali saw more than 100 new political parties formed. Some parties had existed during the Ben Ali era, but others were new to the political arena. A sizable portion of the newly formed opposition groupings, which did not participate in the first interim government, opposed it on the basis that it included large numbers of members of the former presidential party, the RCD. A period of intense political pressure ensued, pitting the transitional government, which saw its main task as ensuring constitutional continuity, against the extra-governmental opposition, which relied on its “revolutionary legitimacy” to demand a genuine rupture with the past.

The opposition created the Council for the Protection of the Revolution (*Conseil de Sauvegarde de la Révolution* or CSR) on Feb. 11, led by the left-oriented January 14 Front. It was composed of 28 organizations, including political parties, civil society organizations, and unions, among them the strong national trade union, the Union Générale Tunisienne du Travail (UGTT). During the Kasbah I sit-in, the first of two demonstrations protesting the transition government, they demanded that institutions inherited from the old regime be dissolved and that the



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Deborah Hakes

*The self-immolation of fruit vendor Mohamed Bouazizi in the central city of Sidi Bouzid initiated demonstrations across Tunisia that led to the overthrow of dictator Zine El Abidine Ben Ali.*

CSR take on a decision-making role, sharing responsibility for the transition with the government.

Dissatisfied with the reshuffling of the government and the dissolution of Ben Ali's ruling party, protesters returned to the streets on Feb. 21 and organized the Kasbah II sit-in, which gathered approximately 100,000 demonstrators asking for the dismissal of the interim Prime Minister Ghannouchi and the election of a constituent assembly. Following this action, Ghannouchi resigned on Feb. 27 and was replaced by Béji Caïd Essebsi, a former adviser and minister during the Habib Bourguiba era. Several days later, the new government announced the suspension of the 1959 constitution and set July 24 as the date for

the election of a National Constituent Assembly. Although most protesters were appeased by these steps and major demonstrations ceased, protests in the marginalized interior regions of Tunisia—and occasionally in Tunis—continued with a lower level of intensity in the months leading up to the elections. Tunisian stakeholders remained consistently wary of members of the former RCD party and feared their involvement in the government and potential return to power.

To meet the demands of the opposition, the Political Reform Commission was absorbed by the CSR and renamed "The High Authority for the Realization of the Objectives of the Revolution,



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

Political Reform, and Democratic Transition” (subsequently referred to as the High Commission or *Haute Instance*). Its 72-member composition initially was contested, as it lacked youth and regional representation, and was, therefore, expanded to include 155 representatives.<sup>17</sup>

While the government remained the sole executive and decision-making power, the High Commission was authorized to submit draft legislation, once agreed upon, to the Council of Ministers and the Presidency of the Republic for approval by decree and was thus de facto working as a legislative body.<sup>18</sup> One of its main responsibilities was to draft a new electoral code and set up an independent body in charge of organizing the elections, the *Instance Supérieure Indépendante pour les Elections* (ISIE).<sup>19</sup> The High Commission chose members of the ISIE to reflect a diversity of stakeholders in the Tunisian political process, drawing from the judiciary, academia, and civil society and also including a notary, bailiff, certified

public accountant, information technology (IT) expert, and a journalist.

Although the date for the National Constituent Assembly elections was initially set for July 24, the time line was shifted to accommodate logistical planning and widespread concerns that the newly formed

ISIE would face difficulty in administering operational aspects of the election in such a compressed time frame. Several political parties, most significantly the Islamist party Ennahdha and the Progressive Democratic Party (PDP), initially opposed the delay. They later accepted the move, and the new election date was set for Oct. 23.

To ensure a smooth path toward the postelectoral period, 11 of the 12 political parties represented on the High Commission signed a “Declaration on the Transitional Process” on Sept. 15.<sup>20</sup> Although not legally binding, this document aimed to establish a road map to define the operating rules of the NCA and to limit its mandate to no more than one year.

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<sup>17</sup> Twelve parties and 18 trade unions and associations were subsequently represented on the High Commission, as well as independent national figures, youth representatives, members drawn from the interior provinces, families of the victims of state security, and a representative of the Tunisian diaspora in France.

<sup>18</sup> The High Commission also adopted new laws on political parties, on associations, and on the media. It concluded its work on Oct. 13, 2011.

<sup>19</sup> Decree-Law 27 creating the ISIE was voted on April 12 and promulgated on April 18, 2011.

<sup>20</sup> After six weeks of work on this statement, the CPR party decided not to sign the document, as it had reservations on the article regarding the duration of the National Constituent Assembly’s work.



# ELECTORAL INSTITUTIONS AND THE FRAMEWORK FOR THE NATIONAL CONSTITUENT ASSEMBLY ELECTIONS

## LEGAL FRAMEWORK

When the Tunisian Constitution was suspended in March 2011, existing laws were deemed inadequate in the postrevolution context, and a new legal framework was promulgated for the NCA elections.<sup>21</sup> This framework is composed of:

- The electoral law<sup>22</sup>
- Several additional decree-laws creating the ISIE,<sup>23</sup> outlining the organization of political parties<sup>24</sup> and associations,<sup>25</sup> and determining the procedures and modalities of control for the financing of election campaigns by the Court of Auditors<sup>26</sup>
- Decrees that set dates for the elections,<sup>27</sup> detailed the modalities of public financing and the ceiling for authorized expenses for the election campaign,<sup>28</sup> delineated electoral constituencies and number of seats,<sup>29</sup> and determined the noneligibility of RCD members to be candidates.<sup>30</sup>

The legal framework includes ISIE decisions setting the rules and procedures for the electoral campaign, setting the conditions for the production and broadcasting of radio and TV programs related to the electoral campaign, laying down the procedures for appealing ISIE decisions regarding voters lists, amending the election schedule,<sup>31</sup> regulating the special procedures to ensure that voters with disabilities are exercising their right to vote,<sup>32</sup> and deciding on the use of ink for the NCA election.<sup>33</sup>



Deborah Hakes

*The ISIE used indelible ink to prevent duplicate voting on election day.*

21 Decree-Law 14 on the temporary organization of public authorities (March 23, 2011)

22 Decree-Law 35 (May 10, 2011), amended by Decree 72 (Aug. 3, 2011)

23 Decree-Law 27 (April 18, 2011)

24 Decree-Law 87 (Sept. 24, 2011)

25 Decree-Law 88 (Sept. 24, 2011)

26 Decree-Law 91 (Sept. 24, 2011)

27 Decree 1086 (Aug. 3, 2011)

28 Decree 1087 (Aug. 3, 2011)

29 Decree 1088 (Aug. 3, 2011)

30 Decree 1089 (Aug. 3, 2011)

31 All ISIE decisions above were published on Sept. 3, 2011.

32 Published Oct. 4, 2011

33 Published Oct. 6, 2011



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

The organization of elections should be regulated by a specific legal framework structured to be unambiguous, understandable, and transparent and to address all components necessary to ensure democratic elections.<sup>34</sup> In general, the current electoral legal framework of Tunisia is consistent with various international obligations, reinforcing the principles of universal, direct, and equal suffrage for voters. The law on the election of the NCA emphasizes the rights of all Tunisians, both men and women who are at least 18 years of age, to enjoy their full civil and political rights.

While the right to be elected is a widely recognized principle in both regional and international treaties, it is not an absolute right and may be limited on the basis of objective and reasonable criteria established by law.<sup>35</sup> Article 15 of the Tunisian electoral law stipulates that three categories of persons are not eligible to stand for elections. The first two categories refer to persons who held government responsibilities under former President Ben Ali and those who held responsibilities within the presidential party, RCD, from the national to the local level.<sup>36</sup> The third category disqualifies individuals who signed a petition in August 2010 calling for Ben Ali to run for president in 2014.<sup>37</sup>

Based on Decree 1089 that defines the level of responsibility of persons excluded to run as candidates, the ISIE was tasked with drafting a list for the first two categories of ineligible persons. The ISIE did not have access to RCD archives and, therefore, relied on press clippings retrieved from the National Archives Office and the Official Gazette to compile the list of those who held government positions under Ben Ali or within the RCD. In addition, the names gathered through this unsystematic approach were recorded in a database that did not include the national identity card numbers of barred persons, leading to significant confusion with similar or identical names. By not following a more rigorous process, the ISIE made it possible for ex-RCD officials to fall through the cracks during the nomination process,

seek seats in the NCA, and possibly be elected, as illustrated by the election of an ex-RCD official on the *Al Aridha Al Chaabia* (Popular Petition) list in the constituency of France 2, resulting in the invalidation of the seat.<sup>38</sup>

The High Commission compiled the list for the third category of ineligible persons, those that signed the 2010 petition to support Ben Ali's candidacy. However, there was no clear procedure to provide concerned individuals with an opportunity to clear their names. Instead, the High Commission considered ad hoc requests from a few individuals who were able to demonstrate that they, in fact, were included on the petition without their knowledge. The election authorities referenced these three lists, comprising approximately 8,100 persons, during the nomination process and excluded potential candidates from running on the basis of this database. However, persons considered ineligible were not informed about their status before the nomination period.

The exceptional context and the motivation to exclude individuals allegedly involved in human rights violations and corruptive practices under the previous regime are understandable. The process that led to the establishment of lists of ineligible persons generally lacked transparency, however, and did not consistently comply with the state's obligation to protect the right to effective remedy.<sup>39</sup> Restrictions on the right to be elected based on political affiliation,

34 International Election Standards: Guidelines for Reviewing the Legal Framework of Elections, International IDEA, 2002

35 ICCPR, Article 25; AU, AfCHPR, Article 13; Arab Charter on Human Rights, Article 24

36 Decree 1089 fixing the responsibilities of RCD members ineligible to stand for elections (Aug. 3, 2011) defined the level of responsibilities within RCD that disqualified a candidate.

37 The signatories of the petition are referred to as "munachidine," meaning "those who implored" in Tunisian dialect.

38 On that subject see also the section on Electoral Dispute Resolution and the Results Process.

39 ICCPR, Article 2(3); United Nations, "Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections," para. 114, "Anyone alleging a denial of their (...) political rights must have access to independent review and redress."



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past or present, are viewed as unreasonable in public international law, and good-practice sources suggest that the loss of this right should only be imposed after adjudication by a court of law.<sup>40</sup>

Since the electoral code was first drafted in May for elections that were supposed to take place in June, the time frames allotted for each step of the process were insufficient in many cases. This was particularly true with the candidate nomination period, for which the electoral calendar allowed just seven days. Although the dates of the candidate registration were provided in advance, parties had difficulty meeting the requirements during the short window, particularly in cases where the list submission was denied. While recognizing the difficulties associated with conducting an election within a compressed time frame, the Center urges the future EMB to expand the time periods allotted for candidate nomination when creating electoral calendars for the future.

The electoral law also lacked clarity on some issues, especially concerning the general principles for voter registration and some aspects of the adjudication process. While Article 3 of the electoral law implied that registration is a prerequisite for exercising the right to vote, Article 6 qualified registration as “voluntary” and aimed at providing the opportunity to update one’s residence address on the voter register derived from the database of national identity card holders. As a result, there was widespread confusion among voters as to whether they would be automatically included on the voter list or if they would be required to participate in the voter registration exercise in order to vote on election day.

The Carter Center recommends that these articles be amended in future iterations of the electoral law to clarify the system of maintaining and updating a comprehensive voter list. Equally important, the future

EMB should ensure that decisions regarding voter registration methodology are made in a timely manner and that educational efforts are undertaken to inform Tunisian citizens of voter registration requirements.

Some aspects of the adjudication process lack sufficient detail. For example, the electoral law and ISIE regulations failed to specify deadlines and procedures for the submission and resolution of disputes related to campaign violations, which may have impacted the low number of complaints and subsequent sanctions on violators of campaign regulations. The electoral law also lacked a provision for adjudicating polling and counting complaints, a significant omission that should be addressed for the future.

The Carter Center recommends that a future legal framework provide a more detailed and comprehensive structure for the electoral process. The future EMB

should provide additional clarifications through regulations and procedures, so that the electoral process is clear and comprehensive to voters and other key stakeholders. Particular attention should be given to the electoral calendar, providing adequate time for each phase within the electoral process.

The Carter Center also notes that restrictions on the right to be elected based on political affiliation are not consistent with international good practice.<sup>41</sup> The Constituent Assembly should carefully consider lifting such a ban for future elections. If former RCD members are to be excluded from the candidate nomination process, the Center urges the Constituent Assembly to establish a transparent method for identifying those individuals.

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*The Carter Center recommends that the electoral law be amended to clarify the system of maintaining and updating a comprehensive voter list.*

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<sup>40</sup> ICCPR, Article 2; OSCE/ODIHR, Existing Commitments, p. 59

<sup>41</sup> ICCPR, Article 2 and 25; Arab Charter on Human Rights, Article 24; AU, AfCHPR, Article 13



### Participation of Women, Minorities, and Marginalized Groups

The law provides for gender parity on the candidate lists, specifying that lists should be established in such a way as to alternate between men and women as a special measure to ensure equal opportunities for women to participate in the political process. While The Carter Center welcomes this provision as it reflects Tunisian commitments toward the practice of equal rights, in practice the quota did not produce a balanced representation of women and men in the NCA due to the fact that 93 percent of the electoral lists were headed by men.<sup>42</sup> In the final tally, 59 women were elected to the Constituent Assembly, representing 27 percent of its members.

Tunisian youth played an integral part in the Tunisian revolution, and therefore, should assume a role in the political arena of Tunisia going forward. Spurred by dissatisfaction with the socioeconomic conditions under Ben Ali, the youth used social networking and technology to facilitate and fuel the protests that eventually led to the departure of Ben Ali. In recognition of this important role of youth during the revolution, the law requires all lists to include at least one person under the age of 30.<sup>43</sup> This measure represents an important step to stimulate the inclusion and representation of youth in the electoral and political process.

The Carter Center supports provisions that strive to provide opportunities for women and youth to be included as candidates. However, mandating quotas for women and youth does not necessarily achieve the desired goal in a closed-list proportional system. Since there was no requirement to list a woman or a youth at the head of a list, parties listed women and youth lower on their candidate lists, making it less likely they would be elected to the NCA. Should future elections use a closed-list proportional representation system, The Carter Center recommends that the

Constituent Assembly consider amending the political party law to require the integration of youth and women into the party structures, thus encouraging greater leadership opportunities within political parties that could result in higher candidate placement in electoral lists.

The Center also acknowledges efforts by the election authorities to accommodate specific categories of eligible voters such as disabled persons and illiterate voters.<sup>44</sup> Tunisia was an original signatory of the Convention on the Rights of Persons with Disabilities, and Tunisian law

prohibits discrimination against persons with physical or mental disabilities.<sup>45</sup> The electoral law specifically addressed the needs of disabled or illiterate voters, stipulating that illiterate voters or voters who clearly suffer from a disability could be assisted by a voter of their choice. It is important to note, however, that several civil society organizations expressed concerns that this specific provision raised the possibility of vote buying or influence occurring should a disabled or illiterate voter be assisted by a companion. In response to these concerns, the ISIE amended this provision to allow only holders of a “disability card” to be assisted during balloting by a voter of their choice.<sup>46</sup>

In the same decision, published on Oct. 4, 2011, the ISIE included additional provisions stipulating that persons with disabilities should have priority accessing polling stations, a sign language interpreter

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*In the final tally, 59 women were elected to the Constituent Assembly, representing 27 percent of its members.*

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42 ICCPR, Article 3; CEDAW, Article 3

43 Decree-Law 35, Article 33

44 The Ministry of Social Affairs reported in 2003 that there are over 150,000 persons with disabilities in Tunisia, or about 1.5 percent of the total population (cited by IFES in “Elections in Tunisia: The 2011 Constituent Assembly, Frequently Asked Questions, July 2011”).

45 IFES, “Elections in Tunisia: The 2011 Constituent Assembly, Frequently Asked Questions, July 2011”

46 Decision regulating the special procedures to ensure that voters with disabilities are exercising their right to vote (Oct. 4, 2011)



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should be present during televised electoral campaigns, and voting booths should be large enough to allow a voter with a wheelchair space to exercise his or her right to vote in secret. In addition, in an effort to minimize the potential for undue influence from individuals accompanying illiterate voters, displaying a logo next to the name of the list on the ballot paper

was deemed sufficient to assist illiterate voters. These additions reflect an admirable effort on the part of the ISIE to follow good practice for protecting the secrecy of the ballot.<sup>47</sup> However, for illiterate voters to fully enjoy their right to vote, the ISIE should conduct better voter education and outreach to inform the electorate of its decisions.

Table 2: Constituent Assembly Seat Assignments by Governorate and Country

Governorate	Number of Constituent Assembly Seats Assigned	Country	Number of Constituent Assembly Seats Assigned
Tunis I	9	France I	5
Tunis II	8	France II	5
Ariana	8	Italy	3
Manouba	7	Germany	1
Ben Arous	10	Europe and the Americas	2
Bizerte	9	Arab countries and rest of world	2
Nabeul I	7		
Nabeul II	6		
Zaghouan	5		
Béja	6		
Kef	6		
Séliana	6		
Jendouba	8		
Kairouan	9		
Sousse	10		
Monastir	9		
Méhdia	8		
Kasserine	8		
Sidi Bouzid	8		
Gafsa	7		
Tozeur	4		
Sfax I	7		
Sfax II	9		
Gabès	7		
Médenine	9		
Tataouine	4		
Kébili	5		

<sup>47</sup> UNHCR, General Comment No. 25, para. 20; Norwegian Helsinki Committee, “Election Observation” in *Manual on Human Rights Monitoring: An Introduction for Human Rights Field Officers*, p. 12; EU, *Handbook for European Union Election Observation*, Second Edition, p. 77



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When the circumstances warrant, public international law allows for special measures for advancing groups that have suffered past discrimination.<sup>48</sup> Under Ben Ali, the lesser populated and poorer regions in the interior did not receive the same level of representation as the wealthier and more populous coastal regions. The Tunisian legal framework has reflected good practice in this regard by providing less populated and historically marginalized regions additional representation in the Constituent Assembly.<sup>49</sup>

## BOUNDARY DELIMITATION

A balanced and nondiscriminatory delimitation of electoral boundaries ensures equality of voting power. When drawing electoral boundaries, the legal framework should ensure that the distribution of voters does not discriminate against any particular region or group.<sup>50</sup>

The sensitivities of Tunisia's political and social context following the revolution were taken into account when the electoral districts were revised in advance of the 2011 polls. Given time constraints, it was deemed most feasible to maintain Tunisia's current governmental boundaries for the governorates. In the absence of an impartial boundary authority, constituencies were divided per the suggestion of the ISIE in consultation with the High Commission.

Building on the existing formula to allocate seats among districts (one seat allocated for each 60,000 inhabitants), the new law designating constituencies included a provision to introduce a positive discrimination factor in favor of underdeveloped governorates, mainly those in the south of Tunisia where the population density is low and the representation would have been minimal. It stipulated that two additional seats were assigned to governorates with fewer than 270,000 inhabitants, and one additional seat was assigned to governorates with 270,000 to 500,000 inhabitants. This step was consensual and introduced a limited degree of distortion of representation to favor marginalized regions that previously did not have adequate representation.<sup>51</sup>

In order to provide generally equitable representation, these measures are justified and reasonable from an international-standards perspective.<sup>52</sup> Three governorates—Tunis, Nabeul, and Sfax—had more than 630,000 inhabitants, and each was divided into two electoral districts. As a result, 27 constituencies were created, ranging from four to a maximum of 10 seats. Notably, the process of establishing electoral districts, which could have been politically divisive, was not contentious and generally was accepted by stakeholders.

For the first time, six overseas constituencies (France I and II, Italy, Germany, Europe and the Americas, and Arab countries and the rest of the world) were created for eligible Tunisian voters residing abroad. Seats were awarded to out-of-country voters and districts according to the distribution of the population among the main countries of Tunisian emigration.

Decree-Law 1088 set the total number of seats in the National Constituent Assembly at 217, with 199 seats in 27 constituencies in Tunisia and 18 seats in six out-of-country constituencies for eligible Tunisian voters residing abroad. Table 2 illustrates the division of seats.

Overall, the delimitation process was considered fair and deemed legitimate by electoral stakeholders and voters. However, the process could have benefited from increased transparency and enhanced public outreach consistent with international good practice.<sup>53</sup>

48 U.N., Committee on the Elimination of Racial Discrimination, Article 1

49 This issue is discussed in detail in the Boundary Delimitation section of this report.

50 UNHCR, General Comment No. 25, para. 21

51 Governorates receiving additional seats included Ariana, Manouba, Zaghuan, Béja, Jendouba, Kef, Siliana, Kasserine, Sidi Bouzid, Mahdia, Gafsa, Tozeur, Kébili, Tataouine, Gabés, and Médenine.

52 Venice Commission, Code of Good Practice, sec. I.2.2

53 International IDEA, Legal Framework, p. 27



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA



Deborah Hakes

*Twenty-seven electoral constituencies were established in Tunisia and 18 abroad.*

### ELECTORAL SYSTEM

Electoral law stipulated that the NCA elections were to be conducted in one round, with constituencies at the regional level using a closed-list proportional representation system. To allocate seats, the total number of valid votes (excluding blank and canceled ballots) was divided by the number of seats in each constituency to produce a quotient, also known as the electoral divider. Seats were allocated to each list that reached this threshold. Any remaining seats were allocated to the political parties or independent lists with the largest remainders.<sup>54</sup>

The closed-list proportional representation system is one in which voters cast a ballot for a party or

independent list, rather than an individual candidate. Its design aims to reduce potential disparity between a party or independent list's share of the vote and the number of seats it receives, a particularly important feature in fragile and transitioning environments. Votes cast for each party or list determine the number of seats won. Seats are allocated to candidates in the order in which they appear on the list, providing political parties and independent heads of lists significant leverage to decide the ordering of candidate lists.

An advantage of the closed-list PR system is that the voting and counting processes are generally simple. Ballot design is relatively straightforward, as only

<sup>54</sup> Decree-Law 35, Article 36



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political party names and logos are displayed, rather than the lists of candidates in their entirety. Since it is unlikely that a single party can win a majority of seats, the closed-list PR system also encourages cooperation between parties that must form a coalition in order to form a government and pass laws.

In terms of the representation of women, parties can help to ensure women are elected by placing female candidates at the top of the list. Tunisian electoral law stipulates that lists shall be established in such a way as to alternate between men and women. While this gender parity clause was respected as a requirement during the candidate nomination process for the 2011 Constituent Assembly election, only 7 percent of the lists were headed by female candidates, reducing the number of women that were actually elected. In the future, The Carter Center encourages political parties to name a greater percentage of women at the head of party lists in order to promote the representation of women in the government.

## ELECTION MANAGEMENT

An independent and impartial electoral authority that functions transparently and professionally is recognized internationally as an effective means of ensuring that democratic elections are genuine and that other international obligations related to the electoral process can be met.<sup>55</sup>

An independent election management body was established by Decree-Law 27 on April 18, 2011, and was created to be legally, financially, and administratively autonomous. The ISIE was mandated to prepare, supervise, and monitor the NCA elections and ensure that elections were “democratic, pluralistic, fair, and transparent.”<sup>56</sup> The ISIE enjoyed broad powers, duties, and responsibilities for all aspects of this electoral process.<sup>57</sup> Its mission formally ended with the announcement of the final results of the elections.<sup>58</sup>

The ISIE was composed of a central commission based in Tunis as well as 33 Regional Independent

Commissions for Elections (IRIE) offices covering 27 constituencies in Tunisia and six constituencies abroad.<sup>59</sup> Shortly before the start of the electoral campaign period, Local Commissions for Elections (ILE) also were established at delegation level. The ISIE decision on rules and procedures provided for ILEs but gave no specific instruction regarding their role and responsibilities.<sup>60</sup>

The ISIE had 16 members drawn from the judiciary, academia, and civil society, and it also included a representative for expatriates, a notary, a bailiff, a certified public accountant, an IT expert, and a journalist.<sup>61</sup> These individuals were selected by the High Commission, following a set of criteria that included political independence and impartiality and ensured that members had no previous responsibilities within the former RCD party.<sup>62</sup> The ISIE was appointed by decree on May 20 and shortly afterward elected Mr. Kamel Jendoubi as president, Ms. Souad Triki as vice president, and Mr. Boubaker Bethabet as secretary-general.<sup>63</sup>

The mandate and composition of IRIEs were established by Decree-Laws 27 and 35 and expanded upon in a June 1 decision by the ISIE. Each IRIE was composed of 14 members at the governorate level, and IRIEs that were based abroad in Tunisian diplomatic missions were composed of between eight and 14 members. All IRIE members were selected by the ISIE and appointed on July 6, 2011. IRIEs were tasked with coordination and supervision of the

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55 UNHCR, General Comment No. 25, para. 20

56 Decree-Law 27, Article 2

57 Decree-Law 27, Article 4

58 Decree-Law 27, Articles 1 and 2

59 Decree-Law 27, Article 5

60 Adopted by the ISIE on June 25, 2011

61 Decree-Law 27, Article 8

62 Decree-Law 27, Article 6

63 Decree-Law 27



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voter registration process, the candidate nomination process, receipt of electoral-related complaints, organization of the tabulation of votes, supervision of the work of the ILEs, and various other tasks as required by the ISIE.

ILEs were established in most constituencies just before the start of the electoral campaign period.<sup>64</sup> Although members of the ILEs were not given sufficient information regarding their roles and responsibilities, observers reported that the ILEs supported the IRIEs by helping to fill vacant posts at polling centers, collecting forms reporting on campaign violations at the local level (e.g., meetings held without a permit and the hanging of posters and banners in nondesignated areas), and assisting in the set-up of polling stations.

Center observers noted that both ISIE and IRIE members were predominantly male. Among female members, only a nominal number held senior-level president or vice president positions within the election management body. This notable lack of representation contrasts with the high rate of educated and professionally active women in Tunisia.

Overall, Carter Center observers reported that election authorities carried out their responsibilities with a high level of dedication. In a relatively short time frame, and without previous experience, election authorities drafted regulations and procedures, prepared for and carried out electoral operations, and built confidence among stakeholders. IRIE members were appointed just a few days before the start of the voter registration period, thus facing the challenge of establishing their structure while simultaneously supervising registration operations. Although shortcomings were visible at times, The Carter Center reported that the ISIE made sustained efforts to ensure a democratic electoral process.

In spite of these achievements, noticeable internal divisions and tensions within the ISIE often hindered the efficiency of the election administration and slowed decision-making processes. While the legal framework provided for additional technical, administrative, and financial bodies to support election authorities, these structures appeared insufficiently staffed at the central level and regional levels.

The timely adoption and dissemination of procedures and decisions are important aspects of election administration and are essential for ensuring transparency and access to information. Official documents by election authorities should be widely accessible.<sup>65</sup> Regrettably, the adoption of procedures was often delayed by the ISIE until the period immediately preceding the start

of the concerned phase of the election process. This left an insufficient amount of time to conduct proper training and to ensure polling staff adequately understood the procedures, leading to inconsistencies in the implementation of voter registration, results management, and tabulation processes.

The creation of the ISIE website and opening of a Facebook page had the potential to increase transparency and ensure prompt, effective, and practical access to information.<sup>66</sup> Although press releases were available on an infrequent basis, Carter Center observers concluded that the ISIE did not take full advantage of such tools by posting official documents in a timely and systematic manner.

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*Overall, Carter Center observers reported that election authorities carried out their responsibilities with a high level of dedication.*

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<sup>64</sup> An ILE was not established in Tatouine, but observers reported that this was not a hindrance to the process due to the small population of the governorate.

<sup>65</sup> ICCPR, Article 19, para. 2; UNHCR, General Comment No. 34, para. 19

<sup>66</sup> UNHCR, General Comment No. 34, para. 19



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

Working within an environment characterized by an enduring mistrust of state institutions and a record of flawed elections, building confidence among stakeholders represented one of the foremost challenges faced by the ISIE. The Carter Center found that, while slowly at first, election authorities increasingly took steps to consult with relevant stakeholders such as political parties, civil society organizations, and the media. Most election stakeholders met by Carter Center observers throughout the country recognized the efforts of ISIE and the IRIEs to fulfill their duties impartially. However, several smaller parties and independent candidates complained about delays in both ISIE and IRIE operations. Unlike well-established parties with extensive infrastructure and dedicated personnel, it was difficult for smaller parties

and independent candidates to attend meetings that were announced on short notice. Despite those shortcomings, The Carter Center welcomed ISIE efforts to ensure an inclusive electoral process. Future EMBs should publish all public documents, regulations, procedures, and press releases on a website to ensure a timely sharing of information with IRIEs, political

parties, civil society organizations, and voters.

Going forward, The Carter Center recommends that the NCA create a permanent, independent election-management body.

A neutral, autonomous, and professional body that builds on the institutional knowledge and capacity gained by the ISIE,

the IRIEs, and the ILEs during this election process would help foster a popular confidence in the electoral process in Tunisia for future elections.

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*The Carter Center found that, while slowly at first, election authorities increasingly took steps to consult with relevant stakeholders such as political parties, civil society organizations, and the media.*

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## PRE-ELECTION DEVELOPMENTS

### VOTER REGISTRATION

Voter registration and the establishment of a complete, current, and accurate voter list are recognized as important means to ensuring that each citizen has the right to vote. Where registration of voters is required, it should be facilitated, and obstacles to such registration should not be imposed.<sup>67</sup>

The law on the election of the NCA states the general provisions for voter registration but contains some provisions that lack clarity regarding key parts of the electoral process.<sup>68</sup> According to Article 2, all Tunisians—both men and women, age 18 or older on the day preceding the elections, who enjoy their full civil and political rights—are entitled to vote. While Article 3 implies that active registration is a prerequisite for exercising the right to vote, Article 6 qualifies registration as “voluntary” and aimed at providing the opportunity to update one’s residence address on the voter register derived from the national identity cards database.<sup>69</sup>

While it was arguably the most complete data set available at the time, the use of the national identity card database negatively impacted the accuracy of the voter list. An estimated 400,000 Tunisian citizens were not recorded on the database, as their national identity cards were issued before 1993.<sup>70</sup> The national identity card database was not directly linked to the civil registry and thus was not systematically updated when deaths were recorded in the civil registers. In addition, individuals’ addresses referenced in the database contained errors and did not enable a reliable allocation of voters to polling stations. For example, ID cardholders may have changed residence since their cards were issued without updating their

information, while address entries and fields in the database were often inconsistent or incomplete.

Election authorities were aware of these shortcomings of the national ID cards database, and they considered other options for registering voters. After lengthy deliberations, the ISIE finally opted for a “passive” registration system, with prospective voters being encouraged, instead of required, to check their information at registration centers and given the opportunity to select a polling station. The Carter

Center noted that this late decision by the ISIE created some confusion, particularly in the absence of a clear voter information campaign to explain the process to the electorate, civil society organizations, and political parties.

Voter registration started on July 11 for a period of three weeks, with an initial end date of Aug. 2. However, by July 30, just 16 percent of an estimated 8.2

million eligible voters had participated in the voter registration process. To increase participation, the ISIE announced that it would extend the deadline for registration until Aug. 14. The number of registration centers was also increased, including dedicated centers to accommodate Tunisian citizens residing abroad who were visiting Tunisia during the registration period.

In addition, mobile teams were introduced to facilitate registration in remote rural areas. Observers

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*While it was arguably the most complete data set available at the time, the use of the national identity card database negatively impacted the accuracy of the voter list.*

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67 UNHRC, General Comment No. 25, para. 11, “The right to participate in public affairs, voting rights and the right of equal access to public service”

68 Decree-Law 35

69 Law n. 93-27 (March 22, 1993) on the National Identity Card

70 This estimated figure was communicated to The Carter Center by the ISIE and the CNI.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

Time Line of Voter Registration Events	
July 11	Beginning of voter registration
July 30	The ISIE announced an extension of the voter registration process to August 14
Aug. 2	The initial end date for voter registration
Aug. 14	The final end date for voter registration
Aug. 15	Beginning of special registration period for certain categories of voters
Aug. 20	Beginning of exhibition and challenges period for the provisional voter list
Aug. 26	End of exhibition and challenges period for the provisional voter list
Aug. 28	Beginning of time period for eligible voters to select a polling station within their own governorate
Sept. 4	End date for Tunisians living abroad to register at consular and diplomatic missions
Sept. 30	The initial end date for voters to select a polling station within their governorate
Oct. 10	The extended end date for voters to select a polling station within their governorate
Oct. 12	End of special registration period

reported that IRIEs were prompt in realizing that mobile registration centers were most effective when citizens were informed in advance about the venues of the teams. To this effect, IRIEs increased public outreach through methods that included equipping vehicles with loudspeakers and airing public service advertisements on local radio stations to announce the locations of the teams. Some IRIEs also deployed mobile teams that adjusted to people's daily habits and needs, including those in hospitals, workplaces, seaside resorts, weekly markets, and coffee shops in the evenings during Ramadan. The Center commended efforts by election authorities to reach out to the largest number of citizens.

The Center noted that the public outreach strategy developed by the ISIE focused mainly on mobilizing prospective voters. It should have included more specific messages with information on the purpose of the registration exercise and its importance to ensure the accuracy of the voter registry to facilitate the smooth participation of voters on election day. Since the ISIE outreach provided only basic information during the voter registration, Carter Center observers reported that citizens had varied and limited understandings of the process.

The law provides that individuals sentenced to more than six months of imprisonment for committing honor-related felonies or misdemeanors and who have not yet regained their civil and political rights are deprived of their right to vote.<sup>71</sup> However, the fact that neither voter registration nor polling were conducted in prisons led to the effective disenfranchisement of all persons imprisoned. The Carter Center notes that Tunisia did not uphold its obligation to guarantee universal suffrage and the right to vote in this regard.<sup>72</sup>

In advance of the launch of the registration operation, a pilot test to check the online registration system proved inconclusive. Technical problems with the online registration system affected the process at its inception, and it took two to three days after the start of voter registration on July 11 for the system to become operational throughout the country. Following initial difficulties, the system performed well with only short and rare interruptions of the Internet connection.

Registration staff scanned the bar code appearing on the back of each voter's national identity card to access the registrant's file, which was linked by Internet to the national identity cards database managed by the National Center of Computer Science (CNI). Registrants were given the opportunity to

<sup>71</sup> Decree-Law 35, Article 5, para. 1

<sup>72</sup> UNHCR, General Comment No. 25 indicates that persons who are deprived of liberty but have not been convicted should not be excluded from exercising the right to vote.



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choose a polling station nearest their intended location during the upcoming election. Registrants were provided a receipt that noted their name, address, and selected polling station.

In general, registration center staff was welcoming and cooperative with registrants and operated efficiently. Women were well-represented among registration staff. Carter Center observers noted that most IRIE staff actively performed their supervisory role over registration centers, maintaining constant communication with registration staff and visiting registration centers on a regular basis.

As noted in the statement “The Carter Center Welcomes Completion of Tunisia’s Voter Registration; Highlights Additional Steps Needed To Ensure Successful Polling,” issued on Sept. 1, 2011, Carter Center observers reported inconsistencies among IRIE and registration center staff in applying some registration procedures. Proxy registration represented the most frequent inconsistency regarding application of procedures, where some registration centers allowed proxy registration while others even within the same governorate prohibited family members or others from registering other eligible voters. In some cases, receipts were issued for proxy registrations; in other cases, people registered by proxy had to visit the center in person to obtain their receipt. IRIE staff also provided different explanations for these practices, some allowing proxy registration due to the distance from registration centers in rural areas.

The ISIE manual on registration procedures stated explicitly that registration is a personal process and, therefore, cannot be handled by delegation.<sup>73</sup> Observers noted that the manual on registration procedures was not always available at registration centers and registration staff were not always aware of its existence, presumably due to the development and distribution of the document relatively late in the process.

According to the ISIE, a minimal number of registrants, representing less than 1 percent of the total, were refused by the online registration system because of expired identity cards,<sup>74</sup> mismatched numbers between the date of issuance recorded in the database and that appearing on the card, and discharged military and security personnel who were still recorded as on active duty.<sup>75</sup>

While there were minor differences among registration centers in procedures for handling refusals—some required voters to fill out manual registration forms, for example, or issued special forms for military personnel—observers reported that registration staff accurately oriented registrants to the appropriate IRIE and, in case of expired ID cards, to the police for renewal.

On Aug. 14, at the closing of the registration process, ISIE estimated that 3,882,727 citizens

registered in Tunisia, representing approximately 47 percent of the estimated voting population.<sup>76</sup> However, since more than 4 million prospective voters did not update their data or select a polling station, the ISIE was faced with a substantial operational challenge to ensure proper allocation of these voters to polling stations. From Sept. 4–20, the ISIE offered unregistered voters an additional opportunity to select a polling station within the governorate mentioned

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*The ISIE announced on Oct. 15 that a total of 4,439,527 voters, or approximately 54 percent of total estimated 8.2 million eligible voters in Tunisia and abroad, had chosen their polling station.*

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<sup>73</sup> ISIE manual of registration procedures, para. 3.3.1

<sup>74</sup> ISIE officials reported that a few months before the elections the authorities broadcast radio and TV spots asking holders of old ID cards to replace the card with the new one. The number of citizens holding old ID cards was reportedly between 200,000 and 400,000.

<sup>75</sup> Active military personnel, civilians doing their military service, and the Internal Security Forces are not entitled to exercise their right to vote as per Article 4 of Decree-Law 35.

<sup>76</sup> At the time, the ISIE used a different figure of estimated total voting population than it did on Nov. 14 when the final results were announced. This earlier figure claimed that 55 percent of eligible voters had verified their information by Aug. 14. For the purposes of this report, the final estimates of eligible voters announced by the ISIE on Nov. 14 are used.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

on their ID cards. Despite increased outreach efforts by the ISIE, Carter Center observers found that the number of eligible voters participating in this initiative was low. The ISIE decided to extend this operation on two occasions, until Sept. 30 and then Oct. 10.

A special registration period also was established from Aug. 15 to Oct. 12 to accommodate special cases. Military members and internal security agents could not register to vote, but those who left the service after the Aug. 14 deadline were eligible for the special registration period. People who turned 18 after the Aug. 14 deadline were eligible, as were people whose criminal status changed after the deadline. This period also was open to foreigners living abroad who wanted to vote in Tunisia.

The ISIE announced on Oct. 15 that a total of 4,439,527 voters, or approximately 54 percent of total estimated 8.2 million eligible voters in Tunisia and abroad, had chosen their polling station.<sup>77</sup>

In a press conference on Oct. 14, ISIE President Jendoubi explained that the ISIE would set up 267 specialized polling centers, divided into 911 polling stations, in addition to the originally planned 7,692 polling stations in Tunisia and abroad. These specialized polling centers would be dedicated to prospective voters who did not choose their polling station. According to the numbers provided by the ISIE at the time of this announcement, this meant that there would be approximately 3,400 voters assigned to each polling station at the specialized polling centers, a number that would create an unmanageably high number of voters per polling station. However, the ISIE estimated that only 25 percent of eligible voters who did not verify their information would turn out to vote on election day, reducing the number of voters to approximately 850 per polling station. In its statement published on Oct. 3, 2011, “The

Carter Center Calls on Tunisian Election Authorities To Finalize Critical Procedures and Intensify Voter Outreach,” the Center recommended that the ISIE give proper consideration to the number and location of specialized polling stations to ensure equality of suffrage.<sup>78</sup>

Although the voter registration process was conducted peacefully across the country, The Carter Center noted numerous challenges that should be addressed for the future. The Center recommends that the future election management body (EMB) con-

duct a comprehensive and inclusive voter registration update exercise in the near future while voters have a strong memory of the election and the desire to participate in the voter registration process. In addition, the future EMB should reach out to voters to educate them on the importance of registering to vote.

The Center also recommends that the future EMB clarify procedures regarding the requirements that individuals personally register and ensure that procedures are consistently applied by regional authorities.

### EXHIBITION OF PROVISIONAL VOTER LIST

The exhibition of the provisional voter list provided an opportunity for the public to inspect the list and challenge mistakes such as the omission of eligible voters or the inclusion of ineligible voters.

The provisional voter lists were displayed from Aug. 20–26 at IRIEs, municipalities (*Baladiya*), districts (*Mu'tamadiya*), sectors (*Imada*), and in Tunisian diplomatic or consular missions (hereafter referred to as “exhibition venues”). The lists were printed in book format and in two separate volumes: one showing prospective voters who actively registered, the

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*The Carter Center noted with concern that the low turnout in the initial phase of voter registration was even more discernible during the exhibition and challenges period when few voters inspected the provisional list.*

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<sup>77</sup> Based on numbers of eligible voters and registered voters provided by the ISIE after the announcement of final results on Nov. 14.

<sup>78</sup> See Appendix D for Carter Center statements cited in this report.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

other showing prospective voters who were automatically included on the registry from the national identity card database.

The Carter Center noted with concern that the low turnout in the initial phase of voter registration was even more discernible during the exhibition and challenges period when few voters inspected the provisional list. The ISIE did not conduct a visible voter education effort to inform the public of the exhibition period, and there was a delay of one or two days before the lists of unregistered voters were displayed in most exhibition venues. Exhibition venues were officially only open from 8:30 a.m. to 2:30 p.m. and often closed on Sunday, leaving little time for the public to inspect the list.

Challenges to the provisional list could be submitted to the IRIE, and its decisions could be appealed before the territorial Court of First Instance. Very few challenges were submitted to the IRIEs during the inspection period, and in just one case the plaintiff appealed to court. This was an indication that the ISIE did not sufficiently advertise the exhibition period, explain its importance, and educate voters on the procedures for challenging the provisional list.

## VOTER EDUCATION

Voter education efforts are necessary to ensure an informed electorate is able to effectively exercise their right to vote.<sup>79</sup> The fulfillment of the international obligation of universal suffrage is partially dependent on effective voter education.<sup>80</sup> Internationally recognized good practice indicates that impartial and consistent voter education is the primary responsibility of state organs, chiefly the election management body. Political parties, civil society, and international organizations also may contribute to voter education efforts.

Civil society organizations, often supported by international partners, undertook several initiatives to reach the public and explain the significance of the process.<sup>81</sup> While valuable, these initiatives alone could not replace a comprehensive voter education and information campaign, much needed for the population to understand critical information such as how, when, and where to vote; the closed-list proportional representation electoral system; and the anticipated mandate of the Constituent Assembly.

The Carter Center regrets that the ISIE did not conduct more comprehensive voter education campaigns to provide the public with much-needed information to understand the electoral process. Given the absence of a recent democratic tradition, the specific character of a Constituent Assembly election, and the persistent phenomena of illiteracy in Tunisia, the need for voter education was particularly

relevant.<sup>82</sup> Several opinion polls and surveys published in the months ahead of the elections indicated that a significant portion of the electorate lacked an understanding of key areas, including the electoral system, the mandate of a Constituent Assembly, and the role of the ISIE.<sup>83</sup>

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79 ICCPR, Article 25; UNHCR, General Comment No. 25, para. 11

80 Norwegian Helsinki Committee, Manual for Election Observation, sec. 5.5

81 The National Democratic Institute (NDI) coordinated with Jeunesse Sans Frontières (JSF – Youth Without Borders) to engage marginalized citizens not reached by the ISIE public awareness campaigns. Tunisian CSOs iWatch and Bus Citoyen also organized sessions throughout the country. Additional campaigns conducted by CSOs are discussed later in this report.

82 Tunisia had a 22.1 percent illiteracy rate in 2005, according to the National Statistics Council of Tunisia.

83 NDI, “Imagining the Road Ahead: Citizen Attitudes About Tunisia and the Constituent Assembly Election Period,” July 2011; IFES, “Tunisia Voter Registration and Voter Confidence Assessment Survey,” May 2011



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The ISIE outreach provided only basic information during voter registration. The campaign was designed to mobilize eligible voters to register but lacked detailed information on registration procedures and objectives. Carter Center observers reported that citizens had varying and limited understandings of the process. Notably, public outreach by the ISIE to mobilize citizens to check the provisional voter list during the exhibition and challenges period was barely visible and did not stress the importance of doing so to the electorate.

In the lead-up to polling day, voter education was similarly concentrated on basic information, delivered through mass media. National radio and TV broadcasted spots to explain which documents were required to cast a ballot, and how, when, and where to vote on polling day. A SMS (text messaging) service also was provided to allow prospective voters to identify their respective polling station. Notably lacking was information on how to mark a ballot, an omission that was evident on election day, especially among elderly and illiterate voters.

For future elections, The Carter Center recommends the ISIE conduct a widespread voter education campaign, including initiatives at a grassroots level. The ISIE should coordinate with political parties and civil society organizations to target marginalized populations and ensure that voter education initiatives include information on the importance of registering to vote, the purpose of the upcoming election, and the mechanics of voting on election day.

## CANDIDATES, PARTIES, AND CAMPAIGNS

The right of individuals to participate in public affairs, including the establishment of political parties and freedom of association, expression, and assembly, are obligations under international law.<sup>84</sup> A total of

11,686 candidates contested 217 seats in Tunisia's NCA election.

The ISIE registered 1,519 lists, 54.6 percent of which were presented by political parties, 43.3 percent by independent candidates, and 2.4 percent by coalitions. The emergence of a large number of independent candidates was a notable trend within the electoral process. However, many of these independents were thought to have ties to political parties such as Ennahdha and the former

Democratic Constitutional Rally (RCD), and many Progressive Democratic Party (PDP) members who left the party just prior to the candidate nomination process subsequently ran as independents.

## Parties

During the Ben Ali era, politics were dominated by the ruling RCD party. Although there were a limited number of legal opposition parties, those that actively opposed Ben Ali were severely marginalized, and leaders often were persecuted or forced into exile.<sup>85</sup> Other parties within the "opposition" were loyal to Ben Ali and the RCD and did not pose a challenge to the regime.<sup>86</sup> In the days and weeks following the Jan. 14, 2011, revolution, the RCD was dissolved and banned, and political leaders such as Rachid Ghannouchi of Ennahdha and Moncef Marzouki of the CPR returned from exile abroad to organize and energize parties that had languished under Ben Ali. Parties that had experience opposing Ben Ali, including Ennahdha, the CPR, Ettakatol (Democratic Forum for Labor and

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<sup>84</sup> ICCPR, Article 25(a); ICCPR, Article 21; UNHRC General Comment No. 25, para. 26

<sup>85</sup> Rachid Ghanouchi, leader of Ennahdha, and Moncef Marzouki, leader of the CPR, both lived as political exiles in Europe while Ben Ali was still in power.

<sup>86</sup> Green Party for Progress, Movement of Socialist Democrats, Party of People's Unity, Social Liberal Party, Unionist Democratic Union



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Liberties, FDTL), and the PDP quickly coalesced and became major forces in the transitional period. This time period also saw the proliferation of new political parties, with more than 100 political parties registered by the beginning of the campaign period. For the first time in their history, Tunisians had a multitude of political parties with diverse and sometimes vaguely defined ideological orientations. Most parties did not undertake significant voter information campaigns, and opinion polls indicated that many Tunisians remained confused regarding political party platforms throughout the electoral process.

The proliferation of political parties also led to the creation of coalitions among many of the smaller parties, the most prominent of which was the Democratic Modernist Pole, an alliance consisting of the Ettajdid Movement, three smaller parties, and five citizen initiatives. Ideological differences also led to splits and internal divisions within certain parties. The PDP experienced a large number of resignations in September, with many former PDP members deciding to run on independent lists, and internal splits within the Movement of Socialist Democrats (MDS) led to the submission of two separate lists under the same party name. Party coalitions and divisions led to a continually shifting political scene in the months leading up to the election.

Twelve major political parties participated in the High Commission and played an integral role in creating the framework for elections in Tunisia.<sup>87</sup> The High Commission drafted a new electoral code, set up and chose the members of the ISIE, and negotiated the electoral calendar. On Sept. 15, 11 of the 12 political parties on the High Commission signed a “Declaration on the Transitional Process,” committing to Oct. 23 as the election date, defining the operating rules of the National Constituent Assembly, and limiting its mandate to one year. The CPR was the only political party that did not sign the declaration, as they did not agree on the provision stating that the work of the NCA should not exceed one year.

The Declaration on the Transitional Process included a code of conduct with the stated aim of boosting confidence among political actors, promoting a healthy environment during the electoral process, and facilitating general acceptance of the election results. Parties and candidates committed to respect each other, reject the incitement of violence in all its forms, and refrain from offending the honor or dignity of voters and other candidates. They also agreed to avoid using places of worship and educational institutions/universities for campaigning and to ask their members to refrain from disrupting political meetings or tearing down political propaganda.

On election day, the major parties and independent lists organized representatives to observe the polling, counting, and tabulation process. Carter Center observers reported that list representatives were present at 94.5 percent of polling stations visited. Ennahdha covered the highest number of polling stations, and its representatives were present at 242 of the 272 polling stations that Carter Center observers visited. The PDP also had a visible presence at polling stations, covering 59 of the stations visited by The Carter Center, and representatives of the PDM, CPR, and Ettakatol were present at 24, 20, and 18 polling stations, respectively. Carter Center observers also reported the presence of list representatives from smaller parties as well as independent lists.

### Candidate Nominations

The candidate nomination period was conducted over just seven days, Sept. 1–7. Parties and independent candidates were allowed to present one list per constituency, and candidates were not allowed to be registered on more than one list. The number of candidates on the list had to equal the number of seats for the constituency, and electoral law required that the lists alternate between men and women and that all lists include at least one person under the age of 30.<sup>88</sup> In addition, to meet the age

87 Ettakatol, Ettajdid, CPR, PDP, Ennahdha, MDS, Democratic and Nationalistic Movement, Reform and Development Movement, Green Tunisia Party, Democratic Labor Party, Attaliaa, Socialist Left Party

88 Decree-Law 35, Articles 16 and 33, respectively



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requirements, candidates had to be at least 23 years old.<sup>89</sup>

Nominations proceeded at a slow pace during the first few days of the nomination period. In fact, nearly half of the applications were submitted to the IRIEs during the last two days of the nomination period, a possible indication that the time frame for nominations was too short.

Although The Carter Center assessed the nomination process to be generally open and inclusive, some inconsistent practices were observed. The electoral law stipulated that former members of authority within the RCD, former members of the Ben Ali government over the past decade, and signatories of a petition requesting that Ben Ali run for a new presidential term in 2014 were not permitted to stand for the elections. Carter Center observers reported that IRIEs were not consistent in their rejection of candidates based on ties to the former regime. Because the confidential database of barred persons did not include national identity card numbers, when there were doubts or discrepancies regarding an individual's identity, many IRIEs placed the burden of proof of identity on the candidates, whereas others IRIEs attempted to verify the identity of the individual themselves. In many of its decisions, the Administrative Tribunal ruled that the IRIEs should not have based their decision to reject a candidate solely on the database but should have considered additional information sources when restricting the right of a person to be elected.<sup>90</sup>

IRIEs also applied different procedures for dealing with cases in which the Democratic Socialist Movement (MDS) split and submitted two separate lists in several constituencies. After receiving confusing information from the ISIE, some IRIEs rejected both lists from the MDS, others accepted the first list to be submitted and rejected the other list, and still others accepted both lists. Going forward, The Carter Center recommends that the future EMB clearly

communicate procedures and the legal basis on which candidate lists can be rejected by the regional bodies and ensure that such procedures are consistently applied.

### Campaign Period

The right of individuals to freely assemble and participate in campaign activities is protected by international principles and fundamental electoral rights.<sup>91</sup>

The campaign period was generally peaceful, with candidates free to assemble and get their messages to the public. Although the months preceding the election were marked

by several protests and demonstrations, some of which turned violent and led to the renewal of a state of emergency and curfews, protests generally were not encouraged by candidates or parties. Campaign rallies organized by political parties and candidates were notably free of any major incidents or inference from the police or military.

Freedom of assembly was stipulated by Article 40 of the electoral law, which states that electoral rallies and meetings shall take place freely.<sup>92</sup> On July 26 and again on Aug. 26, the interim president signed an order to extend the state of emergency in place since January 2011.<sup>93</sup> The state of emergency prohibits public gatherings that “could threaten national security” and grants expansive powers to the minister of interior. Additionally, the minister of interior and the local governors were granted the right to search personal property as well as to censor the press, radio

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*Carter Center observers reported that IRIEs were not consistent in their rejection of candidates based on ties to the former regime.*

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<sup>89</sup> Decree-Law 35, Articles 24 to 29

<sup>90</sup> The processing of two lists submitted in the name of MDS in almost all constituencies following an internal split in the party also showed important discrepancies between IRIEs.

<sup>91</sup> ICCPR, Article 25(a); ICCPR, Article 21; UNHRC General Comment No. 25, para. 26

<sup>92</sup> ICCPR, Article 21

<sup>93</sup> Decree 1176 (Aug. 26, 2011) extends the state of emergency throughout Tunisia until Nov. 30.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA



Hugo Passarello Luna

*Ennahdha rally in Gafsa during the final days of the campaign. Freedom of assembly was upheld throughout the campaign period, and rallies were generally peaceful.*

broadcasts, and other activities without requiring prior judicial permission. While legislation restricting fundamental rights is generally inconsistent with the conduct of free elections, it is to be noted that the state-of-emergency law was not used to restrict the freedom of assembly in the context of the elections, including during the election campaign.<sup>94</sup>

The pre-campaign period was marked by a controversial decision by the ISIE to ban all forms of commercial political advertising from Sept. 12 to Oct. 1 despite the fact that law did not dictate this.<sup>95</sup> While the decision was intended to level the playing field for all candidates in a context of great disparities in terms of human and financial resources, the regulation was released relatively late in the process. At that time, several political parties already had

spent funds on campaigning through billboards across the country and various media outlets. The enforcement of the ban also was uneven and complicated by the lack of provisions clearly outlining penalties for violations and ambiguity as to whether the ISIE was entitled to regulate the pre-campaign period.

The ban created controversy, with the PDP and Free Patriotic Union (UPL) in particular contesting the legality of the ban before the Administrative Tribunal and refusing to abide by it.<sup>96</sup> The court rejected the claim and ruled that the ISIE was

<sup>94</sup> U.N. Handbook on Human Rights and Elections

<sup>95</sup> ISIE decision on rules and procedures for the electoral campaign (Sept. 3, 2011)

<sup>96</sup> UPL later removed their billboards on Sept. 20 in respect of the regulation.



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entitled to take such a decision as it is vested with general regulatory power on electoral matters to “prepare, monitor, and supervise” the election by the Decree-Law 27 on the creation of the ISIE. The Carter Center acknowledges the determination of the election authorities to promote fair competition but found that the principle of legal certainty and good practice should have required refraining from substantial changes to the legal framework in the immediate period before the elections.

The official campaign period opened on Oct. 1 and closed on Oct. 21. The kickoff to the campaign was slow, with only a handful of parties holding campaign rallies and few lists displaying campaign posters. Increased dynamism was perceptible in the second

half of the campaign period, with additional candidates holding rallies. Carter Center observers reported that political parties and list representatives generally respected the 24-hour blackout immediately before election day.

Generally, Ennahdha was the most visible and prominent party throughout Tunisia, appearing on the ballot in every district. The party had a very effective voter education campaign, advertising their platform and logo at the grassroots level, educating voters about the design of the ballot, and holding public meetings. They opened easily accessible offices in cities and towns throughout Tunisia. More than any other party, their posters were reported as being displayed in the locations designated by IRIEs. Smaller



Matt Beuhler

Campaign posters were displayed in specific areas designated by the IRIEs.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

parties relied on direct contact to approach voters, often distributing leaflets at weekly markets and conducting door-to-door campaigns. Most parties also relied heavily on social networks such as Facebook and e-mail campaign mechanisms.

The Carter Center's observers attending campaign events throughout Tunisia assessed the campaign environment as generally positive and peaceful. Freedom of assembly was upheld, as candidates and audiences were able to gather freely. Some campaign events that were not notified to the IRIEs 72 hours in advance, as required by the regulations, were not allowed to take place.<sup>97</sup> When security forces were present at campaign sites, they acted appropriately without interfering in the campaign. A few incidents were reported by observers during the campaign period, such as the robbing of Ettakatol party office in Ben Arous.

Carter Center observers reported that candidates generally did not use inflammatory language during rallies. The campaign messages went beyond issues strictly related to governance and the new constitution to encompass economic programs, commitments to overcome unemployment and fight corruption, and promises to develop the regions and strengthen foreign relations. However, the tone became heated toward the closing of the campaign period, with several political parties accusing each other of vote-buying.

Before the official campaign period started, Carter Center observers witnessed food distribution by the UPL in Kaala Kabira, near Sousse. Women from poorer villages lined up outside of the UPL headquarters to receive packets of food along with flyers requesting that they vote for the UPL. Observers also received reports from citizens about undue influence, ranging from gifts and financial assistance to attempts of vote-buying by several political parties, including Ennahdha, UPL, and CPR. However, no formal complaints were made, and when pressed, citizens admitted that they could not provide proof of these accusations. While The Carter Center condemns the practice of vote-buying as undermining genuine elections, it does not appear that vote-buying impacted

the credibility and legitimacy of the electoral process or the election results.

## CAMPAIGN FINANCE

Equitable treatment of candidates and parties during an election as well as the maintenance of an open and transparent campaign environment are important to protecting the integrity of the democratic election process.<sup>98</sup> States are not obliged to provide public funding for parties and candidates. However, there is a growing trend toward providing such funding as a means of ensuring a level playing field, thus fulfilling the state's obligation to ensure that all citizens have a right to be elected. If such funding is offered, it must be done equitably.

The legal framework for the National Constituent Assembly provides for public financing of the campaign and the imposition of a campaign-spending ceiling. While the use of foreign funds and private assets were prohibited by Article 52, the nature of allowed funding should have been specified in the law. Public funds were to be provided to candidates' lists as follows: 35 Tunisian dinar (TND) (approximately US \$25) for every 1,000 registered voters in constituencies with less than 200,000 voters and 25 TND (approximately US \$18) for every 1,000 registered voters in constituencies with more than 200,000 voters. The law also imposed a ceiling on campaign expenditures at three times the amount provided for by the state. For example, public financing in a constituency with 199,999 voters amounted to 7,000 TND (approximately US \$4,900) and the maximum spending allowed was 21,000 TND (approximately US \$14,800).

The first installment, equivalent to 50 percent of the total amount, was to be disbursed seven days before the start of the campaign. The second was to be disbursed 10 days before the end of the campaign, upon request and presentation of campaign

97 ISIE decision on rules and procedures for the electoral campaign (Sept. 3, 2011)

98 ICCPR, Article 25(b); ICEFRD, Article 5(c); UNHCR General Comment No. 25



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expenditures of the first installment. Decree-Law 35 also stipulated that if the candidate list did not get 3 percent of the vote in the constituency, its members must repay the second tranche, a positive measure to discourage the exploitation of public funds by unviable political parties.

Political parties and independent candidate lists were required to open dedicated bank accounts for campaign funds and expenditures, while the law also foresaw the audit of campaign expenditures by the ISIE and the Court of Auditors after the elections.

The provisions on campaign finance were intended to ensure equal opportunities for contenders and prevent disproportionate expenses on behalf of any candidate. However, the funding mechanism, involving the election authorities, the Ministry of Finance, and the Treasury, was not always administered efficiently. Some candidates interviewed by Carter Center observers showed evidence of late receipt of public funds. For newly established parties and independent candidates relying mainly on public financing, such delays affected their ability to campaign.

In addition, there were concerns during the campaign period that certain political parties had received funding from foreign sources, contrary to the law. Carter Center observers were not able to confirm these allegations, but they were reported on widely in the news. Given the potential impact of foreign funding on the elections, stronger enforcement mechanisms should be put in place to implement the campaign finance provisions of the electoral law. The Carter Center also encourages the future EMB to regulate the financial practices of all parties during the campaign period to avoid having to investigate and disqualify parties or candidates after the election has already taken place.

The Center noted that while the regulation of campaign financing was detailed, its control mechanisms were complex and their application difficult for the election and judicial authorities. For instance, in light of the high number of candidate lists, the ISIE had little time to scrutinize all bank accounts and examine if seats should have been revoked under the application of Article 70 of the electoral law.

Indeed, ISIE's power to annul seats expired with the announcement of the preliminary results. The Carter Center expressed concerns that given this short deadline, it was difficult for the ISIE to apply the regulations consistently, leading to a possible perceived selectivity in targeting specific lists.<sup>99</sup>

The Court of Auditors also is vested with the power to perform posterior controls by way of scrutiny of the candidate lists' bank account.<sup>100</sup> This control may result in financial penalties and in the automatic loss of the status of candidate or elected candidate if it is proven by court that the individual or the party list has received funding from abroad. Such a sanction can be applied for up to a period of two years from the date of the announcement of the final results.

In sum, The Carter Center recommends that the legal framework be amended to put stronger enforcement measures for campaign violations in place to protect the integrity of the electoral process. Penalties for violations should be proportional, based on the gravity of the violation, rather than the current mechanism that annuls the seat regardless of the type of violation.<sup>101</sup> The right to be elected is an essential component of a genuinely democratic electoral process, and the reasoning for taking away a basic right should have a strong justification. The process for disbursing state funds also should be simplified in order to ensure that all parties receive funds in a timely manner to uphold Tunisia's commitment to treating candidates and parties in an equitable manner.<sup>102</sup>

## THE MEDIA

Media outlets in Tunisia during Ben Ali's era were severely oppressed. In 2010, press freedom in the country was on the "Worst 15 List" established by Reporters Without Borders.<sup>103</sup> International obliga-

<sup>99</sup> See section that follows on Electoral Dispute Resolution

<sup>100</sup> Decree-Law 35, Articles 52 and 77

<sup>101</sup> U.N., ICCPR, Article 25(b)

<sup>102</sup> Decree-Law 35, Article 37

<sup>103</sup> Reporters Without Borders, "Press Freedom Index 2010" <http://en.rsf.org/press-freedom-index-2010,1034.html> (accessed Dec. 1, 2011)



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Reporters awaited results in the ISIE's media center in Tunis.

tions for democratic elections require that all people have the right to receive and seek information and explore new ideas, a right which was severely restricted in the Ben Ali era.<sup>104</sup> The freedom of expression enjoyed since the fall of Ben Ali represents an important change, but the need remains to build the capacity of journalists to uphold professional standards.

The electoral law and related decisions by the ISIE regulating the media environment during the campaign period reflected efforts to ensure that all candidate lists were provided with equal opportunities to compete. Each list was granted three minutes of free airtime on public TV and radio, following an order of appearance determined by lottery on Sept. 13 in a live broadcast.<sup>105</sup> Public and private media were to abide by the principles of neutrality and impartiality, while private media were allowed to broadcast electoral programs in a nondiscriminatory basis at their own costs and in close coordination with the public media and the ISIE.<sup>106</sup>

The ISIE was tasked with ensuring equal treatment for all candidates' lists and established a media-monitoring unit. The ISIE monitoring reports covering audiovisual media and newspapers showed

that media generally complied with principles of neutrality and impartiality, except for some private media outlets. The ISIE reports also noted that female candidates received significantly lower media coverage during the campaign period and the months before. Public TV Channels 1 and 2 both devoted less than 10 percent of airtime to women candidates. The private TV channel Nessma devoted about 25 percent of airtime to women.

Civil society groups within Tunisia, including the Association of Democratic Women (ATFD), also conducted media monitoring. ATFD's media monitoring reports contained several critiques of the

media environment in Tunisia.<sup>107</sup> The reports faulted local journalists for not playing a sufficient role in educating the population about the role of the NCA and the differences between various political parties and independent lists. They also critiqued media outlets for a lack of neutrality in their coverage of political actors and encouraged the media to foster more investigative journalism and debate. They decried the marginalization of female politicians in media coverage, noting that the lack of airtime given to female politicians was not proportional to the important role they played in the democratic transition of Tunisia.

Although the Carter Center's mission did not contain a formal media monitoring component, long-term observers were tasked with reporting on

104 ICCPR, Article 19(2); UNCAC, Article 10(a) and 13(b)

105 ISIE decision on the conditions for production, programming and broadcasting of radio and TV shows related to the election campaign, Article 4 (adopted on Sept. 3, 2011)

106 ISIE decision fixing the rules for audiovisual media during the campaign, Article 3 (adopted on Sept. 3, 2011)

107 ATFD Media Monitoring, Results of the 3rd Media Observation Period (Oct. 1–23, 2011)



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the general media environment, the quality and impartiality of the media, and the equality of access to media sources among the different political parties. Carter Center observers noted that although media generally reported in a neutral and impartial manner, media outlets were mostly focused in Tunis and other major cities, with few local media outlets reporting on electoral issues. Observers also heard complaints that the media focused on the larger parties and did not approach candidates on independent lists to solicit interviews or their participation in debates. This created a perception of bias but was more likely due to the difficult task of covering every candidate list and party among so many.

Although both private and public media covered the elections free from major interference and sought to provide balanced coverage, in the future the Tunisian media needs to develop a greater capacity to reach out to voters and citizens on electoral matters. In addition, the future EMB should provide more guidance on how media should implement parity requirements in practice.

## CIVIL SOCIETY

The right to participate in public affairs is a widely recognized obligation in public international law.<sup>108</sup> Impartial election monitoring is a means for citizens to participate in and promote the integrity of democratic processes.

The number of civil society and domestic observer groups that were able to organize in the months leading up to the election was commendable, especially in light of the fact that few such organizations existed prior to the revolution. Carter Center observers were impressed by the enthusiasm and professionalism demonstrated by the newly formed organizations as well as by those that had prior organizational experience. The most active and large networks that organized to observe the elections were the National Observatory for the Elections, the Association for Transparency and Integrity of the Elections (ATIDE), Mourakiboun, Awfiya, Chahed, and the League of



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*Mrs. Carter speaks with a domestic observer in a polling station on election day.*

Tunisian Women Voters. According to official figures, the ISIE accredited 13,392 domestic observers and 661 international observers.<sup>109</sup>

Prior to the elections, civil society organizations (CSOs) also held an important role in the High Commission, assisting with the creation of a framework for Tunisia's democratic transition. Eighteen organizations participated in the commission, including the Tunisian General Trade Union (UGTT), the National Bar Association, the Association of Tunisian Judges, the Tunisian Human Rights Defense League (LTDH), the Tunisian Association of Democratic Women (ATFD), the National Association of Physicians, the National Council for Liberties in Tunisia (CNLT), the International Association for Support of Political Prisoners (AISPP), the Liberty and Justice Association, and the National Union of Tunisian Journalists. The inclusion of civil society groups in the High Commission gave voice to portions of society that otherwise might not have been represented by the formal political parties and represented an important step for the development of a vivid civil society in Tunisia.

<sup>108</sup> ICCPR, Article 25 (a); U.N. Human Rights Committee, General Comment No. 25

<sup>109</sup> Awfiya is a coalition of more than 100 NGOs focusing on the elections.



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Various civil society organizations made efforts to conduct voter education and get-out-the-vote campaigns prior to the election. However, most organizations lacked the capacity to reach voters on a large scale. Observers reported that many organizations were active on a regional level. For example, *Jeunesse Sans Frontieres* (JIF), *Centre de la Citoyennete et de la Democratie* (CECIDE), *ATIDE*, and *Jeunes Independants Democratres* (JID) were the most prominent organizations in the Tunis area. *Association Femme et Citoyennete* (AFC) and *Association Femmes Progressistes* (AFP) organized campaigns in various cities in the El Kef and Siliana regions. Both organizations focused on reaching out to women, traveling to women's homes and public gathering places to speak with them about their rights and distributing an ISIE document that explained the electoral process.

In Sfax, the *PaCTE Tunisien* organized volunteer IT professionals to provide technical expertise to the local IRIE, and *Chahed* conducted a range of civic and human rights activities, including a program called *I Woman* that targeted women in more conservative inland Tunisia. In Beja, the *Association Manifeste Pour Le Developement et la Democratie* organized several events and forums for citizens to express their feelings about the revolution and discuss the future of Tunisia and what citizenship means and the role of women during and postrevolution. BYRSA produced a short video about the electoral process that was broadcast on national Tunisian news.

In spite of these voter education efforts, most CSOs were focused on creating a network of observers and did not devote sufficient time or attention to conducting a comprehensive campaign to educate voters on the process and importance of voting in the NCA elections. Voter education campaigns contained very little on the actual mechanics of voting and

how to mark a ballot. In advance of future electoral events, The Carter Center recommends that CSOs focus additional resources and attention on educating voters on the electoral process in its entirety.

During the voter registration period in July and August, Carter Center observers reported that CSOs were often slow to establish relationships with the IRIEs, and the flow of communication between the ISIE, the IRIEs, and CSOs was not always effective. During the first week in August, a coalition of CSOs called on the ISIE to increase its cooperation with civil society and to hold regular information meetings

between the ISIE and CSOs. The ISIE responded positively to this initiative, held regular meetings with CSOs after this point, and proved to be responsive to concerns brought up by CSOs. However, regular meetings did not always occur between local CSOs, many of which were active only in particular regions and their corresponding regional election authorities.

In the future, The Carter Center recommends that CSOs, the future EMB, and its regional branches work to create a more effective partnership. The Center notes that a proactive effort should be made by the regional and national election authorities as well as by CSOs to promote a more effective flow of information. Election authorities should work to inform CSOs of procedures and important developments in the administration of elections, and CSOs should ensure that they are aware of their roles, rights, and duties to work toward a more cooperative relationship with election authorities.

In the days leading up to the elections, many domestic observation groups had problems ensuring that all of their observers obtained accreditation from the ISIE. According to rules and procedures issued by the ISIE, domestic observers had to have experience "in the electoral domain" in order to obtain

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*In the days leading up to the elections, many domestic observation groups had problems ensuring that all of their observers obtained accreditation from the ISIE.*

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accreditation.<sup>110</sup> Since this was the first experience that Tunisians had with competitive elections, most observer groups were not able to submit observer applicants with prior election-observation experience. Therefore, observer groups launched observer training sessions in the weeks leading up to the elections in an effort to ensure their members qualified for observer accreditation.

As a result of ensuring that their members were qualified, many organizations were unable to submit their observer accreditation paperwork until just before the deadline of Oct. 8. At the last moment the ISIE extended the accreditation deadline to Oct. 14 and worked diligently to produce observer badges for all qualified observers, but many domestic observer groups did not receive their accreditation badges until the day before the elections, putting tremendous pressure on the organizations to deliver the badges to their observers scattered all over the country.

For future elections, The Carter Center recommends that the EMB set reasonable deadlines and criteria for the successful submission of observer accreditation applications. The future EMB should also ensure it has sufficient staffing and organizational capability to process a large number of accreditation applications prior to the next election.

### PRE-ELECTION ELECTORAL DISPUTE RESOLUTION

The Carter Center recognizes Tunisia's efforts to fulfill its obligation to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.<sup>111</sup> The electoral law provides for electoral dispute mechanisms through judicial appeals at several stages of the electoral process, including exhibition of provisional voter list,<sup>112</sup> candidate nomination,<sup>113</sup> electoral campaign,<sup>114</sup> and preliminary results.<sup>115</sup> However, some aspects of the adjudication process lacked consistency, failed to specify deadlines, or were not spelled out in enough detail. For instance, during the candidate nomination phase, the lack of a clear deadline for the adjudication

process resulted in the Administrative Tribunal granting lists the right to compete for the NCA six days after the electoral campaign had already started.<sup>116</sup> As a consequence, a few candidate lists lost one of only three weeks to campaign. Electoral good practice suggests that parties should be given equal opportunities, including campaign time.<sup>117</sup>

During the campaign period, the ISIE was in charge of monitoring violations and receiving complaints related to the electoral campaign and issuing "sanctions," with a possibility to appeal its decisions before the Administrative Tribunal. However, the ISIE did not issue a regulation to detail the procedures for complainants to submit a complaint, leaving list representatives and the media with no clear information about the way to file a claim or the adjudication process.<sup>118</sup> The process also was open only to the head of list or the head's representative and not open to eligible voters, other candidates, or civil society organizations. Despite reported violations, no complaints were filed with the ISIE or the Administrative Tribunal during the campaign period.

While there were very few complaints during the display of the preliminary voter list and the campaign period (due in part to late dissemination or absence of procedures), during the nomination process more than 50 percent of the candidates whose lists had been rejected filed an appeal before the Tribunals of

110 ISIE, "Conditions d'Octroi de l'Accréditation"

111 ICCPR, Article 2(3); UNHRC, General Comment No. 32, para. 18

112 Decree-Law 35, Articles 12–14

113 Decree-Law 35, Article 29

114 Decree-Law 35, Article 47

115 Decree-Law 35, Article 72

116 New Article 29 mentions that the plaintiff can appeal the decision of the Court of First Instance within two days to the Administrative Tribunal following the notification of the decision. However, the law does not specify a deadline by which the Court of First Instance must notify the plaintiff of its decision.

117 ICCPR, Article 26—"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law"; OSCE, Election Observation Handbook (Fifth Edition), p. 47—"All contestants should have an equal period of time in which to campaign."

118 ISIE decision setting the rules and procedures for the electoral campaign, Article 32



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First Instance.<sup>119</sup>

There were 90 cases filed before the Administrative Tribunal, with the IRIEs appealing the decision in 35 cases. In order to deal with this caseload during the legal deadline, five chambers were entrusted with electoral disputes during the legally mandated period.

The Administrative Tribunal overruled many decisions of the IRIEs, leading to more than 41 additional lists accepted. Some of the Administrative Tribunal's decisions were quite innovative, accepting, for example, the appeal of a human rights group regarding the *acceptance* of a list by the IRIE in Tataouine, whereas Article 29 of the electoral law stated that only the *rejection* of a list registration can be challenged and only "by the head of the list or his/her representative."

Since the revolution, there have been very few changes in the judicial system, which has been marred by a lack of independence and impartiality. The public has little confidence in the judicial system as a mechanism of justice. However, during the electoral process, the adjudication process was generally undertaken in a transparent manner, including through public hearings and, in most cases, the publication of decisions.

### ELECTION-RELATED VIOLENCE

The months leading up to the election were marked by sporadic protests. The nature of the demonstrations reflected the poor socioeconomic conditions under which many Tunisians still lived in the months after the revolution as well as mistrust that the interim government would effectively facilitate a transition to democracy. Protests and incidents also were linked to disagreements over the role of religion in the new political discourse of Tunisia.

In early May, protests broke out in response to comments by former Interior Minister Farhat Rajhi stating that Ben Ali loyalists might seize power if Islamists won a significant number of seats in the

upcoming NCA elections. Protesters feared that the interim government would not implement the next steps toward democracy and were frustrated with the slow rate of reform. Demonstrators threw stones at police and set cars on fire in the streets of central Tunis. Security forces used tear gas and shot in the air to disperse the crowds, and a curfew was reinstated. Although there were a series of arrests and some injuries, no deaths were reported.

Several incidents between Islamist activists and police forces occurred in Tunis and other major cities

*The months leading up to the election were marked by sporadic protests.*



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*Many protests in the months preceding the elections were linked to the disagreements over the role of religion in the new political discourse of Tunisia.*

<sup>119</sup> At the time of writing, no official figures regarding the exact number of rejected lists were available. The Center, however, was told by the ISIE that around 220 lists originally were rejected by the IRIEs.



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in mid-July, and at least six policeman were wounded the attacks, according to the Ministry of the Interior. Following sit-ins and attacks on police premises, Prime Minister Caid Essebsi addressed the nation in a speech implying that some political parties were fomenting protests and violence in order to overturn the electoral process. While Prime Minister Essebsi did not explicitly name them, local commentators believed he was hinting at Islamist parties, in particular Ennahdha, since protesters had been identified as “bearded.” Essebsi encouraged parties to condemn recent events in clear terms. Ennahdha party leaders subsequently denounced the violence. He also called on media to be aware of its important role in sensitizing the Tunisian people to the idea that “security is a collective responsibility” and in refraining from spreading rumors.

A series of violent protests and demonstrations at the end of Ramadan in late August led Prime Minister Essebsi to extend the state of emergency, in place since January, for three more months, and curfews were imposed in many areas. Protests were economic in nature, taking place throughout central, western, and southwestern Tunisia, and some led to violent incidents. Trouble seemed to be mostly local, focused around certain towns and villages where unemployment rates were high.

In early October, there were a series of incidents involving religious activists. In response to the

University of Sousse’s decision to refuse to enroll several female students who wanted to wear the *niqab*, a full-faced veil, four young men identified as religious extremists armed with knives threatened the dean of the university. The next day, Islamists attacked the headquarters of Nessma TV in response to the station’s broadcast of “Persepolis,” a film that includes a literal depiction of God, which is forbidden by Islam. Protests spread to several cities throughout the country and sparked counterprotests against the perceived influence of Islamism in political discourse leading up to the election period. While not directly related to the election, the film and the protests surrounding it generated accusations and counteraccusations among the major parties regarding the role of Islam in politics and in the elections.

The protests and demonstrations that took place in the months leading up to the elections created a cautious atmosphere in Tunisia, and some members of the public feared that mass protests and violence would accompany the elections. In anticipation of potential unrest, Tunisians stocked up supplies, including food and water, in the days leading up to the elections. The concerns were not realized, though, as election day was peaceful and free of major demonstrations.



## ELECTION DAY

The voting process is the cornerstone of the obligation for the free expression of the will of the people through genuine, periodic elections. Certain participatory rights must be fulfilled in order for the voting process to reflect accurately the will of the people. Foremost among these are the right to vote, to participate in public affairs, and to enjoy security of the person.<sup>120</sup> The state must take all necessary steps to ensure that such rights are fully protected and awarded to all citizens in an equal and non-discriminatory manner.<sup>121</sup>

Polling was held on Oct. 23 in a peaceful and orderly atmosphere, with 52 percent of eligible voters coming out to vote. The turnout for voters who participated in the active voter registration process was high, with an 86 percent participation rate for voluntarily registered voters and a 16 percent participation rate for automatically registered voters. An estimated 45–46 percent of voters were women. While Carter Center observers reported long lines at polling stations and some voter confusion regarding their polling center assignments, voters were enthusiastic and the atmosphere of the day was celebratory.

### OPENING

Polling materials were delivered on Oct. 21–22 by the military, and Carter Center observers reported that the materials appeared to be secure until polling. At least four polling officials, including the head of the station, the ID checker, the ballot supervisor, and the queue agents, were present in more than 90 percent of the polling stations observed. Observers reported that 36 percent of the polling station officials and 24 percent of polling station heads at observed polling stations were women. Polling officials arrived with suffi-

cient time to set up the polling station, and observers reported that all materials, including ballot papers, the voter register, indelible ink, seals, the polling journal, ballot box, voting booths, and stamps were present at the observed polling stations. Observers

reported that voter lists were not posted outside of many polling stations visited, however, as dictated by the Voting and Counting Procedures Manual.<sup>122</sup>

Small delays in opening occurred in some locations, but observers reported that all polling stations were open within 15 minutes of the official

7 a.m. opening time. Soon after opening, lines outside polling centers began to grow and increased in length throughout the day.

### POLLING

Maintaining public confidence in the electoral process requires that accepted international obligations be met regarding universal and equal suffrage, secret ballot, and access to information.<sup>123</sup>

In spite of long lines outside the centers, polling centers staff were effective in moving voters through the process after entering the polling station. Registration staff checked national ID cards and inked fingers to ensure the prevention of duplicate voting, in line with Tunisia's international obligations to provide equal suffrage for all citizens.<sup>124</sup> Carter

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*Polling was held on Oct. 23 in a peaceful and orderly atmosphere, with 52 percent of eligible voters coming out to vote.*

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<sup>120</sup> ICCPR, Articles 2, 25(a), and 9

<sup>121</sup> ICCPR, Article 2(2); ICEFRD, Article 1

<sup>122</sup> Display of the voter list was not mandated by the electoral law but appeared in the Voting and Counting Procedures Manual: "The head of the polling station shall ensure that voter lists are exhibited in the entrance of the office."

<sup>123</sup> Convention on the Rights of Persons with Disabilities, Article 29(a); ICCPR, Article 2 and 19(2); UNCAC, Article 18

<sup>124</sup> ICCPR, Article 25; UNHCR, General Comment No. 25



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*Tunisians patiently waited in long lines and exhibited a great deal of pride in exercising their right to vote.*

Center observers overwhelmingly rated polling station staff as “good” or “very good” and were impressed with their professionalism.

Observers reported many instances in which elderly or illiterate voters struggled to fill out the ballot, an issue that should be addressed in future elections in order to ensure that disabled or illiterate voters are able to express their voting intentions independently.<sup>125</sup> Following concerns expressed by civil society organizations that a provision in the electoral law allowing disabled or illiterate voters to receive assistance in the voting booth would lead to vote-buying and undue influence, the ISIE determined that disabled or illiterate voters requesting assistance must present polling station officials with a “disabled card.” Voters were generally uninformed of this provision, and many illiterate and disabled voters did not have such a card and were not permitted to receive assistance. Although the ISIE’s response reflects an effort to follow good practices for protecting the secrecy of the ballot,<sup>126</sup> the ISIE should take additional steps to ensure that all polling station staff is aware of these provisions and procedures for assisting disabled and

illiterate voters and apply them consistently. The ISIE also should undertake additional outreach to ensure that voters are aware of these provisions and the requirements for obtaining assistance at the polls.

Most other voters received their ballots, marked them, and deposited them relatively quickly. In spite of this efficiency within polling stations, however, there were several issues that contributed to long lines at the polling stations throughout the day.

The late decision by the ISIE to create specialized polling centers for voters who did not participate in the active registration process created confusion for voters. The ISIE created 267 specialized polling centers for voters who did not participate in the active registration process but who were eligible based on the civil registry. Many voters were confused or unaware of the need to report to specialized polling

<sup>125</sup> UNHCR, General Comment No. 25

<sup>126</sup> United Nations Human Rights Committee, General Comment No. 25, para. 20; Norwegian Helsinki Committee, “Election Observation” in *Manual on Human Rights Monitoring: An Introduction for Human Rights Field Officers*, p. 12; EU, *Handbook for European Union Election Observation*, Second Edition, p. 77



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centers and, instead, frequently had to be redirected from regular polling centers, many times after a significant wait to reach the head of the line. The ISIE estimated that approximately 3.1 million eligible voters did not participate in the registration process and were assigned to the 267 specialized polling centers, divided into 911 polling stations. This division meant that approximately 3,400 voters were assigned to each polling station.

The ISIE reported that about 16 percent of eligible voters who had been automatically registered cast their ballots on election day. Carter Center observers reported that although some specialized polling centers were overwhelmed by the high numbers of voters, others were virtually empty. In many cases, lines were longer and the atmosphere more chaotic

in specialized polling centers than in regular polling centers, but others were quiet and orderly throughout the day.

Following good practice to meet its obligation for universal suffrage, The Carter Center urges the future

EMB to make special efforts to update and verify the voter registry and allocate these voters not yet assigned to regular polling stations so that specialized polling centers are not necessary in future elections.<sup>127</sup>

With the assistance of the CNI, the ISIE put in place a system of text

messaging for all voters, whether they had actively registered or not, to check which polling center they were assigned. The texting system was operational on election day but was flooded with texts just after the opening of the polls. This created a backlog of voters who were waiting to receive a response from the ISIE regarding their correct polling station. Many voters did not receive a text response for two to three hours to confirm their correct polling center and, therefore, went to the nearest polling center and waited in line, only to be told upon reaching the head of the line that they were not assigned to that center. Other voters received a text message informing them of their assigned polling station only to find that their designated polling station was several kilometers away. Observers reported that some voters became discouraged under these circumstances and likely could not or would not travel to their assigned polling center and did not vote. This problem could have been mitigated to a certain extent had voter lists

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*With the assistance of the CNI, the ISIE put in place a system of text messaging for all voters, whether they had actively registered or not, to check which polling center they were assigned.*

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### OUT-OF-COUNTRY VOTING

To help ensure the civic and political rights of Tunisian citizens residing abroad, out-of-country voting was conducted over a three-day period from Oct. 20–22, 2011. Eighteen seats were designated in a total of six electoral districts: France I (five seats), France II (five seats), Italy (three seats), Germany (one seat), Europe and the Americas (two seats), and Arab countries and the rest of the world (two seats). Tunisian diplomatic and consular missions were responsible for the registration of eligible Tunisian voters living abroad and were responsible for reviewing the same under the supervision of the ISIE. Voters were entitled to the right to scrutinize and submit challenges to the voter list at least 30 days before polling day.

As reported by the ISIE, 214,231 votes cast were cast in out-of-country operations, representing an estimated 30 percent of the total number of eligible voters living abroad.

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<sup>127</sup> ICCPR, Article 25 (b): “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions: (b) To vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voter.” U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 104: “Polling stations should be distributed so as to guarantee equal access within each constituency.”



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*Although the ISIE did not officially track female participation in the polling process, it estimated that women made up 45 to 46 percent of the total number of voters.*



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been consistently posted at polling centers as foreseen in the Voting and Counting Procedures Manual.<sup>128</sup> Carter Center observers noted that voter lists were frequently not posted at polling centers.

Another problem reported by Carter Center observers was that polling stations within a given polling center had an uneven distribution of voters. For example, a polling center with 1,800 voters might have 800 voters assigned to the first polling station, 800 assigned to the second polling station, and just 200 assigned to the third polling station, resulting in long lines at the first two stations and often no line at all at the third station. In order to reflect international good practice for ensuring universal suffrage, in the future the ISIE should ensure that numbers of voters are equitably distributed between polling stations.<sup>129</sup>

Although queue controllers were present at each polling station, it would have been useful to have an election worker in the courtyard of each polling station directing voters to the correct queue, assisting voters with the use of the SMS system, directing

them toward the voter lists for each polling station, and asking voters who had already voted to leave the polling center. This would have eased overcrowding and created a more organized atmosphere within the polling centers.

Carter Center observers noted the positive participation of female voters on polling day. In some urban areas, women formed more than half of the voters observed throughout the day; however, the percentage of female voters was much lower in rural areas. According to estimates by ISIE President Kemal Jendoubi, women represented 45–46 percent of the total number of voters, but he noted that exact numbers were not available as the ISIE did not track female participation on polling day. The Carter Center recommends that the future EMB develop

<sup>128</sup> Display of the voter list was not mandated by the electoral law but appeared in the Voting and Counting Procedures Manual: “The head of the polling station shall ensure that voter lists are exhibited in the entrance of the office.”

<sup>129</sup> EU, Handbook for European Union Election Observation, Second Edition, p. 75



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procedures to track the participation of women in the polling process and conduct a targeted voter education campaign to reach female voters in rural areas to increase participation.

In spite of the long lines, crowds, and potential for conflict, conditions within polling centers were remarkably peaceful. The majority of voters waited patiently for their opportunity to enter the polling station and cast their vote, and election day was free from major demonstrations or incidents.

### SECURITY

Election security is the process of protecting electoral stakeholders, keeping electoral information secure, and preventing the disruption of electoral events. The right to liberty and security of the person are reinforced in public international charters, covenants, and treaties.<sup>130</sup>

The military in Tunisia played an integral role in ensuring the smooth transition to democracy and continued to act in a professional and apolitical manner on election day. The military facilitated the delivery of materials to polling centers and maintained a presence at polling centers throughout polling in order to ensure the security of materials and the safety of voters. The military also facilitated the transportation of ballot boxes from polling centers to tabulation centers.

The military played a more active role than the police force in providing election security due to the popular perception of the military as a non-biased actor. The police force was still regarded with suspicion by the general public because of its role in enforcing Ben Ali's repressive regime.

Tunisian electoral law allows the polling station head to call on the General Security Forces to maintain order within a polling station if necessary.<sup>131</sup> In spite of the large crowds, most polling stations were peaceful, and only one instance of this occurrence was noted by observers at an especially chaotic special polling center in the rural area of Sejnane in the Bizerte governorate.

Although security forces were present in polling centers, they refrained from intimidation and acted in an appropriate and impartial manner. The conduct of the military was consistent with generally accepted good practice. In the future, security forces should receive training regarding their appropriate role in the election process and their responsibilities for upholding Tunisia's human rights obligations. Polling officials also should be trained to ensure they have a proper understanding of the role of security forces. The ISIE should coordinate with security forces to optimize planning and information-sharing.

### ACCESS FOR CIVIL SOCIETY AND DOMESTIC GROUPS

Carter Center observers reported that domestic observer groups and list representatives were present in most polling stations on election day. However, delays in obtaining accreditation badges restricted the access of domestic observers to polling stations in the early hours of voting.

The Tunisian Human Rights Defense League (LTDH) was the most present of the civil society organizations, appearing at 42.5 percent of the polling stations visited by Carter Center observers, with the Tunisian Association for Democracy Awakening (ATED) and the Association for Transparency and Integrity of the Elections (ATIDE) present at 19.5 percent and 16 percent of polling stations, respectively. Carter Center observers reported that list representatives from Ennahdha were present at 94.2 percent of polling stations, whereas list representatives from the PDP were present at 23 percent of polling stations and PDM, CPR, and Ettakatol were present at 9.3 percent, 7.8 percent, and 7 percent of polling stations, respectively.

Observers appeared well-organized and often stayed at a given polling station to observe the entire process. Tunisian observers generally played a very

<sup>130</sup> ICCPR, Article 9; ICEFRB, Article 5; ACHR, Article 14; AfCHPR, Article 6

<sup>131</sup> Decree-Law 72, Article 57



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*The military played the important role of guarantors of the revolution and were trusted to provide impartial security on election day.*

positive role and contributed to increased transparency in the elections.

In some stations, however, Carter Center observers noted that Tunisian domestic observers became directly involved in the process. Despite good intentions, they exceeded their mandated role. In Ben Arous, for example, Carter Center observers reported that a domestic observer was giving advice to polling staff on how to set up the polling station and later directing voters as if he were a member of the staff. At a polling station in Kairouan, a domestic observer was instructing voters on how to fold their ballot. Carter Center observers reported the active

participation of Tunisian observers during the counting process as well. Although well-received by the polling staff, involvement by observers or list representatives in polling and counting processes is contrary to procedures and inappropriate for the role of an observer.

While observers benefited from freedom of movement around the country and observed polling and counting processes, they reported being refused access to tabulation centers in several constituencies, including Beja, Sidi Bouzid, Nabeul II, and Mahdia. Carter Center observers also experienced difficulties accessing certain tabulation sites.



## POSTELECTION DEVELOPMENTS

### VOTE COUNTING AND TABULATION

The vote-counting process represents a critical part of electoral operations where extensive efforts are necessary to ensure accuracy and minimize opportunities for fraud. The electoral management body should work to keep the general public updated and informed to help enhance the integrity of the electoral process and guarantee the free expression of the will of the voters.<sup>132</sup>

Overall, Carter Center observers reported that polling center staff was deliberate and conscientious in observing closing and counting procedures. Observers reported many staff members consulting the manual closely on a step-by-step basis in order to ensure the correct procedures for verifying and counting ballots were followed. While well-intentioned, polling staff did not appear appropriately trained on the counting procedures and the correct way to store materials, resulting in a slow and laborious process, in some cases, lasting several hours to count and reconcile ballots.



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*The military collected ballot boxes from polling stations and delivered them to tabulation centers. The process took longer than expected, however, delaying the tabulation process.*

Although staff anticipated tabulation would occur in the hours following the closing of the polls, delivery of the materials took longer than anticipated by the Tunisian army, as units completing a circuit had to wait until all polling centers were finished before completing their collection route. As a result, staff became unnecessarily fatigued due to the unanticipated length of time it took to complete the process.

The Center acknowledges that the tabulation process was conducted in a fairly organized manner; however, the ISIE did not prepare an operational manual of procedures for the tabulation process and instead issued informal instructions late in the process to IRIE staff. IRIE staff members also received minimal training and were largely unfamiliar with the results management system. As a result, the tabulation process varied from region to region, in particular regarding the way electoral officials resolved potential inaccuracies in results protocols.

Additionally, the criteria for quarantining results-reconciliation forms that contained errors, as well as the relevant decision-making authority regarding any changes, were unclear. Timely decision-making from the ISIE and better preparedness would have strengthened the integrity of the results management process and enhanced the transparency of this critical phase of the process.<sup>133</sup>

In future electoral processes, The Carter Center recommends that election authorities ensure that regulations and procedures regarding data processing are disseminated and explained to electoral stakeholders well in advance. Procedures should address the review and audit of results by authorities to ensure adequate and transparent safeguards are in place.<sup>134</sup>

<sup>132</sup> U.N., ICCPR, Article 25(b)

<sup>133</sup> AU, African Charter on Democracy, Elections, and Governance, Articles 3 and 12

<sup>134</sup> U.N., UNHCR, General Comment No. 25, para. 20, on “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service”



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Access to observe the tabulation process was varied across the country. While some IRIEs allowed observers and party agents to observe tabulation closely, in other areas, observers were permitted to be present at the work areas only in limited and controlled groups, sometimes as a result of the limited space available, which did not allow direct observation of the process. Firsthand information is key in conducting credible and impartial observation. Regrettably, observers in many areas needed to rely on informal interactions with IRIE senior management and data entry staff in order to assess the level of progress and issues arising during the tabulation process.

There were several incidents of results protocol forms (*process verbaux*) being mistakenly included in sealed ballot boxes with sensitive materials on completion of the count. To resolve the situation, the ISIE issued guidance directing the IRIEs to open ballot boxes and remove the *process verbaux* in the presence of a legal official (in most cases, a bailiff), representatives of political parties and independent lists, and domestic and international observers. In general, IRIEs managed such unexpected incidents in a uniform and transparent manner after receiving instructions.

The Center commends IRIE staff who showed great dedication to the task despite the numerous challenges of this lengthy operation. The Center recommends enhanced training on procedures to avoid a repetition of this type of issue during future electoral events.

For future elections, The Carter Center recommends that the EMB develop a results management system and detailed procedures for tabulation, in particular with regard to discrepancies on results forms and the delineation of authority to correct potential tabulation errors. This would assist in the alleviation

of delays and potential disputes arising during the tabulation process.

## ELECTION RESULTS

The ISIE announced preliminary results on Oct. 27 in Tunis. The announcement followed the release of partial results as tabulation was completed by district. The release of partial results was not initially planned

by the ISIE but was a positive measure to help alleviate concerns as to why the process was taking longer than anticipated and to appease tension among stakeholders.

To enable the public and other stakeholders to verify the accuracy of the results and to increase public confidence, The Carter Center recommends that the future EMB publish the preliminary results disaggregated by individual polling station on its web-

site, as stipulated by law, and that they be given to national media as soon as possible. In addition, the EMB should consider posting the results protocols at the polling station level and issuing relevant statistics, including the number of invalid and blank ballots, which is a key indicator of the effectiveness of voter education efforts. Such steps are consistent with international good practice in order to meet Tunisia's obligations for access to information and to increase the transparency of the electoral process.<sup>135</sup>

During its press conference on the announcement of preliminary results on Oct. 27, the ISIE announced the cancellation of six lists of the *Al Aridha Al Chaabia* party (the Popular Petition) in Tataouine, Sfax 1, Sidi Bouzid, Kasserine, Jendouba, and France II. The ISIE declared that some lists were deleted because its members were members of the RCD, while others were because they had violated the provision on party financing.

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*For future elections, The Carter Center recommends that the EMB develop a results management system and detailed procedures for tabulation, in particular with regard to discrepancies on results forms and the delineation of authority to correct potential tabulation errors.*

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<sup>135</sup> ICCPR, Article 19



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Preliminary results from the ISIE declared that Ennahdha had won 90 seats, CPR won 30 seats, Ettakatol won 21 seats, *Al Aridha Al Chaabia* won 19 seats, the PDP won 17 seats, and other lists and parties won 40 seats.

In Sidi Bouzid, protests targeted the Ennahdha headquarters and mayor's office in response to the cancellation of the *Al Aridha Al Chaabia* lists, with clashes ensuing between police and protesters. The founder of *Al Aridha Al Chaabia*, Mustaqila satellite television station owner Hachemi Hamdi, hailed from Sidi Bouzid, and residents of the central town viewed the cancellation of his party's lists as an affront and an infringement on their right to choose their representatives. *Al Aridha Al Chaabia* appealed the ISIE's decision to cancel its lists, and on Nov. 8, Tunisia's Administrative Tribunal ruled to reinstate seven seats gained by *Al Aridha Al Chaabia* in five electoral districts.<sup>136</sup>

The Center was concerned about the fact that in its decisions the ISIE did not provide any indications regarding the nature of the violations allegedly committed by the party in its decision. It merely referred to Articles 70 (power to revoke) and 52 (prohibition of private and foreign financing of political parties) of the electoral law. Bearing in mind the negligible amount of proof used to invalidate the seats won by *Al Aridha Al Chaabia*, regulations should be applied consistently to avoid perceived selectivity of the election authorities in targeting specific lists.<sup>137</sup> In accordance with international law, sanctions should be applied evenly and should be proportional to the alleged violation. Hence, the fundamental right to stand for candidacy should only be restricted on the basis of reasonable evidence.<sup>138</sup>

ISIE announced final election results on Nov. 14 (see Table 3). Final results confirmed that the Islamist Party Ennahdha had obtained the highest number of seats in the Constituent Assembly, with a total of 89, while the liberal Congress of the Republic (CPR) received 29, and *Al Aridha Al Chaabia* received 26. Ettakatol received a total of 20 seats, and the center-left Democratic Progressive Party (PDP) received 16 seats. Sixteen candidates running on independent

lists also obtained seats. Ennahdha performed well in all of Tunisia's governorates, in both rural and urban areas.

After final results were announced, Carter Center and other international observers expressed concern that a confusing ballot design may have led to mistakes by voters in marking ballots in some regions. Carter Center observers in Gabes noted that a list from a smaller party with little public outreach, the National Tunisia Front, possibly gained a seat due to unclear ballot design. The ballots were designed to present party lists in several columns. For lists placed in the middle columns, it was unclear if the mark for a given party should be made on the left or the right of the party name and symbol. Observers hypothesized that the placement of the National Tunisia Front on the ballot alongside Ennahdha contributed to their success and that many voters intending to vote for Ennahdha had mistakenly voted for National Tunisia Front. An analysis of ballot design conducted by the European Union's election observation team concluded that 18 seats in 17 districts were earned by lists that were positioned just to the right of the party that received the highest number of votes on the ballot. To ensure that the intent of the voter is expressed in the future, The Carter Center recommends that the EMB release an example of the ballot in advance of the election and conduct a voter information campaign on how to correctly mark a ballot.

The Tunisian people elected a total of 59 female candidates, comprising 27 percent of the total. Ennahdha has a total of 40 women represented in the Constituent Assembly, 45 percent of its total number of seats and representing 68 percent of all women in the assembly. Ettakatol and *Al Aridha Al Chaabia* each have four female representatives, and CPR and PDM each have three women in the assembly. Both

136 TA 77, 78, 79, 80, and 81 (Nov. 8, 2011)

137 ICCPR, Article 26, "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law"; U.N. International Convention on the Elimination of All Forms of Racial Discrimination, Article 5; LAS, Arab Charter on Human Rights (2004), Article 24.3-4

138 ICCPR, Article 25 (b)



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Table 3: Final Election Results

Political Party	Number of Seats	
Ennahdha	89	41 percent
Congress for the Republic (CPR)	29	13.4 percent
Popular Petition (Al Aridha Al Chaabia)	26	12 percent
Ettakatol	20	9.2 percent
Democratic Progressive Party (PDP)	16	7.4 percent
The Initiative (Al Moubadara)	5	2.3 percent
Democratic Modernist Pole (PDM)	5	2.3 percent
Afek Tounes	4	1.8 percent
Al Badil Althawri	3	1.4 percent
Democratic Socialist Movement (MDS)	2	0.9 percent
Movement of the People (Haraket Achaab)	2	0.9 percent
16 independent lists	1 each	0.5 percent
<b>Total</b>	<b>217</b>	

the Initiative and Afek Tounes have two female representatives, and the PDP secretary-general, Maya Jerbi, represents the party's only female elected to the assembly. Final results issued by the ISIE indicated that 4.3 million Tunisians voted, out of 8.2 million eligible voters, a participation rate of 52 percent.

### ELECTORAL DISPUTE RESOLUTION AND THE RESULTS PROCESS

An effective complaints adjudication system can lend credibility to an electoral process, providing a peaceful alternative mechanism to violent post-election responses. Best practices require that potential complainants should be informed of the means by which to file a complaint and the time frame for its resolution.<sup>139</sup>

According to revised Article 72 of the electoral law, the preliminary results of the elections could be

appealed within two days following their announcement before the Administrative Tribunal by heads of list or their representatives.<sup>140</sup> As per Tunisia's commitment regarding the right to an effective remedy and international best practices, a better alternative would have been to allow for appeals by all parties interested in the process, including voters and civil

<sup>139</sup> U.N. Commission on Human Rights, Civil And Political Rights, Including the Questions of Independence of the Judiciary, Administration, of Justice, Impunity, para. VIII.12.a, "Obligations arising under international law to secure the individual or collective right to access justice and fair and impartial proceedings should be made available under domestic laws. To that end, States should: Make known, through public and private mechanisms, all available remedies for violations of international human rights and humanitarian law."

<sup>140</sup> According to revised Article 72 of the amended electoral law, the appeal had to be filed by the head of the list or his representative, via a lawyer registered with the Court of Cassation. In addition, it had to be notified to the ISIE via a bailiff with a copy of the appeal petition and its justifications.



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society organizations rather than only by the head of candidate lists or their representatives.<sup>141</sup>

In line with the law, the Administrative Tribunal scheduled its hearing sessions within a period of seven days from the submission of an appeal. Once the case was heard, the plenary session announced its verdict within three days. These final verdicts were announced by Nov. 8 and notified in writing to the complainants. The Center commends the Administrative Tribunal for respecting the relatively short deadlines foreseen by the law, despite the high number of cases and the Eid holiday celebrations.

Prior to the announcement of the preliminary results, the ISIE had invalidated eight seats won by *Al Aridha Al Chaabia* in six constituencies: one in the constituency of France 2, as the head of the list had held responsibilities within the RCD,<sup>142</sup> and seven in Tunisia due to a violation of the provision on party financing (Article 52 of the electoral law), according to the ISIE.<sup>143</sup> The Administrative Tribunal received a total of 104 requests for appeal. Out of these, only six were accepted both on form and substance, resulting in Ennahdha receiving an extra seat in Medenine<sup>144</sup> and *Al Aridha Al Chaabia* recovering seven seats<sup>145</sup> and thus ascending to become the third most represented political force within the NCA. The ISIE's decisions were overturned by the tribunal for two reasons: a lack of substantive proof and the fact that in some constituencies the expenditures in question occurred outside the specific campaign period during which the regulation was in effect.

In 52 instances (50 percent of the total number of appeals), cases were dismissed by the tribunal on the sole ground of procedural shortcomings. This was partly due to misleading information and insufficient outreach by the ISIE to political parties and list representatives regarding the means by

which to file a complaint.<sup>146</sup>

In addition, it appeared that the appellants lacked understanding concerning the formal requirements to file an appeal according to revised Article 72.

In the future, the EMB should improve its outreach efforts to inform appellants of how to file a complaint, and

appellants should study the electoral law carefully. This would allow the Administrative Tribunal to create a more substantial and elaborated case law for the future.

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*In the future, the EMB should improve its outreach efforts to inform appellants of how to file a complaint, and appellants should study the electoral law carefully.*

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141 ICCPR, Article 2 (3); OSCE/ODIHR, Observation Handbook (Fifth Edition), p. 18

142 No appeal was formed by the *Al Aridha Al Chaabia* in that case.

143 In the constituencies of Tataouine, Sfax 1, Jendouba, Kasserine, and Sidi Bouzid

144 Decision announced on Nov. 4, 2011. The IRIE in Medenine had counted empty ballots among the total number of votes, which led to Ennahdha receiving a smaller share and being granted four instead of five seats in the district. Ennahdha filed a lawsuit with the Administrative Tribunal, arguing that the process was in disagreement with the 67th article of the electoral law that states that empty ballots should not be counted in the total number of votes.

145 Decision announced on Nov. 8, 2011

146 On several instances, the ISIE issued misleading information as to where appeals should be sent, including in a press release issued by the ISIE on Oct. 27, where the ISIE confusingly announced that appeals to the preliminary results should be sent to the ISIE "les recours relatifs à ces résultats préliminaires peuvent être envoyés à l'instance centrale à l'adresse suivante : 19, Rue Ibn Al-Jazzar, Lafayette — 1002 Tunis." <http://www.tap.info.tn/fr/politique/300-politique/12130-proclamation-des-resultats-preliminaires-des-elections-de-la-constituante-jeudi-a-partir-de-20h00.html>.



## CONCLUSIONS AND RECOMMENDATIONS

The National Constituent Assembly elections provided millions of Tunisians with their first opportunity to vote freely in genuinely competitive elections following more than 50 years of authoritarian rule. The Carter Center was impressed by the great enthusiasm and determination shown by voters to consolidate the achievements of the revolution. For the first time, the elections were conducted by an independent election management body, the ISIE, which benefited from government support at critical junctures of the process. In a relatively short time, the ISIE succeeded in building confidence among key stakeholders and being perceived as impartial. However, the ISIE faced operational challenges throughout the process and in the future, should seek to build its institutional capacity to successfully organize and conduct elections.

Based on the Carter Center's observations during the Constituent Assembly elections, and in a spirit of respect and support, the Center offers the following recommendations:

### To the Constituent Assembly:

- 1. Create a permanent election management body (EMB) at the national level.** A permanent, neutral, and independent electoral body would support an effective administration of elections, which would build on existing institutional memory, develop best practices, and engender trust during this important phase of Tunisia's democratic institution. The election management body should have adequate gender representation and develop good policies and practice on gender parity in regional electoral bodies.
- 2. Ensure that the legal framework and electoral calendar provide for more time and integrate lessons learned from this election.** While the political imperatives in the lead-up to the Constituent Assembly elections were understandable, the operational challenges were due in part to the highly compressed electoral calendar. The short time frames affected the ISIE's ability to prepare adequately in advance of each phase of the electoral process. Future elections will require sufficient time for planning and preparation, funding from the appropriate ministry, an effective communications strategy, and comprehensive management.
- 3. When drafting the new electoral code, address gaps and inconsistencies related to electoral dispute resolution, voter registration procedures, criteria for candidate nominations, and campaign finance regulations.** The Constituent Assembly should carefully consider lifting such a ban for future elections. If members of the former RCD are to be excluded from running as candidates in the future, a more transparent mechanism for determining which individuals should be excluded from candidacy should be developed using the least restrictive means to accomplish the intended goal. The assembly should consider an amendment to the political parties' law to provide for greater participation of women and youth and/or a quota to ensure their representation on a national level. The system for updating the voter list also should be clarified and a determination made whether the procedures will be "active" or "passive." Procedures for the submission and resolution of campaign finance violations should be refined, and stronger enforcement mechanisms should be put in place.
- 4. Take steps to ensure that electoral dispute mechanisms are accessible to all electoral stakeholders.** The current electoral law allows only the head of a list to challenge a list being rejected during the nomination phase or appeal the preliminary results, and dispute mechanisms are not available to party members who are not the head of list, voters, or other interested stakeholders. Eligible voters should be able to bring claims on the basis of their individual suffrage rights. A provision for adjudicating



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polling and counting complaints should be included in the electoral law.

- Lift the Emergency Law. Emergency laws are special measures that must be continuously justified.** They should only be used in situations that threaten the security of the nation. When introduced, they should be limited in duration and geographic scope. While the government has been self-restrained in applying the emergency law provisions, its existence could stifle the full exercise of citizens' fundamental freedoms of expression and assembly, which are absolute conditions for a functioning democracy.

### To the future EMB:

- Conduct a comprehensive and inclusive voter registration update exercise and explain its importance.** Develop a robust system for maintaining a comprehensive national voter register. Many problems arose from underlying inefficiencies in the voter registration system. Priority should be given to developing sustainable methods for maintaining an accurate, comprehensive national register of voters that includes periodic updating procedures, public inspection of voter lists, and regular verification of registration data. The future EMB should conduct periodic updates of the voter register, particularly in the near future while the election and the necessity for updating one's information are still fresh in the minds of voters. In addition, the future EMB should clarify its procedures regarding the necessity to register personally, rather than by proxy, and ensure that all regional authorities are informed accordingly.
- Encourage citizens to update their national ID cards on a periodic basis.** Since data from the civil registry currently forms the foundation for the voter list, the maintenance of an accurate voter list and corresponding national ID cards requires

that citizens update their ID cards periodically. The EMB also should update the voter list with manual registrations that were not completed in time for the previous round of elections.

- Increase voter education and information efforts early and at every stage of the process.** Voter education is essential for ensuring that an informed electorate is able to effectively exercise its right to vote. The need for voter education was particularly relevant given the absence of a recent democratic tradition in Tunisia as well as confusion surrounding the nature of the election and the mandate of the Constituent Assembly. Voter information surrounding the updating of the voter list and the importance of the exhibition period for the provisional list was particularly lacking and should be improved in anticipation of future voter registration efforts. An effort should be made to educate

illiterate voters and those in rural areas who have limited access to media outlets providing information on the elections, and targeted campaigns should be organized to educate women. Partner with credible and impartial civil society organizations to provide community-level voter education.

*Many problems arose from underlying inefficiencies in the voter registration system.*

- Issue procedures well in advance of each phase of the electoral cycle, particularly voter registration, polling, counting, and tabulation, and ensure that polling center staff are adequately trained.** In the future, procedures should be developed in a timely manner, communicated clearly, and applied consistently. In particular, polling staff should receive more in-depth training on procedures for voter registration by proxy, managing crowds at polling centers, storing materials properly after the count, and counting and reconciling ballots. The future EMB should ensure that procedures for assisting illiterate or elderly voters are understood by regional authorities and conduct outreach to inform voters of these provisions.



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**10. Reduce the maximum number of voters assigned to each polling station and ensure a more equal distribution of voters among polling stations.**

One of the factors contributing to overcrowding and long lines on election day was the uneven distribution of voters among polling stations. The future EMB should reduce the maximum number of voters assigned at each polling station and develop a more equitable formula for assigning voters among polling stations within a polling center.

**11. Streamline the process for accrediting domestic observers.**

Requirements to obtain observer accreditation were difficult to meet, and the ISIE did not have sufficient institutional capacity to process the large number of observer accreditation badges requested. The future EMB should consider using multiple printing houses to facilitate the production of badges, ensure that adequate staff are available to process accreditation requests, and extend the time period for domestic observers to obtain accreditation.

**12. Enhance communication between EMB headquarters and the regional branch offices.**

Polling, counting, and tabulation procedures were issued late in the process and were not adequately conveyed to local election officials, electoral stakeholders, and the electorate. Detailed planning, adherence to agreed policies, and the development of targeted communication strategies should be given priority attention so that officials understand their role to help ensure consistent administration at the local level. Conduct a series of in-depth assessments and dialogues at all levels of the election management structure in order to

draw out the lessons of this electoral period and develop a plan to incorporate this knowledge for future electoral events. Provide opportunities for IRIEs and ILEs to provide feedback based on their experiences and compare district experiences to develop best practices.

**13. Improve communication with civil society, political parties, and voters regarding key decisions, procedures, and the electoral dispute resolution process.**

Publish all public documents, regulations, procedures, information, and press releases in a timely manner on the EMB website. Conduct targeted outreach regarding the requirements and procedures on the complaints and appeals process. (Fifty percent of cases challenging the preliminary results were rejected due to

procedural shortcomings that could be improved by better outreach and communication of procedures and time lines.)

**14. Publish disaggregated results promptly in order to ensure transparency and public confidence.**

The ISIE did not publish results disaggregated by polling station until after the announcement of final results, preventing voters and other political stakeholders from scrutinizing and verifying results on a polling-station level before they were finalized. The future EMB should aim to post the results at the polling-station level and publish disaggregated results promptly on its website, as provided in the law, or in national newspapers. The EMB also should publish statistics on the number of blank or invalid ballots, since this is an indication of the success of voter education efforts, as well as statistics regarding the participation of women in the electoral process.

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*Detailed planning, adherence to agreed policies, and the development of targeted communication strategies should be given priority attention so that officials understand their role to help ensure consistent administration at the local level.*

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NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

To political parties and civil society organizations:

15. **Increase voter education efforts.** Although impartial and consistent voter education is the primary responsibility of the election management body, political parties and civil society organizations also should contribute to voter education efforts, particularly in rural areas.

16. **Strengthen organizational management.** Seek further training on good practice in election observation, including on the principle of noninterference and how that should be applied in practice. Develop an observer network or forum to exchange experiences, coordinate for the future, and adopt a code of conduct. In addition, seek to

create and improve upon relationships with central and regional election authorities in order to best contribute to the electoral process.

17. **Incorporate women into political party structures and encourage women to take on leadership roles within political parties.** Tunisia is a regional

leader regarding women's rights and participation. In the future, political parties should encourage greater female participation and representation. While the law providing for gender parity on the candidate lists was well-intentioned, it failed to ensure adequate participation by women in the NCA, as only 7 percent of women were put forward as heads of lists, result-

ing in just 27 percent of Constituent Assembly seats being allocated to women.

*Tunisia is a regional leader regarding women's rights and participation. In the future, political parties should encourage greater female participation and representation.*



## APPENDIX A

# ACKNOWLEDGMENTS

The Carter Center would like to express appreciation to several individuals and organizations for their efforts and dedication toward observing Tunisia's historic elections.

The Center thanks the government of Tunisia and the Independent High Authority for the Elections (ISIE) for inviting the Center to observe the elections and for their collaboration and dedication throughout the process.

The Center is grateful for funding from the U.S. State Department's Middle East Partnership Initiative, whose support allowed the Center to observe the entire electoral process in Tunisia.

The Center wishes to thank former Mauritius President Cassam Uteem and Dr. John Hardman, president and CEO of The Carter Center, who served as co-leaders of the mission, and former First Lady Rosalynn Carter, who also participated in the mission. The Center appreciates the hard work and dedication of the co-leaders, whose insights and experience strengthened the work of the Center's election observation mission.

The Center is grateful to have had a talented and committed international field office staff, consisting of Field Office Director Sabina Vigani, Deputy Director Jennifer Blitz, Legal and Electoral Analyst Marion Volkmann, and Observer Coordinator Michele Camerota. The Center benefited from the expertise of consultants Claire Spencer for a better understanding of the political dynamics of Tunisia, Mark Whitcombe-Power for ensuring the security of all members of the mission, and Jorge Mantilla for his statistical analysis of observer reports.

The Center would also like to recognize the invaluable contributions made by long-term observers Sara Abbas, Marwa Alkhairo, Bentley Brown, Roger Bryant, Renate Herrmanns, Karim Khashaba, Charles Liebling, Einas Mansour, Reza Rahnema, Ali Sleiman, Maria Amparo Tortosa-Garrigos, and Fatherrahman Yousif. The Center warmly appreciates short-term observers for lending their diverse experiences and expertise to evaluating election day procedures and counting and tabulation procedures.

The Carter Center wishes to express its gratitude to Tunisian field office staff Nedra Cherif, Youssef Cherif, Anwar Gaaloul, Nadia Haddad, Nesrine Ourari, Nadia Samet, and Sami Stambouli for their essential roles in the mission. The field office also benefited from the support of Russell Raymond and Sarah Kerr. Special thanks also are extended to the drivers who assisted the field staff and long-term observers in the field and all the additional translators and drivers who worked during the short-term observer mission.

A number of Carter Center staff worked from Atlanta to ensure the success of the mission to Tunisia, including Traci Boyd, David Carroll, Larry Frankel, Tynasha Green, Deborah Hakes, Sarah Johnson, Ramiro Martinez, Karen McIntosh, Katy Owens, and Beth Plachta. Interns Simon Mettler and Lucy Provan provided valuable support with research, logistics, preparing briefing materials, and countless other tasks in support of the mission.



## APPENDIX B

# THE CARTER CENTER OBSERVATION DELEGATION AND STAFF

### DELEGATION LEADERS

**President Cassam Uteem**, Former President of Mauritius

**Rosalynn Carter**, Former First Lady of the United States

**Dr. John B. Hardman, M.D.**, President and CEO, The Carter Center, United States

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**Vivian Lowery Derryck**, President and CEO, The Bridges Institute, United States

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NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

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NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

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## APPENDIX C

# TERMS AND ABBREVIATIONS

<b>AfCHPR</b>	African Charter on Human and Peoples' Rights	<b>ISIE</b>	<i>Instance Supérieure Indépendante pour les Elections</i> (High Independent Authority for the Elections). Also Electoral Management Body, High Independent Elections Commission, and Independent High Authority for the Elections
<b>ATIDE</b>	Association for Transparency and Integrity of the Elections		
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women		
<b>CNI</b>	National Center of Computer Science	<b>JSF</b>	Jeunesse Sans Frontières (Youth Without Borders)
<b>CPR</b>	Congress of the Republic	<b>MDS</b>	Mouvement des Démocrates Socialistes
<b>CSO</b>	Civil society organizations	<b>NCA</b>	National Constituent Assembly
<b>CSR</b>	<i>Conseil de Sauvegarde de la Révolution</i> (Council for the Protection of the Revolution)	<b>NDI</b>	National Democratic Institute
<b>ICCPR</b>	International Covenant on Civil and Political Rights	<b>OTAF</b>	Technical, Administrative and Financial Body
<b>ILE</b>	Local Commissions for Elections	<b>PDP</b>	Parti Démocratique Progressiste
<b>IRIE</b>	Regional Independent Authority for Elections. Also Regional Independent Authority for the Elections and Regional Independent Commissions for Elections	<b>Popular Petition</b>	<i>Al Aridha Al Chaabia</i>
		<b>RCD</b>	Democratic Constitutional Rally
		<b>TAP</b>	Tunis Afrique Presse
		<b>UPL</b>	Union Patriotique Libre



APPENDIX D  
STATEMENTS AND PRESS RELEASES

NEWS

THE  
CARTER CENTER



ONE COPENHILL, ATLANTA, GA 30307

FOR IMMEDIATE RELEASE

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**Carter Center Announces Election Observation Mission to Tunisia**

**Aug. 4, 2011**

In response to an invitation from the Tunisian electoral commission, The Carter Center formally launched an international observation mission to monitor preparations for the country's Constituent Assembly elections anticipated on Oct. 23. The mission is supported by an office in Tunis, which is led by Field Office Director Sabina Vigani.

"The Carter Center supports peaceful, transparent elections in Tunisia, where popular calls for reform sparked pro-democracy movements throughout the Arab world," former U.S. President Jimmy Carter said. "Tunisia's Constituent Assembly elections will be an important test of the success of the country's transition and hopefully will provide a strong foundation for democracy."

The Carter Center received official accreditation from the High Independent Elections Commission (ISIE), and has deployed 10 long-term observers to monitor the voter registration process and electoral preparations. The observers and core staff - a diverse group of election experts representing 12 countries - will meet with election officials; political party and

civil society representatives, including domestic observation groups; members of the international community; and other stakeholders, to assess elections administration, voter registration, the campaign period, voting and counting procedures, and other issues related to the overall electoral process in Tunisia. They will be joined by 40 additional short-term observers from various nationalities around election day.

The Carter Center conducts its activities in a non-partisan, professional manner in accordance with applicable law and international standards for election monitoring set forth in the Declaration of Principles for International Election Observation, adopted at the United Nations in 2005 and endorsed by 35 election observation groups. The Center will remain in close communication with Tunisian authorities, all political parties, candidates, civil society organizations, media, and other international and domestic observer missions. The Center will release periodic public statements on electoral findings, available on its website: [www.cartercenter.org](http://www.cartercenter.org).



THE CARTER CENTER

NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

NEWS

THE  
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FOR IMMEDIATE RELEASE

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**The Carter Center Welcomes Completion of Tunisia's Voter Registration;  
Highlights Additional Steps Needed to Ensure Successful Polling**

Aug. 29, 2011

A Carter Center statement released today noted that Tunisia's voter registration process was conducted smoothly, but important operational challenges remain for the High Independent Authority for the Elections (ISIE), particularly the allocation of voters to polling stations and a campaign to disseminate voter information to the public. The Center recommends intensified public outreach by the ISIE and other bodies to assist Tunisians in the electoral process. A credible and successful electoral process will be a key step toward democratic transition and stability in Tunisia.

Voter registration started on July 11 for an initial period of three weeks and was later extended through Aug. 14, a positive step to increase participation. Approximately 1,000 registration centers, including mobile teams, operated under the supervision of the ISIE and its branch offices in the 27 electoral districts. Tunisians residing abroad had the opportunity to register at consular and diplomatic missions until Aug. 28.

Despite numerous challenges, including initial technical problems with the online registration system, tardy designation of Regional Independent Authority for Elections (IRIE) members, late start of the outreach campaign, and inconsistencies in the implementation

of procedures, in particular regarding the requirement that individuals personally register, the voter registration process was conducted peacefully across the country. According to the ISIE, 3,882,727 citizens registered in Tunisia, representing approximately 55 percent of the estimated voting population.

Voters were not required to register as a prerequisite to be included on the provisional voters list generated from the database of national identity cards. Instead, the voter registration process was implemented as a "passive" exercise, with registrants given the opportunity to update their data and to select a polling station nearest to their intended location on polling day. Since approximately 45 percent of the voting population did not participate, the Center encourages the ISIE to consider additional steps and appropriate mechanisms to ensure that all voters can identify the location of their polling stations. Reports in the Tunisian press regarding a recent ISIE announcement indicate that eligible voters who did not participate in voter registration will be permitted to select the location of their polling station from Sept. 4 – 20. While further information is required to confirm the mechanisms that will be utilized, the Center encourages and welcomes these efforts.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

The Carter Center also noted the dedication of the election management body in carrying out its responsibilities. However, the Center underlines the importance of the ISIE taking action to ensure the Technical, Administrative and Financial Body (OTAF) is adequately staffed to strengthen its capacity to prepare for and administer electoral operations and better coordinate between the national and regional offices.

The low turnout in the initial phase of the voter registration was even more discernable during the exhibition and challenges period when voters were given the opportunity to inspect the provisional voters list from Aug. 20-26. In light of this, The Carter Center encourages the ISIE to launch timely voter information campaigns and to provide specific messages tailored to each phase of the electoral process.

The Center appreciates the cooperative approach demonstrated by the election authorities toward international observers, including the timely provision of accreditation. We encourage the ISIE to facilitate this process for Tunisian observers, given their important role in increasing transparency and public confidence. To further strengthen transparency, The Carter Center encourages the electoral authorities to pursue regular consultations with all relevant stakeholders and make all official documents widely accessible, particularly by posting on the ISIE website.

**Background:** The Carter Center received a letter of invitation from the ISIE to observe the electoral process in mid-July, followed by official accreditation on Aug. 4. The Center observed voter registration, deploying 10 long-term observers who visited 191 voter registration centers in all of the state's governorates, and met with election officials, political parties representatives, and civil society organizations.

The Carter Center will remain in Tunisia to observe the candidate registration period, campaign period, polling day, counting and tabulation processes, and resolution of electoral complaints for National Constituent Assembly elections. The Center's long-term observers will be joined by 40 short-term observers from various nationalities in the lead-up to election day. The objectives of the Center's observation mission in Tunisia are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all Tunisians and demonstrate international support for this ambitious democratic transition. The elections will be assessed against the Tunisian legal framework, as well as Tunisia's international obligations for genuine democratic elections.

The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 37 election observation groups. The Center will release periodic public statements available on its website: [www.cartercenter.org/](http://www.cartercenter.org/).



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

THE  
CARTER CENTER



### THE CARTER CENTER INTERNATIONAL OBSERVATION MISSION TO TUNISIA NATIONAL CONSTITUENT ASSEMBLY ELECTIONS

Sept 1, 2011

The present statement provides an assessment by The Carter Center of the voter registration process in Tunisia as well as preliminary findings on the exhibition and challenges to the provisional voters list. In its concluding section, the statement offers detailed recommendations to stakeholders involved in the electoral process.

The Carter Center noted that the registration process was conducted smoothly, with more than half of the estimated voting population turning out to confirm their registration data. Nonetheless, important operational challenges remain for the High Independent Authority for the Elections (ISIE), particularly in regards to the allocation of voters to polling stations and a campaign to disseminate voter information to the public. The Center recommends intensified public outreach by the ISIE and other bodies to assist Tunisians in the electoral process. A credible and successful electoral process will be a key step in the democratic transition and stability in Tunisia.

Voter registration started on July 11 for an initial period of three weeks and was later extended through Aug. 14, a positive step to increase participation. Approximately 1,000 registration centers, including mobile teams, operated under the supervision of the ISIE and its branches in the 27 electoral districts. Tunisians residing abroad had the opportunity to register at consular and diplomatic missions until Aug. 28.

Despite numerous challenges, including initial technical problems with the online registration system, tardy

designation of the Regional Independent Authority for Elections (IRIE) members, late start of outreach campaign and inconsistencies in the implementation of procedures, in particular regarding the requirement that individuals personally register, which was inconsistently applied, the voter registration process was conducted peacefully across the country. According to the ISIE, 3,882,727 citizens registered in Tunisia, representing approximately 55 percent of the estimated voting population.

#### **Election administration**

The ISIE is in charge of preparing and supervising electoral operations in Tunisia.<sup>147</sup> It is composed of 16 members who were appointed on May 18 by the High Authority for the Realization of the Goals of the Revolution, Political Reform and Democratic Transition.<sup>148</sup> Members are drawn from the judiciary, academia, civil society, and also include a notary, bailiff, accountant, IT expert and a journalist.

The ISIE structure includes 33 regional branches (IRIE) covering 27 election districts in Tunisia and 6 expatriate districts.<sup>149</sup> IRIEs in Tunisia are composed of 14 members, while those abroad have a minimum of eight and up to 14 members.<sup>150</sup> A Technical, Administrative and Financial Body (OTAF) assists ISIE,<sup>151</sup> but is not yet fully staffed and does not yet have an Executive Director.

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147 Decree-Law 27, Article 4, adopted on April 18, 2011

148 Decree 546 adopted on May 10, 2011

149 ISIE Internal Rules of Procedures, Article 22

150 ISIE Internal Rules of Procedures, Article 24

151 ISIE Internal Rules of Procedures, Article 27



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The Carter Center noted the dedication of the election management body in carrying out its responsibilities. However, the Center underlines the importance of the ISIE taking action to ensure that OTAF is adequately staffed so as to strengthen its capacity to prepare for and administer electoral operations and better coordinate between the national and regional offices.

IRIE members in the electoral districts of Tunisia were appointed just a few days before the start of the voter registration period, allowing little time for in-depth staff induction training. IRIE staff faced the challenge of setting up their structures while simultaneously supervising registration operations. Notwithstanding the lack of sufficient training, Carter Center observers appreciated the dedication of IRIE members in carrying out their duties and responsibilities.

The central election authority has progressively strengthened its relationship with its regional branches. However, there is still room for improving cooperation and communication. The ISIE has recently staffed during the registration exercise and to prepare for the next phase of the electoral process. The Center supports the ISIE's stated intention to hold similar meetings in preparation of the upcoming phases of the electoral process.

The Center noted that both ISIE and IRIE members are predominantly male. Among female members, only a nominal number hold senior-level president or vice-president positions within the election management body. This notable lack of representation contrasts with the high rate of educated and professionally active women in Tunisia.

To further strengthen transparency, the Carter Center encourages the electoral authorities to pursue regular consultations with all relevant stakeholders and make all official documents widely accessible, particularly by posting on the ISIE website.

### Voter registration

The legal framework governing the Constituent Assembly elections, promulgated in Decree-Law 35<sup>152</sup> and later amended by Decree 72,<sup>153</sup> provides the general principles for voter registration. According to responded positively to a request for meetings by several IRIEs and convened all IRIE presidents and secretary-generals to debate the lessons learned and challenges encountered by IRIE

Article 2, all Tunisians, both men and women, aged 18 or more on the day preceding the elections, and enjoying their full civil and political rights are entitled to vote. Article 3 provides for the ISIE to establish registration procedures and to disseminate them as widely as possible. Article 6 stipulates the voter lists be established based on information contained in the database of national identity cards. As per the same article, voters are allocated to polling stations as per the residency address indicated in their voluntary registration request.

The Carter Center notes that the late decision of the ISIE to change the voter registration system from one of active to passive in character created a degree of confusion, particularly in the absence of a clear voter information campaign to explain the process to the electorate, civil society organizations and political parties.

Voters were not required to register as a prerequisite to be included on the provisional voters list generated from the database of national identity cards. Instead, the voter registration process was implemented as "passive" exercise, with registrants given the opportunity to update their data and to select a polling station nearest to their intended location on polling day.

<sup>152</sup> Adopted on May 10, 2011

<sup>153</sup> Adopted on Aug. 3, 2011



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

The Center notes that the public outreach strategy developed by the ISIE focused mainly on mobilizing prospective voters and could have included more specific messages with information on the purpose of the registration exercise and its importance to ensure the accuracy of the voter registry to facilitate the smooth participation of voters on Election Day.

Given approximately 45 percent of the voting population did not participate in the exercise, the Center encourages the ISIE to consider additional steps and appropriate mechanisms to ensure that all voters are allocated to their appropriate polling stations and can easily identify its location. Reports in the Tunisian press regarding a recent announcement by the ISIE indicate that eligible voters who did not participate in voter registration will be permitted to select the location of their polling station from Sept. 4 – 20. The ISIE has established a call center for the purpose of assisting voters with this process. While further information is required to confirm the mechanisms that will be utilized, the Center encourages and welcomes these efforts, which aim to alleviate potential confusion on polling day.

Voter registration was launched on July 11 with the registration system and procedures being largely unknown by the general public and electoral stakeholders such as civil society organizations, political parties and observer groups. On Aug. 9, the Carter Center obtained, upon request, a copy of the manual on registration procedures produced by the ISIE.

In advance of the launch of the registration operation, a pilot test that was conducted to check the online registration system proved inconclusive. Technical problems with the online registration system affected the process at its inception, and it took two to three days for the system to become operational throughout the country. Following initial difficulties, the system performed well with only short and rare interruptions of the Internet connection.

Registration staff scanned the bar code appearing on the back of each voter's national identity cards to access the registrant's file, which was linked by Internet to the national identity cards database managed by the National Center of Computer Science (CNI). Registrants were given the opportunity to choose a polling station nearest their intended location during the upcoming election. Registrants were provided a receipt, noting their name, address and selected polling station.

Registration center staff was mostly welcoming and cooperative with registrants and operated efficiently. Women were well represented among registration staff. The Center observers noted that most IRIE staff actively performed their supervisory role over registration centers, maintaining constant communication with registration staff and visiting registration centers on a regular basis.

Carter Center observers reported, however, inconsistencies amongst IRIE and registration center staff in applying registration procedures. Proxy registration represented the widest spectrum of inconsistent application of procedures, where some registration centers allowed proxy registration and others even within the same governorate prohibited family members or others from registering other eligible voters. In some cases receipts were issued for proxy registrations; in other cases, people registered by proxy had to visit the center in person to obtain their receipt. IRIE staff also expressed different explanations for these practices, some allowing proxy registration due to the distance from registration centers in rural areas.

The ISIE manual on registration procedure explicitly states that registration is a personal process and therefore cannot be handled by delegation.<sup>154</sup> Observers noted however that the manual on registration procedures was not always available at registration centers

<sup>154</sup> ISIE manual of registration procedures, para. 3.3.1



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

and registration staffs were not always aware of its existence, presumably due to the development and distribution of the document relatively late in the process.

According to the ISIE, a minimal number of registrants, representing less than one percent of the total, were refused by the online registration system because of expired identity cards,<sup>155</sup> mismatched numbers between the date of issuance recorded in the database and the one appearing on the card, and discharged military and security personnel who were still recorded as on active duty.<sup>156</sup>

While there were minor differences among registration centers in procedures for handling refusals – some required voters to fill out manual registration forms, for example, or issued special forms for military personnel – observers reported that registration staff accurately oriented registrants to the appropriate IRIE, and, in case of expired ID cards, to the police for renewal.

According to the ISIE, a total of 21,860 cases were filed at the IRIE level as of the close of the registration process. As of August 24, only some 5,000 were processed. At least some 16,000 cases have therefore not been included on the provisional voter list. The Center was informed that registrants whose cases are processed are informed of the outcome only verbally and do not receive formal written notification.

In response to the initial low turnout – roughly 16 percent of eligible voters had confirmed their registration details as of July 30 – the ISIE extended the registration period through Aug. 14. The number of registration centers was also increased, including dedicated centers to accommodate Tunisian citizens residing abroad who were visiting Tunisia during the registration period. In addition, mobile teams were introduced to facilitate registration in remote rural areas. Observers reported that IRIEs were prompt in realizing that mobile registration centers are most effective when citizens are informed in advance

about the venues of the teams. To this effect, IRIEs increased public outreach through methods including equipping vehicles with loudspeakers and airing public service advertisements on local radio stations to announce the locations of the teams. Some IRIEs also deployed mobile teams adjusting to people's daily habits and needs, including in hospitals, workplaces, in seaside resorts, weekly markets and coffee shops post-Iftar during Ramadan. The Center commends efforts by election authorities to reach out to the largest number of citizens.

### **Exhibition and challenges on the provisional voters list**

The exhibition of the provisional voters list provided an opportunity for the public to inspect information contained on the list and challenge irregularities such as the omission of eligible voters or the inclusion of ineligible voters, and to correct mistakes on the list.

Article 7 of Decree-Law 35 provides that the provisional voters' lists are delivered to IRIEs, municipalities (Baladiya), districts (Mu'tamadiya), sectors (Imada) and Tunisian diplomatic or consular missions abroad (hereafter referred to as "exhibition venues"). The same article also foresees the posting of the lists on the ISIE website. Under Article 8, the Chair of the IRIE, the mayor, the district commissioner, the head of the sector and the head of the diplomatic or consular mission are responsible for posting the lists. These provisions reflect Tunisia's obligation to fulfil the right to access to information,<sup>157</sup> which entails, among others, the right to check the electoral list.

At a press conference on Aug. 16, the ISIE announced that the period for exhibition and chal-

<sup>155</sup> ISIE officials reported that a few months ago the authorities broadcast radio and TV spots asking (old holders of ID cards) to replace the card with the new one. The number of old ID cards is reportedly between 200,000 and 400,000.

<sup>156</sup> Active military personnel, civilians doing their military service, and the Internal Security Forces are not entitled to exercise their right to vote as per Article 4 of Decree-Law 35.

<sup>157</sup> International Covenant on Civil and Political Rights, Article 19(2)



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lenges on the provisional list would run from Aug. 20-26 in line with the anticipated electoral timetable. It was also announced that the voters list would be available online, and that an SMS service would be put in place for confirming one's presence on the voters list and location of polling stations.

The low turnout in the initial phase of the voter registration was even more discernable during the exhibition and challenges period when few voters inspected the provisional voters list. In light of this, the Carter Center encourages the ISIE to launch timely voter information campaigns and to provide specific messages tailored to each phase of the electoral process.

Carter Center observers reported that the provisional voters lists were printed in book format and in two separate volumes: one showing prospective voters who actively registered, the other showing prospective voters who were automatically included on the registry from the identity cards database. Prospective voters have been listed in Arabic alphabetic order, without reference to allocated polling stations, noting their names, father's name, and grandfather's name.

In a significant number of cases, only the lists with actively registered voters were available on Aug. 20, the first day of the exhibition period, while the lists including automatically registered voters were delivered with one or two days of delay. Some elections officials pointed out that they were still unable to make the lists available for scrutiny in a limited number of Imadas burnt during the revolution or that are not unaccepted by the population due to association with the old regime.

It is noteworthy that exhibition venues were officially open the same hours as the Baladiyas, from 8:30 AM to 2:30 PM only and often closed on Sunday, thus leaving little time to the public to inspect the list. Observers underlined that citizens' turnout at exhibition venues was extremely low, in most cases less than five to 10 persons a day.

Instead of posting the provisional voters' lists on its website as required by Decree-Law 35, the ISIE offered a search engine to check one's presence on the lists. This tool was made available on the website on Aug. 25, but was still not functioning on Aug. 26. The Center considers that the posting of the provisional voters' lists would have strengthened transparency, especially by allowing political parties access to the full list, and encourages the ISIE to consider doing so.<sup>158</sup> The SMS service, a commendable and user-friendly initiative by ISIE, became effective midway through the exhibition and challenges period.

According to the electoral law, disputes related to the provisional list shall be submitted to the IRIEs within seven days by means of a registered letter with acknowledgement of receipt.<sup>159</sup> The IRIE has then eight days to decide on the matter<sup>160</sup> and shall provide the plaintiff with a reasoned decision in writing.<sup>161</sup> The concerned parties and administrative authorities can file an appeal against this decision before the territorially competent Court of First Instance, which shall rule on the matter within five days.<sup>162</sup> Its decision is final.

Decisions by IRIEs in charge of expatriate election districts shall be challenged before the ISIE,<sup>163</sup> thus depriving Tunisians residing abroad from a judicial appeal. The Center stresses in this respect that all prospective voters should be granted an equal right to effective remedy.<sup>164</sup>

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158 In line with best practices, political parties in particular should have an opportunity to access the voter list. See OSCE, Existing Commitments for Democratic Elections in OSCE Participating States, p. 61 and 61; EU, Handbook for European Union Election Observation, Second Edition, p. 43.

159 Decree-Law 35, Article 13

160 Decree-Law 35, Article 12

161 Explanatory manual on procedures for challenges related to the provisional voters' list (ISIE document, not dated)

162 Decree-Law 35, Article 14

163 Decree-Law 35 Article 14

164 International Covenant on Civil and Political Rights, Article 2(3)



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Observers reported significant variations in assistance and guidance provided to citizens at exhibition venues on how to submit a complaint. Some lists were unaccompanied, others were left to the care of Baladiya staff and still others still had former registration staff re-assigned to this new task by the IRIEs. The last group was more knowledgeable and connected to the IRIEs, and was therefore better able to assist citizens either by helping them file complaints directly or by orienting them to the IRIEs for complaints.

The Center's observers also noted different practices in submitting a complaint regarding the exhibited lists. Sometimes, where exhibition venues was staffed by former registration officials, complaint forms were available and the staff helped citizens fill them out, in addition to forwarding the forms to the relevant IRIE on behalf of citizens. While some IRIEs accept direct delivery of forms by citizens of forms, others requested the documents be sent by registered letter. By Aug. 26, several interviewed IRIEs reported without exception having received only very few complaints, although additional were expected to come in by mail.

### Voter Information and Education

The fulfillment of the international obligation of universal suffrage<sup>165</sup> is partially dependent on the success of adequate voter education. The ISIE conducted a voter information campaign through billboards, insertions in newspapers, as well as radio and TV spots, designed to mobilize eligible voters to register. This outreach campaign only kicked off on the starting day of voter registration, limiting therefore its initial effectiveness. Moreover, the voter education campaign appeared to lack sufficient information on voter registration procedures and objectives of the registration drive. Observers reported that citizens had varying and limited understandings of the process, including on the necessity to register to be able to vote.

ISIE officials contributed to this situation by giving confusing statements as to the purpose and necessity

of the registration. Hence, registering was presented as a proof of "citizen act" that would "facilitate voting," but without explaining the importance to make sure that everyone is aware of the location where he/she is supposed to cast the vote. The ISIE announcement about automatic registration for any identity card holder, regardless of their active participation to the process, precisely when the process was extended with the intent to achieve a higher registration rate, added to the confusion in public opinion.<sup>166</sup> Strikingly, public outreach by the ISIE to mobilize citizens to check the provisional voters' list during the exhibition and challenges period has been barely visible.

The Center recommends intensified public outreach by the ISIE and other relevant bodies to assist Tunisians in the electoral process. A targeted and effective voter information campaign should address key issues including voter eligibility, documents required to cast a ballot, and how, when and where to vote on polling day. A complementary education campaign could provide the public with a foundation to understand important information regarding the election, such as the closed list proportional representation electoral system and the mandate of the Constituent Assembly. Both would serve to alleviate potential confusion, and increase public confidence and the integrity of the electoral process.

### Civil Society and Political Parties

A limited number of civil society organizations (CSOs) conducted voter education to encourage eligible voters to register. These efforts were commendable, particularly in light of limited official communication between the ISIE and national CSOs. Observers recounted that political parties only became visible in the final stages of the process, when

<sup>165</sup> International Covenant on Civil and Political Rights, Article 25

<sup>166</sup> "Jendoubi: le vote est ouvert aux Tunisiens détenteurs d'une carte d'identité et non seulement aux inscrits," *Tunis Afrique Presse (TAP)*, 4 août 2011



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a small number of parties started distributing leaflets, posting signs or organizing public meetings encouraging voter registration.

The Center welcomes recent efforts by the ISIE to meet with political parties and civil society representatives, in a view to share information regarding the status and challenges of the electoral process. This is a good practice to insure that all electoral activities are conducted in a wholly transparent manner,<sup>167</sup> including through consultations on a regular basis with interested parties.<sup>168</sup> The picture at local level appeared more contrasted, with some IRIE staff willing to organize information-sharing meetings with political parties and CSOs, and at times even complaining about limited interest shown by these stakeholders, while other IRIEs seemed resistant to the idea of holding briefings with political parties for fear of losing independence.

### Specific categories of voters

The Center acknowledges endeavors by the election authorities to accommodate specific categories of eligible voters such as illiterate and disabled persons. In addition, the ISIE has been responsive to concerns expressed by CSOs with regard to the original Article 61 of the Election Decree-Law, allowing illiterate voters or voters clearly suffering from a disability to be assisted by a voter of their choice. To avoid possible vote buying or influence, ISIE initiated an amendment of this provision. However, the revised Article 61 has been phrased in very general terms; the ISIE should issue regulations to provide further details so that the law meets the intended objectives.

Regarding prisoners, the law provides that only those persons sentenced to more than six months of imprisonment for committing honour-related felonies or misdemeanours and who have not yet regained their civil and political rights<sup>169</sup> are deprived from their right to vote. However, the fact that no registration was conducted in prisons may lead to the effective disenfranchisement of all prisoners. The Center urges the ISIE to make all possible efforts to accommodate

all voters, including detainees in accordance with Tunisia's obligations to guarantee universal suffrage and the right to vote.<sup>170</sup>

### Observer Accreditation

The Carter Center appreciates the ISIE's cooperative approach toward international observers and the timely provision of accreditation to the Center's observers, ensuring no delay in observer deployment. Meanwhile, networks of domestic observer groups have started to organize and plan training for observers, some in cooperation with international NGOs. The Center encourages the ISIE to extend similar support in accreditation to other national and international organizations, in line with best practices regarding transparency in the election management process, including through the presence of duly accredited observers.<sup>171</sup> Nonpartisan domestic observation is a meaningful exercise and provides an important avenue to enable Tunisian citizens to participate in the electoral process.

### Recommendations

Based on its preliminary observations, The Carter Center offers the following recommendations:

#### *To the Electoral Management Body (ISIE):*

- Establish appropriate mechanisms to ensure that all voters are able to find the location of their polling stations;
- Launch a targeted voter information campaign to educate voters on polling day procedures, the electoral complaints process and other issues central to the conduct of the elections. Share information and

<sup>167</sup> Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 102

<sup>168</sup> International IDEA, International IDEA Code of Conduct: Ethical and Professional Administration of Elections, p.12-13

<sup>169</sup> Decree-Law 35, Article 5, para. 1

<sup>170</sup> U.N. Human Rights Committee, General Comment No. 25, indicates that persons who are deprived of liberty but have not been convicted should not be excluded from exercising the right to vote.

<sup>171</sup> IPU, Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Article 7



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public outreach materials proactively, and continue to hold regular consultations with political parties, CSOs and media outlets, at national and local levels;

- Ensure that the OTAF, the Technical, Administrative and Financial Body is adequately staffed, so as to strengthen the capacity of the ISIE to prepare for and administer electoral operations;
- Plan sufficient time to organize and conduct training on specific procedures, so as to ensure accurate and consistent implementation by election officials at all levels;
- Increase transparency by making relevant electoral legislation, regulations and operational procedures publicly available, including by posting information on the ISIE website.

### **To Civil Society Organizations:**

- Train and deploy domestic observers to monitor the next phases electoral process;
- Undertake voter education activities to raise awareness on the mandate of the Constituent Assembly.

### **To Political Parties:**

- Sign, promote and ensure respect for the Code of Conduct for political parties, a voluntary initiative recently undertaken by the ISIE;
- Engage further into the electoral process, including maintaining regular consultations with the election authorities and civil society organizations, and reaching out to potential supporters.

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*The Carter Center received a letter of invitation to observe the electoral process from the ISIE in mid-July, followed by official accreditation on Aug. 4. The Center observed voter registration in Tunisia in preparation for the National Constituent Assembly elections scheduled for October 23. The Center deployed 10 long-term observers who visited 191 voter registration centers in all of the state's Governorates, met with election officials, political parties representatives, civil society organizations and other key stakeholders.*

*The Carter Center will remain in Tunisia to observe the candidate registration period, campaign period, polling day, the counting and tabulation processes, and the resolution of electoral complaints for the National Constituent Assembly elections. The Center's long-term observers will be joined by 40 short-term observers from various nationalities in the lead-up to Election Day. The objectives of the Center's observation mission in Tunisia are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all in Tunisia and demonstrate international interest and support for the country's democratic transition. The elections will be assessed against the Tunisian legal framework, as well as Tunisia's international obligations.*

*The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 35 election observation groups. The Center will release periodic public statements available on its website: [www.cartercenter.org/](http://www.cartercenter.org/).*



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**The Carter Center Calls on Tunisian Election Authorities to Finalize Critical Election Procedures and Intensify Its Voter Education Efforts**

October 3, 2011

With the launch of the electoral campaign period on Oct. 1, Tunisia has entered the final leg of the National Constituent Assembly elections, scheduled for Oct. 23, 2011. While electoral preparations are progressing, key issues such as the allocation of voters to polling stations and the system for the tabulation of results require final decisions and publication by election authorities. The Carter Center calls on the High Independent Authority for the Elections (ISIE) to promptly finalize and disseminate procedures for voting, counting, and results tabulation to all electoral stakeholders. Intensified public outreach efforts by the ISIE will be critical to ensure that voters understand key areas including identifying the location of their polling stations, which documents are required to cast a ballot, and how to mark the ballot paper. Election authorities should also consider extending the deadline to apply for observer accreditation, as many domestic observer groups are still undergoing training to meet the accreditation requirements set by the ISIE.

A significant number of candidate lists, 1,428 in total, will be contesting in the coming weeks. The ISIE has

registered 787 lists of political parties, 587 independent lists, and 54 coalitions. While the gender parity required by the electoral law is respected, only 20 percent of the lists are led by female candidates (292 lists). Independent lists represent a notable proportion of the lists, reportedly 41 percent of the total number, with less than 10 parties present in all electoral districts.

The Carter Center welcomes the ISIE's introduction of a code of conduct governing the electoral process. The Center calls on political parties and independent candidates to maintain an environment conducive for peaceful elections throughout the campaign period by abiding to campaign rules and procedures, and encourages these stakeholders to sign and commit to upholding the code of conduct and to raise awareness about its obligations with all their representatives at all levels.

As adopted on Sept. 3, ISIE decisions regulating the electoral campaign and media environment during the campaign period provide an ambitious framework, particularly in light of the high number of lists. This



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overall framework reflects efforts to ensure that all candidates are provided with equal opportunities to compete.<sup>172</sup>

While the commission's decision to ban all forms of commercial political advertising from Sept. 12 to the start of the campaign period was intended as a means of establishing an equal playing field for political parties and independent candidates, the regulation was released at a relatively late stage in the process and has been enforced unevenly. Its enforcement was complicated by the lack of provisions clearly outlining penalties for those in violation of the decision. This regulation was issued late in the process, at a time when several political parties such as Parti Démocratique Progressiste (PDP) and Union Patriotique Libre (UPL) had already invested financially in political publicity through billboards across the country and various media outlets. Hence it created great controversy, with PDP and UPL in particular contesting the legality of the ban and refusing to abide by it.<sup>173</sup> While The Carter Center acknowledges the determination by the election authorities to promote a fair competition, the principle of legal certainty, which aims at protecting citizens against frequent changes of the law and best election practices, require refraining from substantial change to the legal framework shortly before the elections.

The Center's long-term observers deployed throughout the governorates of Tunisia and the Tunis-based core team have been closely monitoring electoral preparations over the past 10 weeks. As highlighted by The Carter Center in its statement issued on Sept. 1, the allocation of voters to polling stations remains a substantial operational challenge facing the ISIE. Indeed, at the close of the registration process, approximately 45 percent of the voting population did not participate in the exercise and had not updated their data or selected a polling station. To address this issue, the ISIE allowed an additional opportunity for eligible voters to select a polling station within the governorate from Sept. 4-30. Pending official statistics, the Center's findings indicate that despite

visible outreach efforts by the ISIE, the percentage of eligible voters participating in this initiative was low.

Based on discussions with the election authorities, the Center understands that the ISIE has decided to set up special polling centers at the municipal level to accommodate voters who did not participate in the voter registration exercise. These voters will be assigned according to their current information in the national identity cards database. The Carter Center recognizes that this decision is driven by operational constraints stemming from potential inaccuracies on the voter list. In order to ensure that voters are not disenfranchised on polling day, The Carter Center urges the ISIE to carefully consider the appropriate number and location of such specialized polling centers, particularly in light of registration statistics and population centers. Polling stations should be distributed so as to guarantee equal access within each constituency, in line with Tunisia's obligations to provide equality of suffrage for all voters.<sup>174</sup>

The Carter Center urges the ISIE to finalize and disseminate procedures regarding polling, counting, and the tabulation of results to all stakeholders.<sup>175</sup>

172 U.N. Human Rights Committee, General Comment No. 25, para. 19 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service": "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party." U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 120: "Media regulations should provide for safeguards against political censorship, unfair government advantage and unequal access during the campaign period."

173 UPL later removed their billboards on Sept. 20 in respect of the regulation.

174 International Covenant on Civil and Political Rights, Article 25 (b): "To vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voter." U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 104: "Polling stations should be distributed so as to guarantee equal access within each constituency."

175 International Covenant on Civil and Political Rights, Article 19 (b). International IDEA, International IDEA Code of Conduct: Ethical and Professional Administration of Elections, p.12-13: "Election administration should (...) v) Establish a system that allows interested parties to access, in a timely manner, all critical information, documents, and databases used in an election process."



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The prompt finalization of these procedures is of the utmost importance to allow for adequate training of election administration officials and staff at all levels. The Center recommends that training sessions for election officials include practical simulations to ensure a better understanding and consistent practice by all personnel involved.

The Carter Center encourages the ISIE to devote greater attention to training and follow-up instructions to ensure consistent practice by election officials. In the context of the candidate nomination process, the Regional Independent Authority for the Elections (IRIEs) interpreted the rules and procedures in different ways, resulting in inconsistencies in the way in which cases were handled, even those that were similar in nature. Inconsistencies were observed in cases related to persons ineligible to stand for candidacy due to their links to the former regime. As the confidential database sent by the ISIE to the IRIEs did not include the national identity card number of barred persons, when doubts occurred as to the identity of a person, some IRIEs considered that the burden of proof was incumbent upon the candidate whereas others attempted to verify whether the identity of the individual was the same. The processing of two lists submitted in the name of *Mouvement des Démocrates Socialistes* (MDS) in almost all constituencies following an internal split in the party also showed discrepancies between IRIEs. Successive contradicting instructions by the ISIE on how to deal with this issue lead to further inconsistencies: most IRIEs rejected both lists, however some accepted the resubmission, mostly as independent lists, sometimes requiring that a least one person be replaced so as to qualify as a new list.

Pending final internal approvals, the ISIE intends to launch voter information and education campaigns. Given the late stage in the process and short timeline remaining in the lead-up to polling day, intensified public outreach efforts will be critical to ensure that voters understand key areas including identifying the location of their polling stations, which documents

are required to cast a ballot, and how to mark the ballot paper.<sup>176</sup> The Carter Center encourages the ISIE to reach out to all interested stakeholders, particularly political parties and independent candidates at national and regional levels, to ensure that the electoral system and seat allocation formula and process are broadly understood.

The Center notes a positive increase in the number of domestic observer groups throughout the country preparing to monitor the elections. The Carter Center welcomes the strong interest by Tunisian civil society organizations to participate in public affairs and supports their right to do so.<sup>177</sup> However, the number of domestic observers that have received accreditation by the ISIE remains relatively low to date, as many observer groups are still undergoing training on observation methodologies to fulfil the requirement for “experience or training in the domain of elections” put in place by the ISIE to qualify for accreditation. As such, many domestic observers groups are withholding their applications pending the completion of observer trainings. Comprehensive training, in turn, should include the anticipated procedures for polling, counting, and results tabulation. In this context, The Carter Center is concerned about the revised deadline for the submission of accreditation requests, which ISIE moved from Oct. 19 to Oct. 8. While the intention to allow the ISIE a sufficient amount of time to process applications is understandable, including also those for representatives of political party and independent candidates, journalists, and international observers, these two competing interests may restrict Tunisian observers from fully participating in the pub-

176 United Nations, U.N. Human Rights Committee, General Comment No. 25, para. 11 on “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service”: “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. (...) Voter education (...) campaigns are necessary to ensure the effective exercise of Article 25 rights by an informed community.”

177 International Covenant on Civil and Political Rights, Article 25 (a). U.N. Human Rights Committee, General Comment No. 25, on “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service” para. 8



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lic affairs of their country.<sup>178</sup> The Center calls on the ISIE to consider extending the deadline and dedicating additional staff to accommodate the anticipated volume of observer applications.

The Carter Center will remain in Tunisia to observe the campaign period, polling day, counting and tabulation processes, and resolution of electoral complaints for the National Constituent Assembly elections. The Center's long-term observers will be joined by some 40 short-term observers from various nationalities in the lead-up to election day. The objectives of the Center's observation mission in Tunisia are to provide an impartial assessment of the overall quality

of the electoral process, promote an inclusive process for all Tunisians, and demonstrate international support for this ambitious democratic transition. The elections will be assessed against the Tunisian legal framework, as well as Tunisia's international obligations for genuine democratic elections.

The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 37 election observation groups. The Center will release periodic public statements available on its website: [www.cartercenter.org/](http://www.cartercenter.org/).

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<sup>178</sup> Inter-Parliamentary Union Declaration on Criteria for Free and Fair Elections, Article 7: "States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers."



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**Carter Center Preliminary Statement  
Tunisian National Constituent Assembly Elections**

**Carter Center Reports Peaceful and Enthusiastic Participation in Tunisia's Landmark Elections**

Oct. 25, 2011

In a statement released today, Carter Center observers monitoring the landmark Oct. 23 Constituent Assembly elections in Tunisia reported that the voting process was marked by peaceful and enthusiastic participation, generally transparent procedures, and popular confidence about Tunisia's democratic transition. Tunisian voters waited patiently in very long lines, determined to take part in the historic first election of the Arab Spring movements of 2011.

While the electoral process has been very successful so far, Carter Center observers reported that the process was hindered by insufficient information about the allocation of voters to polling stations, as well as a lack of detailed procedures and training for key parts of the process, including vote counting, tabulation, and election dispute resolution. The tabulation of vote counts is ongoing, and final results have not yet been released.

Key findings of the Carter Center observation mission include the following:

- Competitive elections: The National Constituent Assembly (NCA) elections provided millions of Tunisians with their first opportunity to vote freely in genuinely competitive elections following more than 50 years of authoritarian rule. Tunisians turned out to vote in significant numbers, showing great enthusiasm and determination to consolidate the achievements of the revolution.
- Independent election commission: For the first time, the elections were conducted by an independent election management body, the High Independent Authority for the Elections (ISIE), which benefited from government support at critical junctures of the process. In a relatively short time, the ISIE succeeded in building confidence among key stakeholders and being perceived as impartial.
- Election administration. While acknowledging the dedication of election officials in carrying out their duties, The Carter Center notes that the ISIE could have ensured more efficient planning by establishing a strong technical and administrative body. Essential decisions and regulations by the ISIE came often late in the process, leaving inadequate time for training of elections officials and workers.
- Voter registration. During the voter registration period in July and August, approximately 55 percent of the estimated eligible voters on the national



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ID card database actively turned out to verify their data; the rest were retained as eligible voters and ultimately allocated to specialized voting stations around the country.

- **Voting process.** Voting took place in an orderly way with polling staff largely following procedures. The processing of voters started slowly but the pace quickened over the course of the day. However, many voters who had not actively registered experienced difficulties in identifying the location of their polling station.
- **Vote counting.** While polling staff was diligent in following the procedural manual, the counting process was slow and laborious due to a lack of experience, insufficient training on the counting process, and the high number of candidate lists.
- **Participation of candidate representatives and observers.** Almost all polling stations visited had representatives of candidates and many had domestic observers. Candidate representatives and observers generally played a very positive role and contributed to increased transparency in the elections. In some stations, Carter Center observers noted that domestic observers became directly involved in the process, which despite being well intended, went beyond their mandated role.
- **Tabulation.** The start of tabulation was delayed considerably by the system of collection of voting materials. The tabulation process lacked detailed procedures such as who has the authority to correct mathematical errors and to quarantine results.
- **Campaign period.** The campaign was generally peaceful, with candidates free to assemble and to get their messages to the public. The ISIE attempted to level the playing field among candidate lists but appeared sometimes inconsistent in enforcing regulations. Carter Center observers heard allegations of campaign expenses exceeding the cap established by the law, and there were recurring reports of certain parties receiving financial support from foreign sources.

- **Women participation.** Tunisian women actively participated in the electoral process by casting their vote, attending campaign events, working as polling staff, and observing the elections. Given the quota on gender parity, there were many female contenders in the elections. However, women headed only seven percent of the lists.
- **Voter education.** Outreach by the ISIE mainly focused on basic information about the electoral process. Civil society organizations, often supported by international partners, undertook several initiatives to reach the public and explain the significance of the process. While valuable, these initiatives alone could not replace a comprehensive voter education campaign, much needed for the population to understand the election system and the mandate of a constituent assembly.

**Background:** The Carter Center received a letter of invitation from the ISIE to observe the electoral process in mid-July, followed by official accreditation on Aug. 4. The Center observed the NCA elections, deploying 65 observers who visited 272 polling stations in all of the state's governorates. The mission was led by former President of Mauritius Cassam Uteem and CEO and President of The Carter Center Dr. John Hardman. Former First Lady Rosalynn Carter accompanied the leadership delegation. Twenty-five different nationalities were represented on the observation mission.

The Center will remain in Tunisia to observe the final tabulation processes and resolution of electoral complaints for the NCA elections. The objectives of the Center's observation mission in Tunisia are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all Tunisians, and demonstrate international support for this ambitious democratic transition. The electoral process is assessed against the Tunisian legal framework, as well as Tunisia's international obligations for genuine democratic elections.



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The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of

Conduct that was adopted at the United Nations in 2005 and has been endorsed by 37 election observation groups. The Center will release periodic public statements available on its website: [www.cartercenter.org](http://www.cartercenter.org).



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### Carter Center Preliminary Statement on Tunisia's National Constituent Assembly Elections

Oct. 25, 2011

*This statement is preliminary; a final report will be published four months after the end of the electoral process.*

#### Statement of Preliminary Findings and Conclusions

##### Political Background

The elections on Oct. 23, 2011, provided millions of Tunisians with their first opportunity to vote freely in genuinely competitive elections following more than 50 years of authoritarian rule. Since independence, Tunisia has had only two presidents, Habib Bourguiba, the father of independence, and Zine El Abidine Ben Ali, who ousted Bourguiba in a “medical coup” in 1987.

The popular revolution that forced Ben Ali to flee Tunisia in January 2011 came after a long period of socio-economic unrest, and was sparked by the self-immolation of a young street vendor, Mohamed Bouazizi, in the central city of Sidi Bouzid on Dec. 17, 2010. The political revolt that followed spread quickly across Tunisia and catalyzed “Arab Spring” movements throughout the region. The Tunisian revolution was a movement of citizens fighting against poverty and marginalization, without any political or ideological leaders. The army did not directly take part in the revolution, but remained its guarantor. Unlike other countries in the region, Tunisia experienced a largely peaceful revolution, with relatively few victims and with little disruption of infrastructure and state administration.

The suddenness of the regime change required Tunisians to move rapidly to manage the political transition. Under the terms of the Constitution, the parliamentary speaker, Foued Mebazaa, became

interim president and Prime Minister Mohamed Ghannouchi formed a new government. In addition, a political reform commission known as the Ben Achour Commission was appointed to draft an electoral code to elect a new president.

In the weeks following the fall of the regime, however, many opposition leaders refused to support the transitional government because it included many members of the former ruling party (RCD). As a result, a period of intense political pressure ensued, during which the opposition used its revolutionary legitimacy to demand a complete break with the past. In February, the opposition created the Council for the Protection of the Revolution (Conseil de Sauvegarde de la Révolution, CSR) composed of political parties, civil society organizations and trade unions, and demanded that institutions from the old regime be dissolved and that the CSR share responsibility for the transition with the government.

On Feb. 21, protesters went back to the streets and organized a sit-in known as “Kasbah 2,” gathering around 100,000 people to demand the dismissal of interim Prime Minister Ghannouchi and the election of a constituent assembly. This led to the resignation of Ghannouchi, who was replaced Béji Caïd Essebsi, formerly a minister in the Bourguiba government. A few days later, the new government announced the partial suspension of the 1959 Constitution and called for elections by July for the National Constituent Assembly (NCA).



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To meet the opposition's demands, the Ben Achour Commission was absorbed by the CSR and renamed "The High Authority for the Realization of the Objectives of the Revolution, Political Reform, and Democratic Transition" (HARO). HARO was authorized to draft legislative decrees for approval by the council of ministers and the president. The most important was a new electoral code and the establishment of an independent body to organize the elections, the Independent High Authority for the Elections (ISIE). On Sept. 15, nearly all of the political parties represented on the HARO signed a "Declaration on the Transitional Process," defining the operating rules of the National Constituent Assembly and limiting its mandate to one year.

The NCA elections represent a critical challenge for Tunisia. For the first time in their history, Tunisians have a multitude of political parties with diverse and sometimes vaguely defined ideological orientations. As a result, there is considerable confusion and some skepticism. Many criticize new politicians for being opportunists and fear that the elections will not bring about solutions to the socio-economic problems facing the country.

### **Legal Framework**

When the Constitution was partly suspended in March 2011<sup>179</sup> existing laws were deemed inadequate in the post-revolution context and a new legal framework was elaborated for the NCA elections. This framework was composed of Election Decree-Law 35<sup>180</sup> (election law) as well as several additional decree-laws<sup>181</sup> and decrees<sup>182</sup> as well as decisions issued by the ISIE.<sup>183</sup>

Tunisia has also ratified a series of international and regional human rights treaties whose provisions are relevant for the electoral process. These treaties include the International Covenant on Civil and Political Rights (ICCPR),<sup>184</sup> the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>185</sup> the Convention on the Rights of Persons with Disabilities,<sup>186</sup> and the African

Charter on Human and Peoples' Rights (AfCHPR),<sup>187</sup> among others.

### **Electoral System**

The NCA elections were composed of one round of voting and followed a closed-list proportional representation system with seats allocated by largest remainders. By this formula, the number of valid votes is divided by the number of seats allocated to the constituency to produce a quotient. Seats are allocated to all lists that reached this quotient. The remaining seats are allocated to the parties or independent lists with the largest remainders.<sup>188</sup>

*Equality before the Law and Absence of Discrimination.* The law provided for gender parity on the candidate lists as a special measure to ensure equal opportunities for women to participate in the political process.

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179 Decree-Law 14 on the temporary organization of public authorities (March 23, 2011)

180 Decree-Law 35 was adopted on May 10, 2011, and was later amended by Decree 72 adopted on Aug. 3, 2011.

181 They included the Decree-Law 87 on the organization of political parties (Sept. 24, 2011); the Decree-Law 88 on the organization of associations (Sept. 24, 2011); the Decree-Law 91 on procedures and modalities of control by the Court of Auditors of the financing of the election campaign for the NCA (Sept. 24, 2011).

182 They included the Decree 1086 setting the dates for the elections (Aug. 3, 2011); the Decree 1087 detailing the modalities of public financing and the ceiling for authorized expenses for the election campaign (Aug. 3, 2011); the Decree 1088 on electoral constituencies and number of seats (Aug. 3, 2011); the Decree 1089 fixing the responsibilities of RCD members not eligible to be candidates (Aug. 3, 2011).

183 They include the decision setting the rules and procedures for the electoral campaign (Sept. 3, 2011); the decision setting the rules to be observed by the audiovisual information means throughout the electoral campaign (Sept. 3, 2011); the decision setting the conditions for the production and broadcasting of radio and TV programs related to the electoral campaign (Sept. 3, 2011); the Decision laying down the procedures for appeal to the ISIE against decisions of the IRIE attached to diplomatic centers regarding voters lists (dated June 25, 2011, published on Sept. 3, 2011); the decision relating to the election schedule, as amended Aug. 5, 2011, (published on Sept. 3, 2011); the decision regulating the special procedures to ensure that voters with disabilities are exercising their right to vote (Oct. 4, 2011); and the decision on the use of ink for the NCA election (Oct. 6, 2011).

184 Ratified on March 18, 1969

185 Ratified on Sept. 20, 1985

186 Ratified on April 2, 2008

187 Ratified on March 16, 1983

188 Decree-Law 35, Article 36



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While the Carter Center welcomes this provision as it reflects Tunisian commitments towards the equal enjoyment of rights, in practice, the quota is unlikely to produce a balanced representation of women and men in the NCA, due to the fact that 93 percent of the electoral lists were headed by men.<sup>189</sup> Similarly, The Carter Center supports the provision requesting that all lists include at least one person under the age of 30, to recognize the important role of the youth during the revolution.

The Center also acknowledges efforts by the election authorities to accommodate specific categories of eligible voters, such as disabled persons.<sup>190</sup> In addition, it is important to note that the ISIE has been responsive to concerns about possible vote buying expressed by civil society organizations (CSOs) with regard to the original Article 61 of the Election Decree-Law which allowed illiterate voters or voters clearly suffering from a disability to be assisted by a voter of their choice.<sup>191</sup>

To avoid possible vote buying or influence, the ISIE amended this provision to allow only holders of a “disability card” to be assisted during balloting by a voter of their choice.<sup>192</sup> In an effort to minimize the potential for undue influence from individuals accompanying voters in need of assistance, the display of the logo next to the name of the list on the ballot paper was deemed sufficient to assist illiterate voters.

*Every citizen has the right to be elected.* While the right to be elected is a widely recognized principle in both regional and international treaties, it is not an absolute right and may be limited on the basis of objective and reasonable criteria established by law.<sup>193</sup> Unreasonable restrictions to the right to be elected include those based on political affiliation, be it past or present.<sup>194</sup> In addition, good practice sources suggest that the loss of this right should only be imposed after adjudication by a court of law.<sup>195</sup>

Article 15 of the electoral law stipulated that three categories of persons were not eligible to stand for the

elections. The first two categories were in regards to persons who held government responsibilities under former President Ben Ali and those who held responsibilities within the presidential party, RCD, all the way down to local level.<sup>196</sup> The third category disqualified individuals who signed a petition in August 2010, requesting that Ben Ali to run for president in 2014.<sup>197</sup>

Based on Decree 1089 that defines the level of responsibility of persons excluded to run as candidates, the ISIE was tasked with drafting a list for the first two categories of ineligible persons. To establish the list, the ISIE relied on press clippings retrieved from the National Archives Office and the Official Gazette. By not following a more rigorous process, the ISIE risked ex-RCD officials falling through the cracks during the nomination process, seeking seats in the NCA and possibly being elected.

The HARO compiled the list for the third category of ineligible persons without establishing a clear procedure to provide concerned individuals with the due opportunity to clear their names. However, the HARO considered ad hoc requests from a few indi-

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189 ICCPR, Article 3; CEDAW, Article 3

190 The Ministry of Social Affairs reported in 2003 that there are over 150,000 people with disabilities in Tunisia, or about 1.5 percent of the total population (cited by IFES in “Elections in Tunisia: The 2011 Constituent Assembly, Frequently Asked Questions, July 2011”).

191 There are 1.9 million illiterate Tunisians over the age of 20. This is 19 percent of the total voting-age population, of which 68 percent are women. (Data from the 2004 census, according to the National Institute for Statistics, cited by IFES, “Elections in Tunisia: The 2011 Constituent Assembly, Frequently Asked Questions, July 2011”).

192 Decision regulating the special procedures to ensure that voters with disabilities are exercising their right to vote (Oct. 4, 2011)

193 ICCPR, Article 25; AU, AfCHPR, Article 13; Arab Charter on Human Rights, Article 24

194 ICCPR, Article 2

195 OSCE/ODIHR, Existing Commitments, p. 59

196 Decree 1089 fixing the responsibilities of RCD members ineligible to stand for elections (Aug. 3, 2011) defined the level of responsibilities within RCD that disqualified a candidate.

197 The signatories of the petition are referred to as “munachidine,” meaning “those who implored” in Tunisian dialect.



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viduals who were able to demonstrate that they were in fact included on the petition without their knowledge.

The election authorities referenced these three lists, comprising approximately 8100 persons, during the nomination process. However, persons considered ineligible were not informed about their status before the nomination period.

The Carter Center understands the exceptional context and the motivation to exclude from the constitutional drafting process individuals allegedly involved in human rights violations and corruptive practices under the previous regime. However, the Center notes that the process that led to the establishment of lists of ineligible persons generally lacked transparency and did not consistently comply with the State's obligation to protect the right to effective remedy.<sup>198</sup>

### Election Administration

An independent and impartial electoral authority that functions transparently and professionally is recognized internationally as an effective means of ensuring that citizens are able to participate in genuine democratic elections and that other international obligations related to the electoral process can be met.<sup>199</sup>

An independent election management body was established by Decree-Law 27 on April 18, 2011, supporting the desired principles of legal, financial and administrative autonomy. The ISIE is mandated to prepare, supervise and monitor the NCA elections, and ensure that elections are democratic, pluralistic, fair and transparent. It has been established that its mission shall end with the announcement of the results of the elections.<sup>200</sup> The ISIE enjoys broad powers, duties and responsibilities for all aspects the electoral process.<sup>201</sup>

The ISIE is composed of a central commission based in Tunis, and 33 Regional Independent Commissions for Elections (IRIE) covering 27 constituencies in

Tunisia and six constituencies abroad.<sup>202</sup> Shortly before the start of the campaign period, Local Commissions for Elections (ILE) were also established at delegation level.<sup>203</sup> The ISIE Decision on Rules and Procedures provides for ILEs, but gives no specific instruction regarding their role and responsibilities.<sup>204</sup>

The ISIE has 16 members drawn from the judiciary, academia, and civil society, and also includes a representative for expatriates, a notary, a bailiff, an accountant, an IT expert and a journalist.<sup>205</sup> These individuals were selected by the HARO, following a set of criteria including political independence and impartiality, and ensured that members had no previous responsibilities within former RCD party.<sup>206</sup> The ISIE was appointed by decree on May 20<sup>207</sup> and shortly afterward elected Kamel Jendoubi as president, Ms. Souad Triki as vice-president and Mr. Boubaker Bethabet as secretary general.

Each IRIE is composed of 14 members at the governorate level. IRIEs that are based abroad in Tunisian diplomatic missions are composed of between eight and 14 members. All IRIE members were selected by the ISIE and appointed on July 6, 2011.

Overall, Carter Center observers have reported that election authorities carried out their responsibilities

198 ICCPR, Article 2(3); United Nations, "Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections", para. 114, "Anyone alleging a denial of their (...) political rights must have access to independent review and redress."

199 U.N. Human Rights Committee, General Comment No. 25, para. 20

200 Decree-Law 27, Articles 1 and 2

201 Decree-Law 27, Article 4

202 Decree-Law 27, Article 5

203 The "delegation" is an intermediary administrative district between the governorate and the sector. There are 264 delegations attached to 24 governorates.

204 Adopted by the ISIE on June 25, 2011

205 Decree-Law 27, Article 8

206 Decree-Law 27, Article 6

207 Decree 546



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with a high level of dedication. In a relatively short time frame, and without previous experience, election authorities drafted regulations and procedures, prepared for and carried out electoral operations and built confidence among stakeholders. IRIE members were appointed just a few days before the start of the voter registration period, thus facing the challenge of establishing their structure while simultaneously supervising registration operations. Although shortcomings were visible at times, The Carter Center acknowledges the sustained efforts by the ISIE to ensure democratic elections.

In spite of these achievements, noticeable internal divisions and tensions within the ISIE often hindered the efficiency of the election administration and slowed decision-making processes. While the legal framework provided for additional technical, administrative and financial bodies to support election authorities, these structures appeared insufficiently staffed at the central level and non-existent at the regional level.

A timely adoption and dissemination of procedures and decisions is an important aspect of election administration, and is essential for ensuring transparency and access to information. Official documents by the election authorities should be widely accessible.<sup>208</sup> The adoption of essential procedures was often delayed by the ISIE until the period immediately preceding the start of the concerned phase of the election process. This thus left an inadequate amount of time to conduct proper training and implement the procedures accurately, including important processes such as the results management and tabulation processes. In addition, this led to inconsistencies in the implementation of procedures, e.g. during the registration process as highlighted in Sept. 1 statement by The Carter Center.<sup>209</sup>

The creation of the ISIE website and opening of a Facebook page had the potential of increase transparency and ensure easy, prompt, effective and practical access to information.<sup>210</sup> The Carter Center regrets

that the ISIE did not take full advantage of such tools by posting official documents in a prompt and systematic way.

Working within an environment characterized by an enduring mistrust of state institutions and a record of flawed elections, building confidence among stakeholders was one of the foremost challenges faced by the ISIE. The Carter Center notes that the election authorities took steps to consult with relevant stakeholders, such as political parties, civil society organizations and the media. Most election stakeholders met by Carter Center observers throughout the country recognized the efforts of ISIE and the IRIEs to fulfill their duties impartially. However, several smaller parties and independent candidates complained about delays in both ISIE and IRIE operations. Unlike well-established parties with extensive infrastructure and dedicated personnel, it was difficult for small parties and independent candidates to attend meetings that were announced on short notice. Despite those shortcomings, The Carter Center welcomes ISIE efforts to ensure an inclusive electoral process.

### Voting

The voting process is the cornerstone of the obligation to provide the free expression of the will of the people through genuine, periodic elections. Certain participatory rights must be fulfilled in order for the voting process to accurately reflect the will of the people. Foremost among these are the right to vote, to participate in public affairs, and to enjoy security of the person.<sup>211</sup>

Polling was held on Oct. 23 in a peaceful and orderly atmosphere. The turnout for voters who participated

208 ICCPR, Article 19, para.2; U.N. Human Rights Committee, General Comment No. 34, para. 19

209 "The Carter Center Welcomes Completion of Tunisia's Voter Registration; Highlights Additional Steps Needed To Ensure Successful Polling," Sept. 1, 2011.

210 U.N. Human Rights Committee, General Comment No. 34, para. 19

211 ICCPR, Articles 2, 25(a), and 9



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in the active voter registration process was high, and a significant percentage of voters were women.

Polling materials were delivered on Oct. 21-22 by the military, and observers reported that polling materials appeared to be secure until polling. Most polling centers opened on time, with only small delays in some locations. Soon after opening, lines outside of polling centers began to grow and increased in length throughout the day.

In most polling centers staff were effective in moving voters through the process once entering the polling station. Observers reported many instances in which elderly or illiterate voters struggled to fill out the ballot, an issue that should be addressed in future elections, but other voters received their ballots, marked them and deposited them relatively quickly. In spite of this efficiency within polling stations, however, there were several issues that contributed to long lines at the polling stations throughout the day.

Voters who did not participate in the active registration process were confused as to where they should cast their ballots. The ISIE created specialized polling centers for voters who did not participate in the active registration process, but who were eligible based on the civil registry. Many voters were confused or unaware of need to report to specialized polling centers, and instead frequently has to be redirected from regular polling centers.

A system of text messaging was put into place by the ISIE for all voters, whether they had actively registered or not, to check which polling center they were assigned. The texting system was operational on election day, but was flooded with texts just after the opening of the polls. This created a backlog of voters who were waiting to receive a response from the ISIE regarding their correct polling station. Many voters did not receive a text response for two to three hours to confirm their correct polling center and therefore went to the nearest polling center and waited in line, only to be told upon reaching the head of the line

that they were not assigned to that center. Following good practice to meet its obligation for universal suffrage, The Carter Center urges the ISIE to consider carefully the appropriate number and location of specialized polling centers.<sup>212</sup>

This problem could have been mitigated to a certain extent had voter lists been consistently posted at polling centers as foreseen in the Voting and Counting Procedure Manual,<sup>213</sup> but Carter Center observers noted that voter lists were frequently not posted at polling centers.

Another problem reported by Carter Center observers was that polling stations within a given polling center had an uneven distribution of voters. The first polling station frequently had more voters assigned than the second, third or fourth polling station within the center, which resulted in long line at the first station and often none at the fourth.

Carter Center observers reported a large domestic observer and list representative presence at polling centers throughout the country. Domestic observers and list representatives appeared well organized and often stayed at a given polling station to observe the entire process. Although Carter Center observers did not directly witness violations of the campaign ban within the polling centers, domestic observers and list representatives approached Carter Center observers to report alleged instances of vote buying, influencing and campaigning occurring within polling centers.

212 ICCPR, Article 25 (b): "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions: (b)" To vote and be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the voter." U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 104: "Polling stations should be distributed so as to guarantee equal access within each constituency."

213 The head of the polling station shall ensure that voter lists are exhibited in the entrance of the office.



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**Counting**

In general, polling center staff was very deliberate and conscientious in observing closing and counting procedures. Observers reported many staff members consulting the manual step-by-step in order to ensure that they were following the correct procedures for verifying and counting ballots.

While well intentioned, polling staff did not appear appropriately trained on the counting procedures, resulting in a slow and laborious process, in some cases, lasting several hours to count and reconcile ballots. There was also some procedural confusion regarding the correct way to store materials. These difficulties reflected insufficient familiarity with the procedures and lack of sufficient training. Observers reported the active participation of Tunisian observers in several instances. Although well received by the polling staff, involvement by observers or list representatives in the counting process is contrary to procedures and inappropriate for the role of an observer.

After counting was completed, the military picked up materials from each polling center, creating a large convoy. This process was time-consuming and delayed the arrival of materials at tabulation centers. Tabulation therefore did not begin until very late on election night.

A lack of detailed procedures for tabulation, in particular with regard to discrepancies on results forms and who has the authority to correct potential tabulation errors, may lead to delays or disputes during the tabulation process, which is still ongoing.

**Candidates, Parties, and The Campaign Environment**

The right of individuals to participate in public affairs, including the establishment of political parties and freedom of association, expression and assembly are obligations under international law.<sup>214</sup>

*Freedom of Assembly.* Freedom of Assembly was stipulated by Article 40 of the electoral law, which stated that electoral rallies and meetings shall take place freely.<sup>215</sup> On July 26 and again on August 26, 2011, the interim president signed an order to extend the state of emergency in place since January 2011.<sup>216</sup> The state of emergency prohibits public gatherings that “could threaten national security” and grants expansive powers to the Minister of Interior. Additionally, the minister of interior and the local governors are granted the right to search personal property, as well as to censor the press, radio broadcasts, and other activities without requiring prior judicial permission. The state of emergency law was not used to restrict the freedom of assembly in the context of the elections, including during the election campaign. However, it is to be noted that legislation restricting fundamental rights is generally inconsistent with the conduct of free elections.<sup>217</sup> The Carter Center recommends the lifting of state of emergency, as emergency laws are special measures that must be continuously justified. They should only be used in situations that threaten the security of the nation and when introduced, they should be limited in duration and geographic scope.

A total of 11,686 candidates contested 217 seats in Tunisia’s NCA election. The ISIE registered 1,519 lists, 54.6 percent of which were presented by political parties, 43.3 percent by independent candidates, and 2.4 percent by coalitions. The emergence of a large number of independent candidates was a notable trend within the electoral process, although many of these independents may be linked to political parties such as Ennadha, PDP and the former RCD.

214 ICCPR, Article 25(a); ICCPR, Article 21, U.N.HRC General Comment No. 25, para. 26

215 ICCPR, Article 21

216 Decree 1176 (Aug. 26, 2011) extends the state of emergency throughout Tunisia until Nov. 30.

217 U.N. Handbook on Human Rights and Elections



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*Nominations.* The nomination period was Sept. 1-7. Parties and independent candidates were allowed to present one list per constituency, and candidates were not allowed to be registered on more than one list. The number of candidates on the list had to equal the number of seats for the constituency. In addition, candidates had to be at least 23 years old.<sup>218</sup>

Nominations proceeded at a slow pace during the first few days of the nomination period. In fact, nearly half of the applications were submitted to the IRIEs during the last two days of the nomination period. Although the Carter Center assessed the nominations process to be generally open and inclusive, some inconsistent practices were observed, e.g., instances of people ineligible to stand as candidates due to their links to the former regime who were successfully nominated. Because the confidential database of barred persons did not include national identity card numbers, in the case of identity discrepancies or doubts many IRIEs placed the burden of proof of identity on the candidates themselves, whereas others IRIEs attempted to verify the identity of the individual themselves. In many of its decisions, the Administrative Tribunal ruled that the IRIEs should not have based their decision to reject a candidate solely on the database, but should have considered additional information sources when restricting the right of a person to be elected.<sup>219</sup>

*Campaign period.* The pre-campaign period was marked by a controversial decision by the ISIE to ban all forms of commercial political advertising from Sept. 12 to Oct. 1 despite the fact that law did not dictate this.<sup>220</sup> While the decision was intended to level the playing field for all candidates in a context of great disparities in terms of human and financial resources, the regulation was released relatively late in the process. At that time, several political parties had already spent money on campaigning through billboards across the country and various media outlets. The Parti Démocratique Progressiste (PDP) and Union Patriotique Libre (UPL) in particular contested the legality of the ban and refused to abide by it.<sup>221</sup>

Some smaller parties/lists were forced to respect the ban for fear of breaking the law while others chose to ignore it.

The enforcement of the ban was uneven and complicated by the lack of provisions clearly outlining penalties for violations. In order to avoid disputes with political parties disregarding its decision, the ISIE pressured advertising companies to abide by the regulation.<sup>222</sup> The Carter Center acknowledges the determination of the election authorities to promote fair competition; however the principle of legal certainty and good election practice requires refraining from substantial changes to the legal framework in the period before the elections.

The official campaign period opened on Oct. 1 and closed on Oct. 21. The kick-off to the campaign was extremely slow, with only a handful of parties holding campaign rallies and few lists displaying campaign posters. Increased dynamism was perceptible in the second half of the campaign period, with additional candidates holding rallies. Campaigning techniques also included low-profile events, door-to-door canvassing and distribution of leaflets. Carter Center observers reported that political parties and list representatives generally respected the 24-hour black out immediately before election day.

The Carter Center's observers attending campaign events throughout Tunisia assessed the campaign environment as generally positive and peaceful. Freedom of assembly was generally upheld, as candidates and audiences were able to gather freely. Some

218 Decree-Law 35, Articles 24 to 29

219 The processing of two lists submitted in the name of Mouvement des Démocrates Socialistes in almost all constituencies following an internal split in the party also showed important discrepancies between IRIEs.

220 ISIE decision on rules and procedures for the electoral campaign (Sept. 3, 2011).

221 UPL later removed their billboards on Sept. 20 in respect of the regulation.

222 Penal Code, Article 315



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campaign events that were not notified to the IRIEs 72 hours in advance, as required by the regulations, were not allowed to take place.<sup>223</sup> When security forces were present at campaign sites, they acted appropriately without interfering in the campaign. A few incidents were reported by observers, such as the robbing of Ettakatol party office in Ben Arous.

Carter Center observers reported that candidates were generally not using inflammatory language during rallies. The campaign messages went beyond issues strictly related to governance and the new constitution, to encompass economic programs, commitments to overcome unemployment and fight corruption, promises to develop the regions, and strengthen foreign relations. However, the tone became heated towards the closing of the campaign period, with several political parties accusing each other of vote buying. Even before the official campaign period started, Carter Center observers witnessed food distribution by a political party. Observers also received reports from citizens about undue influence, ranging from gifts and financial assistance to blatant attempts of vote buying by different political parties.

*Campaign Finance.* The legal framework for the Constituent National Assembly provides for public financing of the campaign and the imposition of a campaign-spending ceiling. While the use of foreign funds and private assets were prohibited, public funds were to be provided to candidates' lists as follows: 35 TND for every 1000 registered voters in constituencies with less than 200,000 voters; 25 TDN for every 1000 registered voters in constituencies with more than 200,000 voters. The first installment, equivalent to 50 percent of the total amount, was to be disbursed seven days before the start of the campaign. The second was to be disbursed 10 days before the end of the campaign, upon request and presentation of campaign expenditures of the first installment.

The law also imposed a ceiling on campaign expenditures at three times the amount provided for by the State. Political parties and independent candidate

lists were required to open bank accounts dedicated to campaign funds and expenditures, while the law also foresaw the audit of campaign expenditures by the ISIE and the Court of Audit after the elections.

The provisions on campaign finance were intended to ensure equal opportunities for contenders and prevent disproportionate expenses on behalf of any candidate. However, the funding mechanism, involving the election authorities, the Ministry of Finance and the Treasure, was not always administered efficiently. Some candidates interviewed by Carter Center observers showed evidence of the late receipt of public funds. For newly established parties and independent candidate relying mainly on public financing, such delays may have affected their ability to campaign.

In addition, there were concerns during the campaign period that certain political parties had received funding from foreign sources, contrary to the law. Carter Center observers heard many allegations, which were also reported widely in the news. Given the potential impact of foreign funding on the elections, the legal framework should be strengthened to ensure thorough scrutiny of financial sources.

*Media Environment.* Media outlets during Ben Ali's era faced a total blackout. In 2010, press freedom in the country was on the "Worst 15 List" established by Reporters Without Borders. The freedom enjoyed since January 2011 represents a dramatic change, but has also sheds light on the need to build the capacity of journalists to uphold professional standards. The election law and related decisions by the ISIE regulating the media environment during the campaign period reflect efforts to ensure that all candidate lists were provided with equal opportunities to compete. Each list was granted three minutes of free airtime on public TV and radio, following an order of appearance determined by lottery on Sept. 13 in

<sup>223</sup> ISIE decision on rules and procedures for the electoral campaign (Sept. 3, 2011)



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a live broadcast.<sup>224</sup> Public and private media were to abide by the principles of neutrality and impartiality, while private media were allowed to broadcast electoral programs in a non-discriminatory basis at their own costs and in close coordination with the public media and the ISIE.<sup>225</sup>

The ISIE was tasked with ensuring equal treatment for all candidates' lists and established a media-monitoring unit. The ISIE monitoring reports covering audio-visual media and newspapers showed that media generally complied with principles of neutrality and impartiality, except for some private media outlets. The Association of Democratic Women also conducted media monitoring.

### Voter Registration

Voter registration is recognized as an important means to ensure every citizen the right to vote. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed.<sup>226</sup>

The election law states the general principles for voter registration, but appears confusing with regard to its purpose. While Article 3 implies that registration is a pre-requisite for exercising the right to vote, Article 6 qualifies registration as "voluntary" and aimed at providing the opportunity to update one's residence address on the voter register derived from the national identity cards database.<sup>227</sup>

The use of the national identity card database created several issues potentially impacting the accuracy of the voter register. An estimated 400,000 Tunisian citizens were not recorded on the database as their national identity cards database were issued before 1993.<sup>228</sup> The national identity card database is not directly linked to the civil registry and thus is not systematically and immediately updated when deaths are recorded in the civil registers. In addition, individuals' addresses referenced in the database did not enable a reliable allocation of voters to polling stations. ID card holders may have changed residence since their

cards were issued, while address entries and fields were often inconsistent or incomplete.

Election authorities were aware of these shortcomings of the national ID cards database as they were considering other options for registering voters. After lengthy deliberations, the ISIE finally opted for a "passive" registration system, with prospective voters being encouraged, instead of required, to register and given the opportunity to select a polling station.

Voter registration started on July 11 for an initial period of three weeks and was later extended through Aug. 14 to increase participation. Approximately 1,000 registration centers, including mobile teams, operated under the supervision of the ISIE and its branches in the 27 electoral districts. Tunisians residing abroad had the opportunity to register at consular and diplomatic missions until Aug. 28.

The Carter Center found that the registration process was conducted peacefully, however, there were numerous problems. This included initial technical glitches with the online registration system, late designation of the IRIEs members and start of outreach campaign, and lack of clear information to explain the voter registration process. There were also inconsistencies in the implementation of procedures, in particular regarding the requirement that individuals

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224 ISIE decision on the conditions for production, programming, and broadcasting of radio and TV shows related to the election campaign, Article 4 (adopted on Sept. 3, 2011)

225 ISIE decision fixing the rules for audiovisual media during the campaign, Article 3 (adopted on Sept. 3, 2011)

226 U.N. HRC, General Comment No. 25, para. 11 "The right to participate in public affairs, voting rights and the right of equal access to public service"

227 Law n. 93-27 (March 22, 1993) on the National Identity Card

228 This estimated figure was communicated to The Carter Center by the ISIE and the CNI.



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personally register.<sup>229</sup> Nevertheless, the Carter Center found in its Sept. 1 statement that the voter registration process was conducted peacefully across the country.

According to the ISIE, 3,882,727 citizens registered in Tunisia, representing approximately 55 percent of the estimated voting population. However, since more than 3 million prospective voters did not update their data or select a polling station, the ISIE was faced with a substantial operational challenge to ensure proper allocation of these voters to polling stations. The ISIE offered unregistered voters an additional opportunity for selecting a polling station, within the governorate mentioned on their ID cards, from Sept. 4-20. Despite increased outreach efforts by the ISIE, Carter Center observers found that the number of eligible voters participating in this initiative was low. The ISIE decided to extend this operation on two occasions, until Sept. 30 and then to Oct. 10.

The ISIE announced on Oct. 15 that a total of 4,439,527 persons, or approximately 62 percent of total estimated eligible voters in Tunisia and abroad, had chosen their polling station. ISIE President Jendoubi explained that the ISIE would set up special polling stations, in addition to originally planned 7,692 polling stations in Tunisia and abroad, dedicated to prospective voters who did not chose their polling station.

In a statement released on Oct. 4, The Carter Center urged the ISIE to intensify public outreach and to consider the appropriate number and location of such specialized polling centers, particularly in light of registration statistics and population centers, in order to ensure that voters would not be disenfranchised on polling day, consistent with good practice in election administration.

The law provides that individuals sentenced to more than six months of imprisonment for committing honor-related felonies or misdemeanors and who have not yet regained their civil and political rights

are deprived from their right to vote.<sup>230</sup> The fact, however, that neither voter registration nor polling were conducted in prisons lead to the effective disenfranchisement of all persons deprived of liberty. The Carter Center notes in this regard that Tunisia did not uphold its obligation to guarantee universal suffrage and the right to vote.<sup>231</sup>

*Exhibition of the provisional voter list.* The exhibition of the provisional voter list provided an opportunity for the public to inspect the list and challenge mistakes such as the omission of eligible voters or the inclusion of ineligible voters.

The provisional voter lists were displayed from Aug. 20-26 at IRIEs, municipalities (Baladiya), districts (Mu'tamadiya), sectors (Imada), as well as in Tunisian diplomatic or consular missions (hereafter referred to as "exhibition venues"). The lists were printed in book format and in two separate volumes: one showing prospective voters who actively registered, the other showing prospective voters who were automatically included on the registry from the national identity card database. Prospective voters were listed in Arabic alphabetic order, without reference to allocated polling stations, noting their names, father's name, and grandfather's name.

The Carter Center noted with concern that the low turnout in the initial phase of the voter registration was even more discernable during the exhibition and challenges period when few voters inspected the provisional list. Voter information by the ISIE was barely visible and the lists showing unregistered voters

229 The ISIE manual on registration procedure explicitly states that registration is a personal process and, therefore, cannot be handled by delegation. Observers noted, however, that the manual on registration procedures was not always available at registration centers and registration staffs were not always aware of its existence, presumably due to the development and distribution of the document relatively late in the process.

230 Decree-Law 35, Article 5, para.1

231 UNHCR, General Comment No. 25, indicates that persons who are deprived of liberty but have not been convicted should not be excluded from exercising the right to vote.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

were displayed with one or two days delay. Exhibition venues were officially open the same hours as the Baladiyas, only from 8:30 a.m. to 2:30 p.m. and often closed on Sunday, thus leaving little time to the public to inspect the list.

Challenges to the provisional list could be submitted to the IRIE and its decisions could be appealed against before the territorially competent Court of First Instance. Very few challenges were submitted with the IRIEs during the inspection period, and in just one case the plaintiff appealed to court.

### Electoral Dispute Resolution

The Carter Center recognizes Tunisia's efforts to fulfill its obligation to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.<sup>232</sup> The electoral law provides for electoral dispute mechanisms through judicial appeals at the main stages of the electoral process including exhibition of provisional voter list,<sup>233</sup> candidate nomination,<sup>234</sup> electoral campaign<sup>235</sup> and preliminary results<sup>236</sup>. However, some aspects of the adjudication process lacked consistency, failed to specify deadlines or were not spelled out in enough detail.

For instance, during the candidate nomination phase the lack of a clear deadline for the adjudication process resulted in the Administrative Tribunal granting lists the right to compete for the NCA six days after the electoral campaign had already started.<sup>237</sup> As a consequence, five candidate lists lost one of only three weeks campaign. Good electoral best practice suggests that parties should be given equal opportunities, including campaign time.<sup>238</sup>

During the campaign period, the ISIE was in charge of monitoring violations and receiving complaints related to the electoral campaign and issuing "sanctions," with a possibility to appeal its decisions before the Administrative Tribunal. However, the ISIE did not issue regulations on the procedures to submit a complaint, leaving list representatives and the media

with no clear information regarding on how to file a claim.<sup>239</sup> Despite reported violations, no complaints were filed with the ISIE or the Administrative Tribunal during the campaign period.

While there were very few complaints during the display of the preliminary voter list and the campaign period, due in part to late dissemination or absence of procedures, during the nomination process more than 50 percent of the candidates whose lists had been rejected filed an appeal before the Tribunals of First Instance.<sup>240</sup> There were 90 cases filed before the Administrative Tribunal, with the IRIEs appealing the decision in 35 cases. In order to deal with this caseload during the legal deadline, five chambers were set up address electoral disputes during the legally mandated period.

Since the revolution, there have been very few changes in the judicial system, which has been marred by a lack of independence and impartiality. The public has little confidence in the judicial system as a mechanism of justice. However, during the pre-election period, the adjudication process was generally undertaken in a transparent manner, including through public hearings and the publication of decisions in most cases.

232 ICCPR Article 2(3), UNHRC General Comment No. 32, para. 18

233 Decree-Law 35, Articles 12 to 14

234 Decree-Law 35, Article 29

235 Decree-Law 35, Article 47

236 Decree-Law 35, Article 72

237 New Article 29 mentions that the plaintiff can appeal the decision of the Court of First Instance within two days to the Administrative Tribunal following the notification of the decision. However, the law omits to specify the deadline for the notification by the Court of First Instance of its decision to the plaintiff.

238 ICCPR, Article 26, "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law"; OSCE, Election Observation Handbook (Fifth Edition), p. 47, "All contestants should have an equal period of time in which to campaign."

239 ISIE decision setting the rules and procedures for the electoral campaign, Article 32

240 At the time of writing, no official figures regarding the exact number of rejected lists were available. The Center, however, was told by the ISIE that around 220 lists were originally rejected by the IRIEs.



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

According to article 72 of the electoral law, the preliminary results of the elections can be appealed by the head of the list or his representative before the plenary session of the Administrative Tribunal within 48 hours following their announcement. The Administrative Tribunal has to schedule a hearing session within a maximum period of seven days from the submission of the appeal. During that time the parties to the conflict can present their remarks to the court. Once the case has been heard, the plenary session has a maximum of three days to announce its verdict

According to the electoral law, all complaints related to the preliminary results should be decided upon at the latest 12 days following their announcement. The verdict administrative tribunal is final and can not be challenged. To deal with the potential caseload, the Administrative Tribunal has set up a special office to receive appeals related to the preliminary results, given the potential for many claims and short deadlines (10 days once a claim is received), especially if ballots have to be recounted.

Just as for the nomination process, only heads of lists are allowed to file complaints. This situation is regrettable; other alternatives would have allowed voters to appeal and CSOs to allow legal challenge of the electoral process by concerned citizens.

### Participation of Women

International human rights treaties foresee that women shall enjoy equal rights to men,<sup>241</sup> and that in some cases, states shall take special, temporary measures to achieve de facto equality for women.<sup>242</sup> State obligations to promote de facto equality for women derive, in part, from broader obligations regarding absence of discrimination<sup>243</sup> and the right of all citizens to participate in the public affairs of their country regardless of gender.<sup>244</sup>

The Center noted that both ISIE and IRIE members were predominantly male, despite the principle of parity being explicitly mentioned in Tunisia by the legal framework outlining their composition.<sup>245</sup> Among female members, only a nominal number held senior-level president or vice-president positions within the election management body. This notable lack of representation contrasts with the high rate of educated and professionally active women in Tunisia. In polling stations visited by Carter Center observers, 32 percent of polling staff were women.

Although the election law required gender parity on the candidates' lists, female candidates led only 7 percent of the lists. Only one party, the Democratic Modernist Pole honored the spirit of the law, by nominating women to head 16 lists out of 33. In light of this, it is likely that very few women will be elected to the NCA.

Female candidates received significantly lower media coverage during the campaign period and the months before. According to the ISIE media monitoring report, public TV channels 1 and 2 both devoted less than 10 percent of airing time to women candidates. The private TV Nessma devoted about 25 percent airtime to women.

### Civil Society and Domestic Observation

The right to participate in public affairs is a widely recognized obligation in public international law. Impartial election monitoring is a means for citizens

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241 ICCPR, Article 3

242 CEDAW, Article 3

243 ICCPR, Article 25; 2(1); 26

244 UDHR, Article 21(a); ICCPR, Article 25(9); ICERD, Article 5(c)

245 Decree-Law 27 establishing the ISIE, Article 8; ISIE Decision on Rules and Procedures, Article 24



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to participate and promote the integrity of democratic processes.<sup>246</sup>

Several domestic observer networks have emerged in advance of the NCA elections. Although the issuance of international observer badges was facilitated quite quickly, domestic observer organizations experienced difficulties in applying for and receiving their accreditation. Accreditation requirements initially set by the ISIE included election observation experience, a condition few domestic observer groups could meet in Tunisia. The election authorities recognized that such a requirement could impede civil society from participating, and agreed to consider training in election observation as a sufficient prerequisite to qualify for accreditation.

The ISIE also proved receptive to concerns expressed by domestic observer groups regarding the shortened deadline for accreditation.<sup>247</sup> The Carter Center urged the ISIE to show flexibility in this regard, and welcomed its decision to grant an additional week for domestic observer groups to complete their applications through providing a training certificate.

The most active and large networks were the National Observatory for the Elections, the Association for Transparency and Integrity of the Elections (ATIDE), Mourakiboun, Awfiya, Chahed, and the League of Tunisian Women Voters. According to official figures, the ISIE accredited 13,392 domestic observers and 661 international observers.

At the same time, the accreditation process was centralized in Tunis, making it difficult for organizations based in the regions to apply, receive and distribute their accreditation badges in a timely manner. The ISIE was not able to produce sufficient numbers of the badges with adequate time before the elections; some organizations received accreditation badges just a few hours preceding poll opening in Tunis, and then had to distribute them across the country. These delays put significant pressure on Tunisian observer organi-

zations to deploy observers and restricted their access to polling stations in the early hours of voting.

While observers benefited from freedom of movement around the country, and observed polling and counting processes, they reported being refused access to tabulation centers in several constituencies, including Beja, Sidi Bouzid, Nabeul II, and Mahdia. Carter Center observers also experienced difficulties accessing certain tabulation sites.

### Voter Education

Voter education is necessary to ensure an informed electorate that is able to effectively exercise the right to vote. The fulfillment of the international obligation of universal suffrage is partially dependent on effective voter education.<sup>248</sup> Internationally recognized good practice indicates that impartial and consistent voter education is the primary responsibility of state organs, chiefly the election management body. Political parties, civil society and international organizations may also contribute to voter education efforts.

The Carter Center regrets that the ISIE did not conduct more comprehensive voter education campaigns to provide the public with much-needed information to understand the electoral process. Given the absence of a recent democratic tradition, the specific character of a Constituent Assembly election, and the persistent phenomena of illiteracy in Tunisia, the need for voter education was particularly relevant.

246 ICCPR, Article 25 (a): "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives." UN Human Rights Committee, General Comment No. 25, para. 8 on "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service": "Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association."

247 The deadline to apply for observer accreditation was moved forward from Oct. 19 to Oct. 8 by the amendment to the electoral law adopted on Aug. 3.

248 ICCPR, Article 25.



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Several opinion polls and surveys published in the months ahead of the elections indicated that a significant portion of electorate lacked understanding of key areas including the electoral system, the mandate of a Constituent Assembly, and the role of the ISIE.

The ISIE outreach provided only basic information during the voter registration. The campaign was designed to mobilize eligible voters to register, but lacked detailed information on registration procedures and objectives. The Carter Center observers reported that citizens had varying and limited understandings of the process. Notably, public outreach by the ISIE to mobilize citizens to check the provisional voter list during the exhibition and challenges period was barely visible.

In the lead-up to polling day, voter education was similarly concentrated on basic information, delivered through mass media. The national radio and TV broadcasted spots to explain which documents were required to cast the ballot, and how, when and where to vote on polling day. A SMS service was also intended to allow prospective voters to identify their respective polling station.

Civil society organizations, often supported by international partners, undertook several initiatives to reach the public and explain the significance of the process. While valuable, these initiatives alone could not fill the gap left by the election authorities. Regrettably, there was also a notable lack of voter education activities conducted by political parties vis-à-vis their potential supporters.

**Background:** The Carter Center received a letter of invitation from the ISIE to observe the electoral process in mid-July, followed by official accreditation on Aug. 4. The Center observed the NCA elections, deploying nearly 70 observers who visited 272 polling stations in all of the state's governorates. The mission was led by former President of Mauritius Cassam Uteem and CEO and President of The Carter Center Dr. John Hardman. Former First Lady Rosalynn Carter accompanied the leadership delegation.

The Center will remain in Tunisia to observe the final tabulation processes and resolution of electoral complaints for the NCA elections. The objectives of the Center's observation mission in Tunisia are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all Tunisians, and demonstrate international support for this ambitious democratic transition. The electoral process is assessed against the Tunisian legal framework, as well as Tunisia's international obligations for genuine democratic elections.

The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 37 election observation groups. The Center will release periodic public statements available on its website: [www.cartercenter.org/](http://www.cartercenter.org/).

The Carter Center conducts election observation in accordance with the Declaration of Principles of International Election Observation and Code of Conduct for International Election Observation adopted at the United Nations in 2005.



THE CARTER CENTER

NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

NEWS

THE  
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**The Carter Center Highlights Shortcomings in Tunisia's Post-polling Period;  
Outlines Issues to be Addressed in Future Electoral Processes**

Nov. 10, 2011

After a successful day of polling in Tunisia on Oct. 23, The Carter Center notes that several key areas related to the tabulation of results and appeals procedures did not receive sufficient attention of the High Independent Authority for the Elections (ISIE). The ISIE has published results at the district level number by the number of seats won by parties and independent lists. However, The Center remains concerned that several weeks after the elections, detailed preliminary results disaggregated at the polling station level have not been published, as is widely recognized as a best practice to increase transparency.<sup>249</sup>

The Center acknowledges that the tabulation process was conducted in a fairly organized manner. Due to a lack of clear procedures outlining results management and training of election authorities, however, the tabulation process varied from region to region, in particular how electoral officials worked to resolve potential inaccuracies in results protocols. In future electoral processes, election authorities should ensure that regulations and procedures regarding data processing are disseminated and explained to electoral stakeholders well in advance. Procedures should address the review and audit of results by authorities to ensure adequate and transparent safeguards are in place.

The Center notes that when making decisions with an impact as significant as the invalidation of seats or one's candidacy, the ISIE should base its decision on substantive evidence. As a matter of practice, it is critical to justify the sanction as well as duly notify the concerned parties.

The Administrative Tribunal received a total of 104 requests for appeal. The tribunal worked efficiently and transparently to adjudicate the cases and provide a timely and effective remedy to appellants. However, 50 percent of the appeals filed to challenge the preliminary election results were dismissed on the basis of procedural shortcomings, a significant rate indicating a lack of understanding regarding the appeals process. In the future, the Center urges the election authorities to conduct targeted outreach efforts to political party and list representatives to better facilitate an understanding of the complaints and appeals procedures.

249 African Union, Charter on Democracy, Elections and Governance, Article 3 (4). EU, Handbook for European Union Election Observation, Second Edition, p. 83 and 86; International IDEA, Code of Conduct: Ethical and Professional Administration of Elections, p. 14; OSCE, Existing Commitments for Democratic Elections in OSCE Participating States, p. 73; OSCE, Guidelines for Reviewing a Legal Framework for Elections, p. 29; NDI, Promoting Legal Frameworks for Democratic Elections, p. 51



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This statement follows the Center's preliminary assessment of the National Constituent Assembly (NCA) elections and statement released on Oct 25. The Carter Center observed a total of 272 polling stations and all 27 tabulation centers in-country and continues to follow challenges through the announcement of final results, the seating of the National Constituent Assembly and the formation of the new government.

### Tabulation of Results

While the tabulation process was generally peaceful in most areas throughout the country, the ISIE's lack of clear procedures and the delayed delivery of the results reconciliation forms negatively impacted the tabulation process, prolonging the aggregation of preliminary results.

The ISIE did not prepare an operational manual of procedures for the tabulation process. Rather, informal instructions were issued relatively late in the process to Regional Independent Commissions for Elections (IRIE) staff who received minimal training and were largely unfamiliar with the results management system. Additionally, the criteria for quarantining mismatched results reconciliation forms containing errors and the relevant decision-making authority regarding changes were unclear. Timely decision making from the ISIE and better preparedness would have strengthened the integrity of the results management process and enhanced the transparency of this critical phase of the process.<sup>250</sup>

Although staff anticipated tabulation in the hours following the polling closing, delivery of the materials took much longer than anticipated by the Tunisian army, as units completing a circuit had to wait until all polling centers were finished before completing their collection route. As a result, staff became unnecessarily fatigued due to the unanticipated length of time it took to complete the process.

Access to observe the tabulation process was varied across the country. While some IRIEs allowed observ-

ers and party agents to observe tabulation closely, in other areas, observers were permitted to be present at the work areas in limited and controlled groups, which did not allow direct observation of the process. First-hand information is key in conducting credible and impartial observation. Regrettably, observers in many areas were reliant on informal interactions with IRIE senior management and data entry staff in order to assess the level of progress and issues arising during the tabulation process.

There were several incidents of results protocol forms (or proces verbaux) being mistakenly included in sealed ballot boxes with sensitive materials on completion of the count. To resolve the situation, the ISIE issued guidance directing the IRIEs to open ballot boxes and remove the process verbaux in the presence of a legal official (bailiff), representatives of political parties and independent lists, and domestic and international observers. While IRIEs managed this unexpected incident in a uniform and transparent manner after receiving instructions, the Center recommends enhanced training on procedures to avoid a repetition of this type of issue during future electoral events. The Center commends IRIE staff who was notably dedicated to the task despite the numerous challenges of this lengthy operation.

### Announcement of Preliminary Results

The ISIE announced preliminary results on Oct. 27 in Tunis. The announcement followed the release of partial results as tabulation was completed by district, which was not initially planned by the ISIE but was positive measure to help alleviate concerns as to why the process was taking longer than anticipated and appease tension mounting among stakeholders.

The Carter Center observers reported that results were generally accepted by stakeholders, though protesters targeted the Ennahda headquarters and

<sup>250</sup> African Charter on Democracy, Elections and Governance, Articles 3 and 12



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

mayor's office in Sidi Bouzid, with clashes ensuing between police and protesters, in response to the disqualification of Al Aridha Al Chaabia (Popular Petition) by the ISIE.

**Delay in posting detailed preliminary results by polling station**

To enable the public and other stakeholders to verify the accuracy of the results and to increase public confidence, it is important for the ISIE to publish the preliminary results disaggregated by individual polling station on its website, as stipulated by law, and the national media. In addition, the ISIE should issue relevant statistics including the number of invalid and blank ballots, which is a key indicator of the effectiveness of public outreach. Such steps are consistent with international best practices in order to meet Tunisia's obligations for access to information and to increase the transparency of the electoral process.<sup>251</sup>

**Appeals procedures and public outreach**

An effective complaints adjudication system can lend credibility to an electoral process, providing a peaceful alternative mechanism to violent post-election responses. Best practices require that potential complainants should be informed of the means by which to file a complaint and the time frame for its resolution.<sup>252</sup>

According to revised article 72 of the Electoral Law, the preliminary results of the elections could be appealed within two days following their announcement before the Administrative Tribunal by heads of list or their representatives.<sup>253</sup> As per Tunisia's commitment regarding the right to an effective remedy and international best practices, a better alternative would have been to allow for appeals by all parties interested in the process, including voters and civil society organizations and not just by the head of candidate lists or their representatives.<sup>254</sup>

In line with the law, the Administrative Tribunal scheduled its hearing sessions within a period of seven days from the submission of an appeal. Once

the case was heard, the plenary session announced its verdict within three days. These final verdicts were announced by Nov. 8 and notified in writing to the complainants. The Center commends the Administrative Tribunal for respecting the relatively short deadlines foreseen by the Law, despite the high number of cases and the Aid holiday celebrations.

The Administrative Tribunal received a total of 104 requests for appeal. Out of these, only six were accepted both on the form and substance resulting in Ennahda receiving an extra seat in Medenine<sup>255</sup> and Al Aridha Al Chaabia recovering seven seats,<sup>256</sup> hence rising to the third political force within the NCA. Prior to the announcement of the preliminary results, the ISIE had invalidated eight seats in six constituencies of this party: one in the constituency of France 2, as the head of the list held responsibilities within the RCD<sup>257</sup> and seven in Tunisia because of a violation of the provision on party financing (Article 52 of the election law).<sup>258</sup> The ISIE's deci-

251 ICCPR, Article 19

252 U.N. Commission on Human Rights, Civil And Political Rights, Including the Questions of Independence of the Judiciary, Administration, of Justice, Impunity, para. VIII.12.a, "Obligations arising under international law to secure the individual or collective right to access justice and fair and impartial proceedings should be made available under domestic laws. To that end, States should: Make known, through public and private mechanisms, all available remedies for violations of international human rights and humanitarian law."

253 According to revised Article 72 of the amended Electoral Law, the appeal had to be filed by the head of the list or his representative via a lawyer registered with the Court of Cassation. In addition, it had to be notified to the ISIE via a bailiff with a copy of the appeal petition and its justifications.

254 ICCPR, Article 2 (3) ; OSCE/ODIHR, Observation Handbook (Fifth Edition), p. 18

255 Decision announced on Nov. 4, 2011. The IRIE in Medenine had counted empty ballots among the total number of votes, which led to Ennahdha receiving a smaller share and being granted 4 instead of 5 seats in the district. Ennahdha filed a lawsuit with the Administrative Tribunal arguing that the process was in disagreement with the 67th Article of the Electoral Law, which states that empty ballots should not be counted in the total number of votes.

256 Decision announced on Nov. 8, 2011.

257 No appeal was formed by the Popular Petition in that case.

258 In the constituencies of Tataouine, Sfax 1, Jendouba, Kasserine, and Sidi Bouzid



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

sions were overturned by the Tribunal due to two reasons: a lack of substantive proof and in other constituencies the expenditures in question occurred outside of the campaign period, the time during which the regulation was in effect.

The Center is concerned about the fact that the ISIE did not provide any indications regarding the nature of the violations allegedly committed by the party in its decision. It merely referred to article 70 (power to revoke) and 52 (prohibition of private and foreign financing of political parties) of the electoral law. Bearing in mind the negligible amount of proof used to invalidate the seats won by Al Aridha Al Chaabia, regulations should be applied consistently to avoid perceived selectivity of the election authorities in targeting specific lists.<sup>259</sup> In accordance with international law, sanctions should be applied evenly and also be proportional to the alleged violation. Hence, the fundamental right to stand for candidacy should only be restricted on the basis of reasonable evidence.<sup>260</sup>

In 52 instances, that is to say 50 percent of the total number of appeals, cases were dismissed on the sole ground of procedural shortcomings. This was partly due to misleading information and insufficient outreach by the ISIE to political parties and list representatives regarding the means by which to file a complaint.<sup>261</sup> In addition, it appeared that the appellants lacked understanding of concerning the formal requirements to file an appeal according to revised article 72.

Improved outreach by the ISIE and careful studying of the electoral law by the appellants would have allowed list representatives to get a court ruling on the substance of their complaint and the Administrative Tribunal to create a more substantial and elaborated case law for the future.

### **Background:**

The Carter Center received a letter of invitation from the ISIE to observe the electoral process in mid-July, followed by official accreditation on Aug. 4.

The Center observed the NCA elections, deploying nearly 70 observers who visited 272 polling stations in all of the state's governorates. The mission was led by former President of Mauritius Cassam Uteem and CEO and President of The Carter Center Dr. John Hardman. Former First Lady Rosalynn Carter accompanied the leadership delegation.

The Center will remain in Tunisia to observe the announcement of final results for the election of the National Constituent Assembly and the formation of the interim government. The objectives of the Center's observation mission in Tunisia are to provide an impartial assessment of the overall quality of the electoral process, promote an inclusive process for all Tunisians, and demonstrate international support for this ambitious democratic transition. The electoral process is assessed against the Tunisian legal framework, as well as Tunisia's international obligations for genuine democratic elections.

The Center's observation mission is conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted at the United Nations in 2005 and has been endorsed by 37 election observation groups. The Center will release periodic public statements available on its website: [www.cartercenter.org/](http://www.cartercenter.org/).

259 ICCPR, Article 26 "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.;" U.N. International Convention on the Elimination of All Forms of Racial Discrimination, Article 5; LAS, Arab Charter on Human Rights (2004), Article 24.3-4

260 ICCPR, Article 25 (b)

261 On several instances, the ISIE issued misleading information as to where appeals should be sent, including in a press release issued by the ISIE on Oct. 27, where the ISIE confusingly announced that appeals to the preliminary results should be sent to the ISIE "les recours relatifs à ces résultats préliminaires peuvent être envoyés à l'instance centrale à l'adresse suivante : 19, Rue Ibn Al-Jazzar, Lafayette - 1002 Tunis." <http://www.tap.info.tn/fr/politique/300-politique/12130-proclamation-des-resultats-preliminaires-des-elections-de-la-constituante-jeudi-a-partir-de-20h00.html>



## APPENDIX E DEPLOYMENT PLAN

Team Number	Names	Location
Team 1	Denis Kadima	Tunis I
	Claire Spencer	
Team 2	Karim Kashaba	Tunis II/Ariana
	Emma Murphy	
Team 3	Chip Carter	Manouba
	Parastou Hassouri	
Team 4	Sara Abbas	Ben Arous
	Ali Hawi	
Team 5	Viviane Derryck	Nabeul I-II
	Matt Beuhler	
Team 6	Renate Herrmanns	Sousse
	Dolakh Gurung	
Team 7	Fatherrahman Yousif	Kairouan
	Julia Lindholm	
Team 8	Kenneth Perkins	Zaghouan
	Leila Blacking	
Team 9	Susan Waltz	Mahdia
	Fadi Quran	
Team 10	Schadi Semnani	Monastir
	Ron Laufer	
Team 11	Einas Mansour	Sfax I
	Edward Horgan	
Team 12	Steven Walther	Sfax II
	Haya Barakat Al Farra	
Team 13	Valerie Petit	Medenine
	Bentley Brown	
Team 14	Alain-Joseph Lomandja	Gabes
	Laura Dean	
Team 15	Charles Liebling	Tataouine
	Sarah El Idrissi	
Team 16	Maria Amparo Tortosa-Garrigos	Gafsa
	Hugo Passarello Luna	



## NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

Team 17	Hossam Milkawy	Kebili
	Helen Duncan	
Team 18	Lucien Toulou	Kasserine
	Laury Hayatayan	
Team 19	Constance Kaplan	Sidi Bouzid
	Saad Al Abdali	
Team 20	Reda Oulamine	Tozeur
	Fatima Hassan	
Team 21	Roger Bryant	Gafsa (rural)
	Yassmine Saleh Hamayel	
Team 22	Marwa Alkhairo	Bizerte
	Tulasi Prasad Gautam	
Team 23	Stephen King	El Kef
	Asmaa Falhi	
Team 24	Ellen Lust	Beja
	Yasser Ali Salah	
Team 25	Reza Rahnema	Siliana
	Leila Hilal	
Team 26	Hassan Abdel Atti	Jendouba
	Kathryn Zoglin	



# APPENDIX F CHECKLISTS

## VOTER REGISTRATION CHECKLIST

Observer Names:		Team #:	Date:	THE CARTER CENTER  
Electoral District:	Delegation/Municipality:		Imada:	
Reg. Center Name:		Reg. Center #:		
Arrival Time:		Departure Time:		

### INSTRUCTIONS

Based on your observations, put an "X" in the appropriate box on the right side of the page. Only put an X in the "N/A" box if you cannot answer the question, or it is not relevant. If any complaints, problems, or irregularities occur, provide details in the "Comments" section.

Where possible, strive to verify the data yourself. If that is impossible and you must rely on others for answers, **always** mark "I.O." (indirect observation) on the far right side of the page. Record others' answers *even if* they differ from your direct observations. (Record both.) **Always** clearly distinguish between your direct observations and reports that you receive from others.

				YES	NO	N/A	I.O.	
<b>OPENING &amp; SETTING</b>								
1	What time did the center open today? By: Morning <input type="checkbox"/> 8:15h <input type="checkbox"/> 10:00h Afternoon <input type="checkbox"/> 16:15h <input type="checkbox"/> 18:00h <input type="checkbox"/> not at all							
2	How many registration officials are present? _____							
3	How many registration officials are women? _____							
4	Did registration officials have all necessary equipments to operate? List them: _____							
5	Is the registration center accessible to all potential voters? If no, comment: _____							
6	Is the registration center physically accessible to persons with disabilities (using minimal assistance)?							
<b>QUESTIONS TO ASK REGISTRATION STAFF</b>								
7	How many people have registered at this center since it started operating? Since July 11: _____ Since day opening: _____							
8	How many women have registered? Since July 11: _____ Since opening: _____							
9	Is all registration material available and functioning? If not, comment: _____							
10	Is all registration material functioning? If not, comment: _____							
11	Has the registration center been forced to close for any reason? How long? Comment: _____							
12	What are the registration procedures to be followed? Detail: _____							
13	What documents are necessary for petitioners to register? List: _____							
14	Are applicants who are registered given a registration receipt?							
15	Have applicants been refused registration since this center started operating? How many? _____ For what reason? _____							
16	If anyone was refused, were his/her personal details and reason for rejection recorded?							
17	Is there any advice provide to applicants who need to get a new document to register? If so, detail: _____							
18	Are complaint procedures available to rejected applicants? If so, which? _____							
19	How do registration officials deal with registration material after closing? (Collected and stored? By whom? Where?) Comment: _____							
20	Have registration officials been trained? If so, by whom? _____ What kind of training? _____							



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

21	Are registration officials provided with a manual of procedures?				
22	To whom do registration officials report? How often? Comment: _____				
23	Has the registration center received a visit by RE officials? If so, how often? _____				
24	Are registration officials aware of observers' role?				
<b>REGISTRATION PROCESS</b>					
25	Did registration officials correctly follow the registration procedures? If no, what did they do wrong? Comment: _____				
26	How long are lines to register? o 0 - 20 o 20 - 50 o more than 50				
27	What is approximately the processing time to get registered? _____				
28	Are pregnant women or women with children able to go to the front of the line?				
29	Are applicants allowed to register without providing necessary documents?				
30	Are applicants who are registered given a registration receipt?				
31	Do the registration officials seem well organized and efficient?				
32	Do the registration officials seem well trained?				
33	Do applicants have a clear understanding of what the process is for? If not, comment:				
34	Were there technical or logistical problems with any of the following? ( check all that apply and explain) <input type="checkbox"/> with computers <input type="checkbox"/> internet connection <input type="checkbox"/> other _____ Comment _____				
35	Was anyone other than the registration officials actively involved in registering voters? If so, comment: _____				
		<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>I.O.</b>
<b>SECURITY ISSUES</b>					
36	Is registration being conducted in an orderly manner?				
37	Are people able to register free from intimidation? If not, comment: _____				
38	Are there security forces/police present <i>outside</i> the registration center?				
39	Are there security forces/police present <i>inside</i> the registration center?				
40	If <i>inside</i> the registration center, what are they doing? _____				
41	Did any security forces/police interfere with registration in any way? If so, how? _____				

(continues)



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

VOTER REGISTRATION CHECKLIST (continued)

OBSERVATION				
42	Are domestic observers present in the registration center? If so, from which organization? _____			
43	How many domestic observers are women? _____			
44	Are political party representatives present in the registration center? If so, from which party? _____			
45	How many political party representatives are women? _____			
46	Are there any restrictions preventing the following groups from performing their duties? ( circle for each) Y / N / NA domestic observers    Y / N / NA media representatives    Y / N / NA party representatives If so, comment: _____			
COMPLAINTS PROCEDURES				
47	How many applicants did you see refused registration during your observation? _____			
48	For what reason? _____			
49	If anyone was refused, were his/her personal details and reason for rejection recorded? How? _____			
CLOSE OF REGISTRATION				
50	Were all individuals who were in line by closing time allowed to register?			
51	Were any individuals who arrived after closing time allowed to register?			
52	After the close of registration, did registration officials collect all registration materials according to procedures? If not, comment: _____			
COMMENTS				
53	What is your <b>OVERALL</b> evaluation of the registration process at this RC? <input type="radio"/> Very Poor <input type="radio"/> Poor <input type="radio"/> Good <input type="radio"/> Very Good			

Provide details regarding any of the questions above. In particular, please provide details of any complaints, problems, or irregularities that occurred at the registration center that you observed.



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

VOTER REGISTRATION EXHIBITION AND CHALLENGE CHECKLIST

Observer Names:		Team #:		THE CARTER CENTER  
Governorates observed:				
Total:	Urban:	Rural:		
Date of start:		Date of end:		

INSTRUCTIONS

Please indicate the total number of YES/NO/N/A in the appropriate column or indicate the figure when requested.

							YES	NO	N/A
<b>EXHIBITION OF THE PROVISIONAL VOTER LIST</b>									
1	Were both lists posted by IRE at all level (Baladiya, Mu'tamadiya, and 'Imada) on August, 20?								
2	If not, when was the second (D-database) list posted? 21st: 22nd: 23rd: 24th: 25th: 26th:								
3	How have the lists been posted? In a book format:		On a Board or Wall:		N/A:				
4	Where people able to access the lists on Sunday August, 21?								
5	Does the provisional list show the names of crossed off voters (see article 8 D-L 35)?								
6	Are illiterate persons assisted when trying to find their names on the list?								
7	Is IRE staff in possession of a procedure guide explaining voter lists posting process?								
8	Are staff in charge of exhibition venues (Baladiya, Mu'tamadiya, and 'Imada) in possession of a procedure guide explaining voter lists posting process?								
9	How many persons were consulting the list during your visit?				Number:				
<b>CHALLENGES OF THE PROVISIONAL VOTER LIST AT EXHIBITION VENUE LEVEL</b>									
16	Are the different challenge forms available at the at the exhibition venue?								
17	Are plaintiffs assisted by the exhibition venue staff when filling out the challenge form?								
18	Is supporting documentation requested from the plaintiff? (If yes, provide details in comments)								
19	Is the exhibition venue staff in possession of a guide explaining the challenge procedures?								
20	Has exhibition venue staff been trained on challenge procedures? (If yes, precise by whom and for how long in comments)								
21	Does the staff show a good command of the procedures?								
22	Has the registration center received a visit by IRE officials? (If yes, precise how often in comments)								

(continues)



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

VOTER REGISTRATION EXHIBITION AND CHALLENGE CHECKLIST (continued)

SPECIAL REGISTRATION (ARTICLE 9)			
23	Are special registration forms available at the visited level (Baladiya or Mu'tamadiya)?		
24	Is supporting documentation requested to the applicants?		
25	How many registrations have been introduced since August, 15?                      Number:		
26	Is the staff of Baladiya or Mu'tamadiya in possession of a guide explaining the special registration procedures?		
DELETION FROM THE VOTER LIST (ARTICLE 10)			
27	Has RE crossed off any voters since August, 15 in the following cases: (1) Person died and whose death certificate was issued: (2) person who have started performing their military duty. (3) persons who are not eligible to vote (according to article 4):		



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

OPENING CHECKLIST

	<b>Team#:</b>		<b>Observers:</b>			
	<b>Governorate:</b>		<b>Delegation:</b>			
	<b>District:</b>		<b>Polling Center Name:</b>			
	<b>P.S. Code:</b>		<b>Registered Voters:</b>			
	<b>Specialized center:</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
	<b>Access to Polling Center is:</b>	<input type="checkbox"/> Very easy	<input type="checkbox"/> Easy	<input type="checkbox"/> Hard	<input type="checkbox"/> Very hard	
<b>Arrival Time:</b>		<b>Departure Time:</b>		<b>Polling Station is:</b>	<input type="checkbox"/> Urban	<input type="checkbox"/> Rural
<b>OPENING ENVIRONMENT AND PROCEDURES</b>						
					<b>YES</b>	<b>NO</b>
1	Was the building accessible to all voters, including the physically incapacitated, blind, or elderly voters?				<input type="checkbox"/>	<input type="checkbox"/>
2	Was the environment outside the polling center peaceful?				<input type="checkbox"/>	<input type="checkbox"/>
3	Was the polling center free from active campaigning within 100m of the entrance?				<input type="checkbox"/>	<input type="checkbox"/>
4	Was the polling center and its surrounding environment free from obstructions to allow free movement of voters and polling officials?				<input type="checkbox"/>	<input type="checkbox"/>
5	Were security forces present outside the polling center?				<input type="checkbox"/>	<input type="checkbox"/>
6	Were all election materials delivered to the polling station safely and securely?				<input type="checkbox"/>	<input type="checkbox"/>
7	Were the following election materials delivered to the polling station?					
	<input type="checkbox"/> ballot paper booklets	<input type="checkbox"/> voter register	<input type="checkbox"/> indelible ink	<input type="checkbox"/> seals		
	<input type="checkbox"/> polling journal (minutes)	<input type="checkbox"/> ballot box	<input type="checkbox"/> voting booths	<input type="checkbox"/> stamp		
8	Were the following polling officials present? (please tick if YES)					
	<input type="checkbox"/> Head of PS	<input type="checkbox"/> ID Checker	<input type="checkbox"/> Ballot Supervisor	<input type="checkbox"/> Queue Agent 1	<input type="checkbox"/> Queue Agent 2	
9	Which polling officials were women?					
	<input type="checkbox"/> Head of PS	<input type="checkbox"/> ID Checker	<input type="checkbox"/> Ballot Supervisor	<input type="checkbox"/> Queue Agent 1	<input type="checkbox"/> Queue Agent 2	
10	Were the polling officials present with sufficient time to set up the polling station for election day?				<input type="checkbox"/>	<input type="checkbox"/>
11	Was the ballot box presented as empty to all present including list representatives and observers?				<input type="checkbox"/>	<input type="checkbox"/>
12	Was the ballot box sealed with four yellow numbered seals?				<input type="checkbox"/>	<input type="checkbox"/>
13	Were the numbers of the seals recorded in the opening minutes?				<input type="checkbox"/>	<input type="checkbox"/>
14	Was the number of ballot papers allocated to the polling station recorded in the opening minutes?				<input type="checkbox"/>	<input type="checkbox"/>
15	What time did the polling station open?					
	<input type="checkbox"/> 07:00	<input type="checkbox"/> 07:01 - 07:15	<input type="checkbox"/> 07:16 - 07:30	<input type="checkbox"/> 07:31 - 08:00	<input type="checkbox"/> Did not open by 8:00	
16	If the polling station didn't open on time, what was the reason?					
	<input type="checkbox"/> Disturbances	<input type="checkbox"/> Insufficient materials	<input type="checkbox"/> Insufficient number of polling staff			
	<input type="checkbox"/> Polling staff lack of understanding of procedures	<input type="checkbox"/> Other.				
17	Were list representatives present at the polling station to observe opening? (please tick all that apply)					
	<input type="checkbox"/> Ennahda	<input type="checkbox"/> PDM	<input type="checkbox"/> Ettakatol	<input type="checkbox"/> Other.		
	<input type="checkbox"/> PDP	<input type="checkbox"/> CPR	<input type="checkbox"/> PCOT	<input type="checkbox"/> Other.		
18	Of		list representatives, how many were women?		<input type="checkbox"/> N/A	
19	Were all list representatives accommodated to observe the opening of the polling station?				<input type="checkbox"/> N/A	<input type="checkbox"/>
20	Were domestic observers present at the polling station to observe opening? (please tick all that apply)					
	<input type="checkbox"/> ATIDE	<input type="checkbox"/> LTDH	<input type="checkbox"/> OUFIYA	<input type="checkbox"/> ATED	<input type="checkbox"/> Other.	<input type="checkbox"/>
21	Of		domestic observers, how many were women?		<input type="checkbox"/> N/A	
22	Were all domestic observers accommodated to observe the opening of the polling station?				<input type="checkbox"/> N/A	<input type="checkbox"/>
23	Were other international observers present at the polling station to observe opening?				<input type="checkbox"/>	<input type="checkbox"/>
24	Were observers and list representatives allowed to observe the opening process effectively?				<input type="checkbox"/> N/A	<input type="checkbox"/>
25	Was the opening process free from interference? (including by security personnel and list representatives)				<input type="checkbox"/>	<input type="checkbox"/>

(continues)



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

OPENING CHECKLIST (continued)

OVERALL ASSESSMENT	
<b>Instructions for this Section:</b> Select the statement that best describes your assessment of the election environment and opening process for this polling station. If your answer is "poor" or "very poor," please explain in the comments section.	
<b>Very Good</b> - No significant incidents or irregularities	<input type="checkbox"/>
<b>Good</b> - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process	<input type="checkbox"/>
<b>Poor</b> - Incidents or irregularities that significantly affected the integrity of the process	<input type="checkbox"/>
<b>Very Poor</b> - Incidents or irregularities of such magnitude that the integrity of the process is in doubt.	<input type="checkbox"/>
COMMENTS	
Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed. You must provide explanation for any observation question to which you answered "NO". Please write the question number on the left column to make clear reference to the question on which you are commenting.	



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

POLLING CHECKLIST

	Team#:		Observers:		Form#:			
	Governorate:				Delegation:			
	District:				Polling Center Name:			
	P.S. Code:		Registered Voters:		Specialized center:	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	Access to Polling Station is:	<input type="checkbox"/> Very easy	<input type="checkbox"/> Easy	<input type="checkbox"/> Hard	<input type="checkbox"/> Very hard			
	Arrival Time:		Departure Time:		Polling Station is:	<input type="checkbox"/> Urban <input type="checkbox"/> Rural		
<b>OUTSIDE THE POLLING CENTER/STATION</b>								
					YES	NO	N/A	
1	Approximately how many voters were in line when you arrived?							
2	Approximately how long (in minutes) has the first person in line been waiting to vote?						<input type="checkbox"/>	
3	Was the building accessible to all voters, including the physically incapacitated, blind, or elderly voters?				<input type="checkbox"/>	<input type="checkbox"/>		
4	Was the environment outside the polling center/polling station peaceful?				<input type="checkbox"/>	<input type="checkbox"/>		
5	Was the polling center/station free from active campaigning within 100m of the entrance?				<input type="checkbox"/>	<input type="checkbox"/>		
6	Was the polling center/station and its surrounding environment free from obstructions to allow free movement of voters and polling officials?				<input type="checkbox"/>	<input type="checkbox"/>		
7	Were the security forces present outside the polling center/station?				<input type="checkbox"/>	<input type="checkbox"/>		
8	Was the queue controller providing the voters general information about the procedures inside the polling station?				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>INSIDE THE POLLING STATION</b>								
<b>Note:</b> Questions 9 - 12 require that you speak directly to a polling agent. Please do so <u>only</u> when this will not disrupt the voting process.						YES	NO	N/A
9	Approximately how many people have voted so far?							
10	Approximately what percentage of the voters has been women?							
11	Has the ballot box remained properly sealed throughout election-day?				<input type="checkbox"/>	<input type="checkbox"/>		
12	Has the process been free of complaints? (if NO, please elaborate in the comments section)				<input type="checkbox"/>	<input type="checkbox"/>		
13	Approximately how many people voted while you were present at the polling station?							
14	Was the environment inside the polling station peaceful?				<input type="checkbox"/>	<input type="checkbox"/>		
15	Was the process free from interference? (including by security personnel and list representatives)				<input type="checkbox"/>	<input type="checkbox"/>		
16	Were the following election materials in the polling station?							
	<input type="checkbox"/> ballot paper booklets	<input type="checkbox"/> voter register	<input type="checkbox"/> indelible ink	<input type="checkbox"/> seals				
	<input type="checkbox"/> polling journal (minutes)	<input type="checkbox"/> ballot box	<input type="checkbox"/> voting booths	<input type="checkbox"/> stamp				
17	Were the following election materials available for all registered voters?							
	<input type="checkbox"/> ballot paper booklets	<input type="checkbox"/> ballot box(es)	<input type="checkbox"/> indelible ink					
18	Were the following polling officials present? (please tick if YES)							
	<input type="checkbox"/> Head of PS	<input type="checkbox"/> ID Checker	<input type="checkbox"/> Ballot Supervisor	<input type="checkbox"/> Queue Agent 1	<input type="checkbox"/> Queue Agent 2			
19	Which polling officials were women?							
	<input type="checkbox"/> Head of PS	<input type="checkbox"/> ID Checker	<input type="checkbox"/> Ballot Supervisor	<input type="checkbox"/> Queue Agent 1	<input type="checkbox"/> Queue Agent 2			
20	Were list representatives present at the polling station during voting? (please tick all that apply)							
	<input type="checkbox"/> Ennahda	<input type="checkbox"/> PDM	<input type="checkbox"/> Ettakatol	<input type="checkbox"/> Other:		<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/> PDP	<input type="checkbox"/> CPR	<input type="checkbox"/> PCOT	<input type="checkbox"/> Other:				
21	Of _____ list representatives, how many were women?							
22	Were all list representatives accommodated to observe voting?				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
23	Were domestic observers present at the polling station to observe voting? (please tick all that apply)							
	<input type="checkbox"/> ATIDE	<input type="checkbox"/> LTDH	<input type="checkbox"/> OUFYA	<input type="checkbox"/> ATED	<input type="checkbox"/> Other:	<input type="checkbox"/>	<input type="checkbox"/>	
24	Of _____ domestic observers, how many were women?							
25	Were all domestic observers accommodated to observe voting?				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
26	Were other international observers present at the polling station?				<input type="checkbox"/>	<input type="checkbox"/>		
27	Were observers and list representatives allowed to observe the process effectively?				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

(continues)



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

POLLING CHECKLIST (continued)

28	Was the ID checker examining whether voters had ink on their fingers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	Were voters required to sign the voter register?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30	Were voters' fingers marked with indelible ink immediately before receiving a ballot paper?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31	Did the ID checker request that voters leave their cellphones outside the polling booth?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	Were ineligible voters prevented from voting? If NO, please elaborate in the comments section.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	Were voters who were not registered at that station directed to the proper polling station?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	Were all the ballots that were issued to voters stamped on the four corners by the relevant polling official?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35	Were the ballot papers free from any marks that could identify a voter?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	Were voters free from pressure to reveal how they voted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	Were the booths arranged in a way to protect the secrecy of the vote?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38	Were disabled voters receiving help to mark their ballot?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	Were illiterate voters casting their ballots without assistance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40	Was polling conducted in an orderly manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41	Were polling officials handling the volume of voters efficiently?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42	Was the process free from irregularities as listed below? If NO please check all the occurred:			
	<input type="checkbox"/> Duplicate Voting <input type="checkbox"/> Ballot box stuffing <input type="checkbox"/> Interruption of voting <input type="checkbox"/> Other: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**STAFF PERFORMANCE AND VOTER UNDERSTANDING**

43	How would you evaluate the overall performance of the polling staff?	<input type="checkbox"/>					
	<input type="checkbox"/> Very good <input type="checkbox"/> Good <input type="checkbox"/> Poor <input type="checkbox"/> Very poor Comment: _____						
44	How well do voters appear to understand the polling procedures?	<input type="checkbox"/>					
	<input type="checkbox"/> Very well <input type="checkbox"/> Well <input type="checkbox"/> Not well <input type="checkbox"/> Not at all Comment: _____						

**OVERALL ASSESSMENT**

**Instructions for this Section:** Select the statement that best describes your assessment of the election environment and polling process for this polling station. If your answer is "poor" or "very poor," please explain in the comments section.

<b>Very Good</b> - No significant incidents or irregularities	<input type="checkbox"/>
<b>Good</b> - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process	<input type="checkbox"/>
<b>Poor</b> - Incidents or irregularities that significantly affected the integrity of the process	<input type="checkbox"/>
<b>Very Poor</b> - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.	<input type="checkbox"/>

**COMMENTS**

Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the polling station that you observed. You must provide explanation for any observation question to which you answered "NO". Please write the question number on the left column to make clear reference to the question you are commenting about.



NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

CLOSING CHECKLIST

	Team #:		Observers:		
	Governorate:		Delegation:		
	District:		Polling Center Name:		
	P.S. Code:		Registered Voters:		
	Specialized center:		<input type="radio"/> Yes <input type="radio"/> No		
	Access to Polling Station is:	<input type="radio"/> Very easy <input type="radio"/> Easy <input type="radio"/> Hard <input type="radio"/> Very hard			
Arrival Time:		Departure Time:		Polling Station is:	<input type="radio"/> Urban <input type="radio"/> Rural
<b>POLL CLOSING</b>					
					<b>YES NO N/A</b>
1	Did the polling station close on time (19:00h)? If NOT, please comment.				<input type="radio"/> <input type="radio"/> <input type="radio"/>
2	Were all voters who were in line at closing time allowed to vote?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
3	Were all voters who arrived after closing time turned away without voting?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
4	Was the closing of the polling station peaceful?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
<b>COUNTING AND RECONCILIATION</b>					
5	At what time did the count begin?				
6	Were the following polling officials present? (please tick if YES) <input type="checkbox"/> Head of PS <input type="checkbox"/> ID Checker <input type="checkbox"/> Ballot Supervisor <input type="checkbox"/> Queue Agent 1 <input type="checkbox"/> Queue Agent 2				
7	Which polling officials were women? <input type="checkbox"/> Head of PS <input type="checkbox"/> ID Checker <input type="checkbox"/> Ballot Supervisor <input type="checkbox"/> Queue Agent 1 <input type="checkbox"/> Queue Agent 2				
8	Were list representatives present at the polling station during counting? (please tick all that apply) <input type="checkbox"/> Ennahda <input type="checkbox"/> PDM <input type="checkbox"/> Ettakatol <input type="checkbox"/> Other: _____ <input type="checkbox"/> PDP <input type="checkbox"/> CPR <input type="checkbox"/> PCOT <input type="checkbox"/> Other: _____				<input type="radio"/> <input type="radio"/>
9	Of _____ list representatives, how many were women?				
10	Was a lottery organized to determine which list representatives were allowed to attend?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
11	Were domestic observers present at the polling station to observe counting? (please tick all that apply) <input type="checkbox"/> ATIDE <input type="checkbox"/> LTDH <input type="checkbox"/> OUFUYA <input type="checkbox"/> ATED <input type="checkbox"/> Other: _____				<input type="radio"/> <input type="radio"/>
12	Of _____ domestic observers, how many were women?				
13	Were all domestic observers accommodated to observe the counting at the polling station?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
14	When counting began, did it appear that the ballot boxes were free from tampering?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
15	Did the head of polling station open the ballot box in the presence of list representatives and observers?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
16	Was vote counting transparent and observable by list representatives and domestic observers?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
17	Was the counting environment peaceful?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
18	Was the polling place free from the presence of unauthorized persons during counting?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
19	Were all ballots accurately counted?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
20	Was the validity of ballots determined in an impartial and objective manner?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
21	Was the counting process free from challenges? If NO, on what grounds were these challenges based (please check all that apply) <input type="checkbox"/> Voter intent <input type="checkbox"/> Miscounting <input type="checkbox"/> Invalidation of valid ballots <input type="checkbox"/> Lack of official stamp on ballot paper <input type="checkbox"/> Other: _____				<input type="radio"/> <input type="radio"/>
22	If the number of ballots and the number of voters differed, were the ballots recounted?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
23	Did polling officials follow established criteria for determining the intent of the voter?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
24	Was the counting process free from interference (including by the security personnel and list representatives)?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
25	Was the counting process free from official complaints made to the head of polling station?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
26	If complaints were issued, were officials responsive to these complaints?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
27	Did the head of polling station, in the presence of list representatives, package and seal election materials according to procedures?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
28	Did the head of polling station record the results protocol according to the procedures?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
29	Was one of the three copies of the results protocol displayed on door of the polling station?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
30	Were the two other copies of the results protocol placed in sealed envelopes and delivered to the head of polling center?				<input type="radio"/> <input type="radio"/> <input type="radio"/>
31	Did the head of polling station and all list representatives sign the results protocol? If NOT, please comment				<input type="radio"/> <input type="radio"/> <input type="radio"/>

(continues)





NATIONAL CONSTITUENT ASSEMBLY ELECTIONS IN TUNISIA

TABULATION CHECKLIST

	Team #:		Observers:			
	Governorate:		Delegation:			
	District:		Center Name:			
<b>TABULATION CENTER</b>						
				YES	NO	N/A
1	Was the environment outside the tabulation center peaceful?			M	M	M
2	Were the security forces present outside the tabulation center?			M	M	M
3	At what time did the tabulation center start operating?					
4	Were the security forces generally escorting the results protocols from the polling centers to the tabulation center? If NOT, please comment			M	M	M
5	Were list representatives present at the tabulation center? (please tick all that apply)					
	<input type="checkbox"/> Ennahda	<input type="checkbox"/> PDM	<input type="checkbox"/> Ettakatol	<input type="checkbox"/> Other:		
	<input type="checkbox"/> PDP	<input type="checkbox"/> CPR	<input type="checkbox"/> PCOT	<input type="checkbox"/> Other:		
6	Were domestic observers present at the polling station to observe counting? (please tick all that apply)					
	<input type="checkbox"/> ATIDE	<input type="checkbox"/> LTDH	<input type="checkbox"/> OUFYA	<input type="checkbox"/> ATED	<input type="checkbox"/> Other:	
7	Were the two manual teams set up? If there were more teams, please elaborate on the comments section			M	M	M
8	Was the electronic team set up?			M	M	M
9	If there were inconsistencies, did the results protocols were quarantined?			M	M	M
10	If the results were quarantined, what was the final decision made about them?					
11	Were the results of the tabulation announced publicly to the audience on the center?			M	M	M
12	Were the results transmitted to the ISIE? Please comment on the means of transmission (fax, e-mail, etc)			M	M	M
<b>STAFF PERFORMANCE</b>						
13	How would you evaluate the overall performance of the IRIE staff?					
	<input type="checkbox"/> Very good	<input type="checkbox"/> Good	<input type="checkbox"/> Poor	<input type="checkbox"/> Very poor		
	Comment:					
<b>OVERALL ASSESSMENT</b>						
<b>Instructions for this Section:</b> Select the statement that best describes your assessment of tabulation process. If your answer is "poor" or "very poor," please explain in the comments section.						
<b>Very Good</b> - No significant incidents or irregularities				M		
<b>Good</b> - A few incidents or some minor irregularities, but none that had a significant effect on the integrity of the process				M		
<b>Poor</b> - Incidents or irregularities that significantly affected the integrity of the process				M		
<b>Very Poor</b> - Incidents of irregularities of such magnitude that the integrity of the process is in doubt.				M		
<b>COMMENTS</b>						
Instructions: In the box below, please provide details of any complaints or irregularities that occurred at the tabulation center that you observed. You must provide explanation for any observation question to which you answered "NO". Please write the question number on the left column to make clear reference to the question you are commenting about.						



## APPENDIX G LETTER OF INVITATION

République Tunisienne  
Instance Supérieure  
Indépendante Des Elections

le 18/07/2011

A

CENTRE CARTER

**Objet:** invitation pour l'observation des élections de l'Assemblée Nationale Constituante.

Suite à votre demande, et dans un souci de promouvoir la transparence du processus électoral. Et en votre qualité d'observateur international ; nous vous prions chère Madame de bien vouloir accepter notre invitation

En attendant l'accréditation officielle, je vous prie d'agréer chère Madame mes considérations les plus distinguées.



# THE CARTER CENTER AT A GLANCE

**Overview:** The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A nongovernmental organization, the Center has helped to improve life for people in more than 70 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production.

**Accomplishments:** The Center has observed more than 85 elections in 34 countries; helped farmers double or triple grain production in 15 African countries; worked to prevent and resolve civil and international conflicts worldwide; intervened to prevent unnecessary diseases in Latin America and Africa; and strived to diminish the stigma against mental illnesses.

**Budget:** \$96.0 million 2011–2012 operating budget.

**Donations:** The Center is a 501(c)(3) charitable organization, financed by private donations from individuals, foundations, corporations, and international development assistance agencies. Contributions by U.S. citizens and companies are tax-deductible as allowed by law.

**Facilities:** The nondenominational Cecil B. Day Chapel and other facilities are available for weddings, corporate retreats and meetings, and other special events. For information, (404) 420-5112.

**Location:** In a 35-acre park, about 1.5 miles east of downtown Atlanta. The Jimmy Carter Library and Museum, which adjoins the Center, is owned and operated by the National Archives and Records Administration and is open to the public. (404) 865-7101.

**Staff:** 160 employees, based primarily in Atlanta.



Martin Frank

THE  
CARTER CENTER



THE CARTER CENTER

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