

Letter from the committee

The Committee for the Respect of Freedoms and Human Rights in Tunisia

C.R.L.D.H.T

January 2014



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EDITO

Three years after the Tunisian Revolution: trying to see light at the end of the tunnel

14 January 2014 marked three years after ousting Ben Aly and his family and announcing the breakdown of the despotic regime under the pressure of an unprecedented insurrection that burst out in Sidi Bouzid, on December 2010 and spread across all regions and sectors. The popular movement overwhelmed the huge repressive machine that had killed and injured hundreds of martyrs across the country in less than a month.

That date was a turning point for Tunisians who saw their long-held dream, entertained by generations of political and associative militants during decades of tyranny come true.

It was, also, a precedent to the peoples of the region who realized that getting rid of similar dictatorships is possible. Therefore, slogans of the Tunisian Revolution calling for the downfall of the regime, the building up of democracy and social justice have become the everyday anthem of mobilizations of the Arab world and beyond.

Certainly, reality is more complicated than dreams and calling for democracy is easier than its consolidation, but we've gone a long way: a High Commission for the Realization of the Revolution Objectives was set up, establishing a comprehensive mechanism that helped organize the political and associative life. Also, it offered a space for a debate between most public life protagonists on the best ways to achieve success to the burgeoning democratic process. Then an Independent High Commission for elections was established. It ensured the first independent and transparent elections in Tunisia, transparency that was praised by national and international observers. A National Constituent Assembly has been put in place, tasked with drafting the Constitution that would respond to Tunisians' aspirations.

However, the post-23rd October elections have turned out to be more difficult than predicted and has disappointed popular expectations. It soon appeared that fulfilling the objectives of the Revolution was not a priority to the governing majority. The debate over the Constitution has been diverged towards previously resolved issues such as the status of women, the Shariaa, freedoms of conscience, the freedom of artistic creation...

The combination of international and national factors, the way the country has been governed; loose government reactions in law enforcement have fostered the spread of disorder, from the infiltration of arms to the spread of violence and political assassinations. The political situation has not been better: it has shown signs that the country was about to slide down the steep slope of tyranny again. Repression targeted almost all the driving forces of the nation; journalists, artists, political and associative activists, union leaders... in a word, those who disagree with the official policy.

“Classical” repression has repeatedly affected popular mobilizations: 9 April 2012 in Tunis, end of November 2012 in Siliana, 4 December 2012 in front of the UGTT union.



EDITO (Partie 2)

The economic and social situation has even been worse and seems to get out of control: high unemployment, galloping inflation, a low purchasing power that has affected not only poor and disadvantaged citizens but also, the middle classes. On this level, all indicators present a grim picture. It is, in fact, the political treatment of the social issues that is at stake: lack of an economic vision, unilateral contested measures, absence of communication with social partners and civil society....All this has maintained tensions and stepped up protests.

Now and despite signs of easing political signs with the resignation of Mr. Aly Laarayadh and the nomination of a new president of government, Mr. Mehdi Jomaa, with the task to form a new government, the country has not seen the end of the tunnel, yet.

We believe that the success of this transition requires some important conditions:

- A trend reversal of the economic and social crisis faced by the country;
- Combating all forms of violence, extremism and terrorism;
- Reviewing all partisan appointments as predicted in the road map;
- Dissolution of the violent Leagues for the Protection of the Revolution;
- Neutrality of mosques and worship places.

But getting out of the current crisis is not the task of the government only. It concerns, also, independent competent people, who are able to repair past mistakes and help the political life get back on the track of democracy; and at the same time a vibrant civil society able to assume its role of accomplishing the transition and create the necessary conditions to achieve transparent and democratic elections.

Transitional Justice in Tunisia: a failed process?



The aim of transitional justice is the establishment of truth about human rights violations committed during dictatorships. But establishing the truth is not an end in itself. Much more should be done so that these violations won't be allowed to reoccur, through making use of mechanisms provided by this type of justice, such as:

- accountability, through engaging legal proceedings against perpetrators of human rights violations;
- compensation and adequate reparation for prejudices suffered by victims;
- reforming the State institutions, and mainly the judiciary and the security systems;
- reconciliation

These main axes, called "International Standards" on which the transitional justice is based are thought to be necessary to ensure a democratic transition. But, it belongs to each State to adapt them to its specificity.

What about the process of transitional justice in Tunisia? Let's begin by pointing out that Tunisian civil society has

been very active in this field and many initiatives have been launched. For instance, several complaints and bold actions have been undertaken by the 25 lawyers against symbols of the deposed regime. That helped to answer one of the claims of the Revolution: accountability, one of key pillars of transitional justice.

Unfortunately, it seems that all these efforts are not going to reach the expected results. In fact, before the 2011 elections, several measures had been taken, some of which could be considered as the core of a transitional justice: amnesty decree-law of 19 February 2011, creation of investigation commissions (on corruption and embezzlement, abuses registered from December 2010, confiscation of the assets of Ben Aly and his family...).

But all these measures didn't meet the criteria of a clear and coherent policy of transitional justice. Also, they were partial and highly fragmented, a fragmentation that reduced the efficiency of the process and led to the failure of investigation commissions that had been set up. After the 23 October 2011 elections, the government took control of the process. It created the Ministry of human Rights and Transitional Justice, thus monopolizing the prerogatives of both the constituent assembly and civil society, revealing the authorities real intentions to use the process for political and electoral ends. This opened up possibilities about deals with old regime corrupt tycoons and the regularization of their files through non transparent trades.

It is, also, worth noting the desire of the government to control the judiciary through arbitrary measures, such as the dismissal of 82 judges, unlawful mutation of judges, the illegal captivity of a businessman against Supreme Court's decision...

Mr. Nadhir Ben Ammou, succeeding Mr. Bhiri at the

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head of the Ministry of Justice did not do better. Quite the opposite, he was opposed to mutations decided by the Provisional Committee of the Judicial System, elected by the Constituent Assembly. But the death blow to transitional justice was certainly the adoption of law N° 105 of December 2013 in record time. In fact, the bill put forward by civil society through the technical committee was significantly altered by both the government and the National Assembly and the text that was passed contains major flaws. First, the Committee for screening candidates to the Truth and Dignity Commission, a committee based on the proportional representation raises concerns that the choice of those commission members would be based on allegiance and political compromises and not on their competence, neutrality and independence. Then, the voting system risks to turn into a settling of political accounts since the criteria of accountability have not been defined. Another important flaw: the law stipulates, through article 8, that election falsification crimes and

forced exile are among the prerogatives of the Truth and Dignity Commission while these crimes are not punishable under the Tunisian criminal code. Hence, the adopted text becomes a selective law of transitional justice, as it favors a category of victims, mainly Islamist victims.

In conclusion, there's reason to believe that Tunisia has missed the opportunity to be a success model in the field of transitional justice. Political considerations took precedence over establishing truth and accountability, two important pillars of a transparent process.

More importantly, the adoption of this law has split Tunisian civil society between those who accepted the fait accompli and those who contested the modifications brought to the original text that was provided by civil society (mainly the National Coordination for Transitional Justice) and propose to carry out advocacy work and a series of actions so as to rectify deficiencies in the adopted text in a way that ensures success to the Tunisian Transitional Justice model.

Tunisia is still threatened by terrorism:



The danger of terrorism is still hovering over Tunisia. This is the main conclusion drawn by Tunisian Center for Global Security Studies (Le Temps 18-01-2014). Created last November by a group of former security specialists, the Center draws our attention to quite disturbing figures: 4500 Jihadists, belonging to Ansar Al Sharia, classified as a terrorist organization, are training on the use and manipulation of arms and explosives in Libya, waiting for an order to come back home to Tunisia.

According to Rafik Chelli, manager of general security in the Center, who had exercised substantive security responsibilities since 1972, these Jihadists have managed to smuggle quantities of weapons into Tunisia, only 15% of which have been confiscated by the security forces.

During a press conference organized on 16 January 2014, the same source stated that 267 mosques are controlled by Fundamentalists, preaching violence. The Center called into question the authorities, who by their laxity have encouraged these groups to thrive and to forge close connections with smuggling networks.



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After several Judges protests, the independence of Justice is reinforced in the draft of the constitution:



The Association of Tunisian Magistrates has decided to suspend the seven-day strike inaugurated on Tuesday 15 January. This suspension has come after the new amendment of some articles related to justice, evaluated as setting up a solid base for the independence of the judiciary in the new Constitution, despite certain reservations.

Let us recall that judges have staged a series of strikes and sit ins in front of the National Assembly, demanding the revision of certain controversial articles concerned with the independence of justice, and mainly article 103, related to appointments of judges.

The older version of the article, considered as an attempt by the governing majority to maintain its stronghold on the judiciary, would give more power to the executive in nominating and promoting judges.

The new amendments appear to have set things back in order: judges are nominated by the President of the Republic on the assent of the High Council of Magistracy. Also, appointments to high judicial offices are to be carried out on the basis of an exclusive list supplied by the Council.

Tunis Center for Press Freedom: December 2013, “a dark month for the media.”

Tunis Center for Press Freedom, an observatory documenting on press freedom, released its monthly report, considering December as a black page in the history of Tunisian media, mainly with the large number of judicial persecutions and violence against journalists.

For instance, Nadhir Azouz, director of the “Massa” newspaper was sentenced to a 17-month imprisonment following two complaints. Such condemnation is considered as a violation of decree 115, forbidding prison sentences for press and publication matters.

Moreover, the Center has identified 39 aggression cases targeting journalists, working for radio stations, TVs or internet websites.

Note that prosecutions against media professionals have increased worryingly, while media associations and civil society keep demanding conformity with international standards concerning the reaction to contents of the information. Reactions, they believe, should be restricted to public debates and the right to answer so as to avoid repeated legal pursuits.

Proof of this is the excessive recourse to criminal justice, which is weighing heavily on the freedom of expression today.



Forthcoming elections: neutrality of the administration, independence of the judiciary and security



After a first meeting in Monastir in 2012, the Forum of Civil society was held from 25 to 28 December 2013 in Jerba, south of Tunisia. For four days, some 750 activists representing 250 associations joined together. The meeting was initiated by the Tunisian general Union of Labor (UGTT), the Destourna Network, the Tunisian Human Rights League (LTDH), the Association of Democratic Women (ATFD), the Tunisian Forum for Economic and Social Rights (FTDES), the Tunisian Association for the Integrity and Democracy of the elections (ATIDE), the Tunisian Association for Constitutional Law (ATDC); in partnership with the International Federation for Human rights (FIDH) and the Euromed Network for Human Rights (REMDH).

The focal point of the meeting was the forthcoming elections. Several workshops debated many issues related to the event: the election campaign financing, lists of electors, registrations, electoral disputes, access to information during the elections....

Ultimately, the civil society actors, gathered in a civil coalition, agreed to adopt, next February, an action plan to ensure democratic and transparent elections.