

Letter from the committee

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

C.R.L.D.H.T

Mars 2014



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EDITO

Terrorism and Human Rights Standards

When human rights organizations criticized police abuses towards presumed terrorists, including the use of torture in detention centers, abuses recognized by Samir Dilou, former minister of human rights and transitional justice (Mosaic Fm Radio, 08-11- 2013), many critical voices were raised, alleging that "there are no human rights with terrorists" who want to establish a backward and primitive society through violence, arms and political assassinations.

Many expressed concerns that talking of human rights standards now may restore the laxity and the blind eye that characterized the reaction of the previous government to terrorism, mainly while it was beginning to take form.

Democrats, human rights activists and freedom defenders think that the very opposite is true: you cannot uproot terrorism without sticking to human rights standards; of course, while enforcing the law. That's exactly the strategy agreed on by nations under the umbrella of the United Nations (2006). State members agreed about a common "strategic and operational framework" that addresses the conditions conducive to the spread of terrorism while ensuring the respect of human rights when combating the scourge.

However, many voices- mainly those of security forces- are now calling for more reinforcement of the 2003 Antiterrorism and money laundering Law, enacted in Ben Ali's era and meant to cut off any form of dissent. The Law-still effective- has been harshly criticized by national and international human rights organizations as it gives a vague definition of terrorism and undermines the right to an effective defense. (See the report by the Committee for the Respect of Freedoms and Human Rights in Tunisia,2008)

Under harsh criticism of human rights defenders for still using the 2003 anti-terrorist law, the former minister of human rights and transitional justice spoke of a draft law that would guarantee fair trials, protect the right to defense and respect the suspect's physical integrity.

However, addressing terrorism with respect to human rights standards doesn't only protect terrorist suspects from torture, abuse or maltreatment. The population, targets and victims of terrorist attacks, should, also, be protected. It is the imperative duty of the government to protect citizens against possible terrorist acts and to bring to justice the perpetrators, commanders and sponsors of terrorism. In fact, terrorism is an anathema to human rights. It seriously jeopardizes the most basic of rights, the right to life and physical safety. It, also, violates democracy and fundamental freedoms: freedom of opinion as it represses free speech; freedom of conscience and belief as it forces people "to follow the right path" of the faith.



EDITO (Part 2)

That's why human rights organizations, activists and political parties pointed accusing fingers to the previous troika government, and mainly its leading Islamist party, accusing them of laxity in front of the first unmistakable signs of terrorism: salafist attacks against ordinary citizens, artists, journalists, human rights militants and political activists. These attacks reached their peak when the American embassy was assaulted (September 2012), Lotfi Naghedh was murdered, Chocri Belaid and Mohamed Brahmi were assassinated and soldiers and security officers were killed, dragged on the ground and disfigured.

Another important factor to fight terrorism: an independent and impartial judiciary that upholds the rule of law, free from interference of the executive or pressure from terrorists or other lobbying groups.

Considered as one of the main mechanisms of repression under Ben Aly's regime, the judiciary is still not far from political controversies and from being used, quite often, as a tool in the hands of the executive, which degraded confidence in the possibility of its reform and hurt, once again, its credibility.

Lately the minister of interior, Lotfi ben Jeddou, has shed doubts on the previous government willingness to combat terrorism. A weekly newspaper has revealed that he sent a letter, on July 12, 2013, to the then Chief of government, Ali Lariyadh, warning that "pressures and threats from salafist groups push judges to be soft on terrorist crimes" (akher khabar weekly, 11-13-2014)

The minister of interior said he echoed the discontent of politicians and citizens to recurrent releases of terrorist suspects, thought to be involved in terrorist acts." According to the minister, their number amounts to 432, among them, those who are involved in attacks of the cultural center of Ibdellya, in the assault on the American Embassy, in premeditated murder or they are members of terrorist cells. (Previous source)

Let's admit that while there is a broad consensus on the dangers of terrorism and its impact on democratic values, its lurking danger was only felt when violent words were translated into actions, when hatred preaching in mosques and violent speeches in preaching tents put into practice through terrorist acts and political assassinations.

But up to now, dozens of mosques and Quranic kindergartens are out of state control and are in the hands of extremist groups, promoting the installation of Sharia laws and dividing the population into believers and infidels.

Lately, the ministry of interior has recognized two facts: difficulty in working with the ministry of religious affairs (under the previous Ennahda Minister); and the existence of several mosques outside the state's control.

More than three years after the Revolution that ousted a dictator and called for democracy, dignity and human

rights, Tunisia's fragile democracy still faces the spread of terrorist threats, a danger that has been steadily growing for the last two years with violence, extremism, political assassinations, the regular discoveries of arms caches and the return of Tunisian jihadists from Syria.

Along with this threat, we witness a dire economic and social situation and weakness in the state institutions.

The common thread that runs through all these problems is to develop a strategy that fights terrorism while strengthening the rule of law and respecting fundamental human rights. A strategy that incorporates:

- Respect of the rights of terrorist suspects: presumption of innocence, right to defense, respect of pre-charge deadline...
- Respect of the judiciary independence by protecting it from the executive's grip, partisan struggle and threats and violence of extremist groups;
- Mosques must be kept neutral, away from inciteful and hatred preaching and speeches.

At last, we believe that human rights principles and respect of law are necessary conditions but not enough to get rid of the scourge of terrorism, as we have to address its economic, social and cultural roots.



Communiqué : death sentences in Egypt



On 23 March 2014, the criminal court of Minya, South Egypt, sentenced 529 defendants to death, 387 of them in absentia. They were convicted of killing a police officer and attempting to kill other officers. Also, they were convicted of stealing arms and deliberately releasing prison inmates. These convictions came in the aftermath of the dispersal of the two Muslim Brotherhood sit-ins: in Rabaa Addaouia and Ennahda.

According to Egyptian civil society organizations and many observers, the ruling was a grave violation of the principles of a fair trial: it took only two quick sessions and it came when neither the defendants, nor their lawyers were present. Witnesses, also, were not heard.

The Committee for the Respect of Liberties and Human Rights in Tunisia, that reiterates its opposition to the death penalty no matter what the crime or the circumstances are, considers that those mass death sentences are a dangerous precedent in the history of Egyptian courts and a grave violation of the principle of the fair trial, the right to defense and of all international conventions related to human rights.

Also, the Committee joins calls from other human rights organizations for a retrial that would reconsider the death sentences, secure fair trial for the defendants, including the rights to defense and to witnesses' hearing.



Mobility partnership: promoting human rights or externalizing frontiers?

The mobility partnership between Tunisia and the European Union, signed on 3 March was severely criticized by civil society organizations, both nationally (The Tunisian Labor Union-UGTT, the Tunisian Human Rights League, the Association of Democratic Women, the Tunisian Forum for Economic and Social Rights and the Coordination of the Forum for Tunisian Immigration) and internationally (the Euromediterranean Human Rights Network, European Association for the Defense of Human Rights, the FIDH, Migreurop and Solidar)

The organizations criticized the negotiating process, which lacked “transparency and did not involve civil society actors.”

While recognizing that Tunisia is undergoing a democratic transitional process, the organizations’ communiqué insists that the country has no legislative instruments that guarantee the rights of refugees and asylum seekers.



The communiqué, also, criticized the European ambiguous attitude: on the one hand, the European Union intends to support Tunisia to establish a system “for protecting refugees and asylum seekers; and on the other, it opens up negotiations on a “readmission agreement of irregular migrants,” which is in contradiction with the right of freedom of movement guaranteed by international norms”.

This Mobility Partnership Accord, the organizations believe, is based on a security policy that aims to prevent migrants, refugees and asylum seekers from getting to the European borders.

Furthermore, the civil society organizations called upon EU members that are involved in the partnership to refrain from returning irregular migrants to Tunisia.

Eventually, the signatory organizations urged both Tunisia and the EU to guarantee the participation of civil society “especially those organizations working to protect and assist migrants” in any mobility negotiations and to refrain from implementing measures that do not respect human rights and international conventions.

Tunisia: a country of asylum?

They are both students. He’s Cameroonian and she is Ivorian. Both live in Ariana, suburb of Tunis. He filed an asylum application and she has the status of refugee. They went to Dubai and came back to Tunisia after a stopover in Cairo. At Carthage airport, they had a nasty surprise: they are no longer welcome. Even worse, they were arrested for 72 hours and asked to go back to Cairo, their latest stop. “As soon as we had arrived, we were verbally assaulted by the customs; they told us “we don’t want you to be here.” We slept on the floor; we weren’t given food or drink. Our health deteriorated and I do not understand why we were arrested or why we were maltreated,” says the Cameroonian student. (Le Temps, 21 march 2014)

Such ill-treatment of African has been nothing new. Several black students declared to have been victims of assault and abuse, according to the same newspaper.

Such behavior is against the Constitution and its article 26, which guarantees the right to seek asylum and bans returning asylum seekers. It is also against article 33 of the Geneva Convention, ratified by the Tunisian government.

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CEDAW and Tunisia: Attempts to roll back on women's rights??

This year's 8 March, the International Women's Day, fell short of expectations. Despite a conspicuous presence of human rights and feminist activists, much fewer people demonstrated. That, maybe, is due to the advances achieved by women in the new constitution.

However since mid-February, there are telling signs that the majority party in the Constituent Assembly is trying to roll back on women's rights. In fact, 11 members from their parliamentary group sent a letter to the Assembly, asking to repeal the decree-law 103, related to the adoption of the Convention on the Elimination of all forms of Discrimination against Women. In July 2011, Tunisia became the first country in the region to eliminate specific reservations on CEDAW.



What worries the Islamist group is the status of women in the family; mainly paragraphs 2, 9, 16 and 26 of the Convention, related to the mother's right to pass her nationality to the children, equality between men and women in heritage, equal property rights, the right of the wife to travel without her husband's permission and the right of a Muslim woman to marry a non-Muslim. (See, for example, TAP press agency 21-02-2014).

Contacted by the TAP Press Agency, Ferid Beji, President of the association "Genesis of the Prophet" considered that the decree-law related to the CEDAW is against Sharia Laws only on three points:

- The marriage of a Muslim women to a non-Muslim;
- The complete equality in heritage between men and women;
- The attribution of the mother's family name to the children.

Mrs. Sana Ben Achour, professor of constitutional law and activist, considers challenging women's rights and the decree-laws is unconstitutional because "as soon as the constitution entered into force, no draft legislations could be admissible except those related to the electoral process, transitional justice or bodies emerging from the National Constituent Assembly Laws."



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Anti-racism march in Tunis:

A march for equality and against the ill-treatment of blacks started from Jerba, south Tunisia to go through Gabes and Sfax cities, reaching Tunis on March 21, to mark the International Day for the Elimination of Discrimination.

“Racism has been in Tunisia for ages. It has become part of everyday life. It is also, part of traditions, language and mentalities,” said one of the organizers.

“It is high time we cured this chronic disease,” said another organizer on her page facebook,” adding that the “elimination of all forms of discrimination should be an inherent component of the democratic transition.” The organizers called for civil society to adhere in the combat against racism and call for equality between citizens.

Although Tunisia was among pioneering countries to abolish slavery (1846), more than 150 years later and more than three years after its revolution, many manifestations of discriminations have emerged towards blacks, who represent, according to a survey 8% of the total population. Not only towards blacks but also, towards minorities, in general. (Leaders, 1 April 2013)

Three significant events that occurred during the last few months have drawn public attention. A newspaper close to the previous ruling party mocked the president of the national journalists’ union because of her black color, the declaration of the previous minister of administrative reform that blacks “have the right to take leading positions in the government” (sic) (African Manager 17-03- 2014), and the broadcasting of a TV documentary where several blacks conveyed their sufferings from abuse and marginalization.”

It is important to keep in mind that the universal declaration of human rights prohibits any discrimination based on color or ethnic origin. Also, the Tunisian criminal law bans discrimination and incitement to racial hatred. They’re both punishable by heavy prison sentences and fines.



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“Managing savagery” in Tunisia?



After a series of terrorist acts and political assassinations allegedly committed by Ansar al-Sharia, and after the press conference in which the minister of interior, Lotfi Ben Jeddou, revealed that this terrorist organization has strong links with Al Qaeda in the Islamic Maghreb (AQIM), many experts in Islamist movements believed that the group- Ansar al-Sharia- began to implement the strategy of “Managing Savagery”, the strategy of Abubaker Naji, who is believed to be a nickname of a “top Al Qaeda insider.” The Jihadist group took advantage of the freedom margin- and chaos- that followed the fall of Ben Ali’s regime and also, of the presence of an Islamic party in power to smuggle arms, recruit and expand.

According to the book, savagery is the period that comes after the fall of governing powers, and the writer makes an analogy with the arrival of the Prophet to Medina. There, the way he governed the then existing savagery is to be held up as an example.

“Managing savagery” comes between two stages. The first is vexation and exhaustion and the empowerment phase, the “establishment of the Islamic State”, the caliphate. The writer warns his followers and all jihadits that the management of savagery is “the next step and it is the most dangerous stage ;if we succeed it will be ,God Willing, the passageway to the Islamic State, much awaited since the fall of the caliphate.”

Many countries are chosen for the application of this strategy. Among them, there are the Maghreb, Yemen, Pakistan, and Nigeria...But there are certain conditions for countries to be chosen for Jihad:



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- Suitable geographical conditions and topography;
- Weak authorities;
- Dynamic revival of Islamic Jihad;
- Spread of firearms among people.

The first stage, thought to be inaugurated by Jihadists is “the vexation and exhaustion” and it consists “in hitting the enemy with small strikes” when possible. Their frequency is going to have an impact in the long run.

The aim:” to expand and diversify “the vexation strikes against the Crusader- Zionist enemy everywhere in the Islamic world.”The plan is to lead operations such as attacking tourism sites and government headquarters. The enemy will summon up his strength and resources to protect his strategic points, which will bleed his economy dry and weaken and “exhaust” his security apparatus. Time, then, for the Jihadists to take over.”Such attacks will attract the youth to Jihad, free some areas from the existing apostate regimes and prepare their forces for the next phase of savagery management.”

As for the relationship with other Islamic groups, the writer proposes two important things: trustworthy jihadists should infiltrate these groups and climb up in their leaderships; and persuade these groups of the need to Jihad.

The writer criticizes “moderate” Islamist groups who see that the aspired “society of Islam” could be sought through the gradual creation of financial and political institutions; and then “empowerment” will occur through these institutions. The fiqh (Islamic jurisprudence) initiated by sheiks who “pretend” that the Islamic State could be carried out through multiparty systems , peaceful political alternation, the rejection of Jihadist attacks while unbelievers are in key political ,military and judicial positions is “ a wrong discretion” and a misunderstanding of the Islamic faith. “Jihadists alone have a full understanding of the religion of Allah.”

Although the salafist jihadism movement in Tunisia took much advantage of the chaos that followed the revolution and benefited from both the newly owned freedom and the rise of an Islamist party to power, it faces many interconnected challenges:

- Dozens of their followers have lately fallen under targeted police and military strikes .Such strikes have revealed an inherent weakness among these newly-recruited youths; weakness in both their organization and their military –even ideological- doctrine;
- After certain tolerance-even, quite often, complicity- there seems to be a total divorce between moderate Islamist parties ,who began to believe in ”empowerment”, “political transcendence” and in the benefits of “the democratic game”, and jihadists who are often impatient to set up the “ State of Islam;”
- The salafist Jihadist movement seems to have a standard conception for the whole Muslim world, regardless of history, culture and traditions. Tunisians, in general, not only civil society activists but also, normal people, renounce violence and believe in peaceful protests. The weeks of the revolution reinforced their belief in the efficiency of non-violence.

But police and military relatively successful strikes are not enough to address terrorism. It could only be contained through attacking its social and economic roots. Unemployment, poverty and marginalization make it easy for terrorist groups to recruit frustrated youths.