



**FOR IMMEDIATE RELEASE**

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**The Carter Center Commends Tunisia's National Constituent Assembly for Electoral Reforms;  
Urges further Improvements in Draft Legislation**

The Carter Center commends Tunisia's National Constituent Assembly for its efforts to advance electoral reform. The draft legislation under consideration in the assembly makes improvements in Tunisia's legal framework for voter registration and media and campaign finance regulation for the anticipated 2014 presidential and parliamentary elections. The Center encourages deputies to consider additional measures to improve the electoral framework, including steps to protect voting rights for military and security forces, candidacy rights, freedom of expression in the electoral period, and the rights of observers and party and candidate representatives.

In a statement released today, The Carter Center examines these and other issues through the perspective of international standards and obligations for democratic elections and identifies key issues that could be addressed during the process of amending the draft.

"The overall content of the draft electoral law, as well as the assembly's deliberative process, is very positive," said Dr. David Carroll, director of the Carter Center's Democracy Program. "The draft legislation and consultative approach serve as a good model for other transitional democracies in the region."

Originally formulated by civil society organizations, the draft text draws on the 2011 electoral law and lessons learned from the National Constituent Assembly elections, whose members have made strong efforts to address deficiencies in the previous legislation. The Center encourages deputies to continue these efforts and work to further align the draft legislation with Tunisia's international obligations for democratic elections. In the spirit of mutual cooperation, the Center offers the following recommendations for consideration:

- Remove or narrow restrictions on voting rights, including for members of the military and security forces, so as to allow the broadest participation possible in the polls;
- Consider measures to assist illiterate voters, including increased voter education and continued use of symbols on the ballot. While voter assistance is discouraged, if incorporated into the law, legislators should ensure steps to protect the secrecy of the ballot and electoral authorities should undertake civic education efforts to make illiterate voters aware of the guarantee of impartial assistance;
- Refine requirements for gender parity among heads of lists, and allow but not require the use of supplementary candidate lists for legislative elections;
- Ensure freedom of expression and communication by providing for media freedom in the pre-election period, and consider regulating political advertising rather than banning it;

- Eliminate or refine the exclusion from candidacy rights of people who held positions in the former ruling party in order to ensure that only those who pose a clear danger to Tunisian democracy if elected are excluded. Establish a means of consideration of individual circumstances for potential candidates;
- Consider regulations governing the publication or discussion of opinion polls during the electoral period rather than prohibiting those activities;
- Grant the ISIE authority to define criteria for voter registration, including residency requirements;
- Campaign finance regulations in Article 78 should refer to the electoral period rather than the electoral campaign, in order to ensure reporting of expenses incurred during the entire electoral period;
- Increase the transparency of ballot counting procedures by establishing procedures to decide the validity of ballots and requiring polling staff to exhibit each ballot to observers and party or candidate representatives during the counting process;
- Guarantee the provision of result protocols to observers at polling station and constituency levels, and establish a reasonable timeframe for the publication of preliminary results and result protocols or other measures to increase transparency of the tabulation process;
- Grant the ISIE the authority to order partial or full recounts of polling station results;
- Define the rights of observers and party or candidate representatives, granting explicit access to all aspects of the electoral process; and
- Submit the draft electoral law to a provisional commission charged with considering the constitutionality of draft laws, as soon as such a commission is established, to ensure that the electoral legislation is fully in accordance with the constitution.

While mindful of the importance of the technical considerations, The Carter Center encourages the National Constituent Assembly to adopt the draft legislation in a timely manner so as to allow electoral preparations to proceed in earnest. The Center also urges Tunisian authorities to prioritize measures to provide the ISIE with adequate premises and material resources, so that the election commission may take immediate steps to organize the polls.

Following its observation of the October 2011 National Constituent Assembly elections, The Carter Center has monitored the constitution-making process and developments related to the establishment of institutional and legal frameworks for subsequent elections. The Center assesses these processes against Tunisia's national laws and international treaty obligations.

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## **The Carter Center Commends Tunisia's National Constituent Assembly for Electoral Reforms; Urges further Improvements in Draft Legislation**

The Carter Center commends the National Constituent Assembly (NCA) for its efforts to advance electoral reform in the draft electoral legislation currently under plenary consideration. The draft text makes improvements in Tunisia's legal framework for voter registration and media and campaign finance regulation for the anticipated 2014 presidential and parliamentary elections. The Center encourages deputies to consider additional measures to improve the electoral framework, including steps to protect voting rights for military and security forces, candidacy rights, freedom of expression in the electoral period, and the rights of observers and party and candidate representatives.

Originally formulated by civil society organizations, the draft text draws on the 2011 electoral law and on lessons learned from the elections for the National Constituent Assembly. The General Legislation Commission considered the initial text and offered valuable contributions, both in substance and process. The Center commends the commission for its inclusive approach: the body reached out to civil society, the *Instance Supérieure Indépendante pour les Elections* (ISIE), the *Haute Autorité Indépendante de la Communication Audiovisuelle* (HAICA), and national and international experts to acquire a wide range of views on electoral matters and international standards and good practice. The final draft reflects in-depth discussions among commission members and efforts to reach consensus on the framework for the upcoming elections. Deputies have expressed strong interest in the draft law; some 483 amendments have been proposed. The Center encourages assembly members to continue, during plenary debates, the efforts made to date and work to align the draft legislation with Tunisia's international obligations for democratic elections.<sup>1</sup> The draft legislation and this consultative approach could serve as a good model for other transitional democracies in the region.

While mindful of the importance of technical considerations, The Carter Center encourages the National Constituent Assembly to consider and adopt this draft legislation in a timely manner in order to allow electoral preparations to be in earnest, allowing credible, genuine elections to be held in 2014 as required by the constitution. The Center also urges Tunisian authorities to prioritize measures to provide the ISIE with adequate premises and material resources, so that it may take immediate steps to carry out its work.

The Carter Center notes that this statement is not a comprehensive analysis of the draft law and therefore does not necessarily address all possible issues, but rather identifies key issues that could be addressed during the process of amending the draft. The draft law gives considerable regulatory latitude to the electoral and media regulatory bodies (the ISIE and the HAICA), and in practical terms the implementation of the electoral law will depend on the decisions made by these bodies. The Carter Center will examine the steps in this process as they occur.

### **Right to Vote**

Under international law, the fundamental right to vote is universal for citizens and may be subject to only reasonable restrictions.<sup>2</sup> The Carter Center urges lawmakers to consider carefully whether the

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<sup>1</sup> The international documents referenced are the International Convention on Civil and Political Rights (ICCPR), the explanatory General Comments on the ICCPR of the United Nations Human Rights Committee, especially General Comment 25 (hereinafter, UNHRC GC 25) and General Comment 34; and the Convention on the Rights of Persons with Disabilities.

<sup>2</sup> ICCPR, article 25.

draft legislation meets this litmus test in areas including that of the restriction of rights for persons convicted of committing a crime, members of the military and security services, and persons with mental incapacities.<sup>3</sup>

The draft electoral law modifies the 2011 electoral legislation in that restrictions based on incapacity are now limited to mental incapacity. This is a positive step, as previously restrictions on the right to vote were applied for any finding of legal incapacity (for example, incapacity to manage financial affairs). However, these changes may be insufficient to meet evolving international standards, which call into question any restriction of voting rights based on mental disability, particularly in view of recent decisions of the Committee on Rights of Persons with Disabilities and of the UN Human Rights Committee.<sup>4</sup>

The current legislation also limits the loss of voting rights for persons convicted of a crime to instances where that restriction has specifically been imposed as an additional sentence by a judge. While this is a positive measure, the penal code gives the judiciary wide discretion in imposing an additional sentence, including for crimes such as theft. The Center encourages the NCA to ensure in either the electoral law or the penal code that the loss of voting rights is tied only to the most serious crimes or serious violations of electoral law.

The draft law, as in 2011, denies voting rights for members of the military and security forces. International law does not explicitly foresee restriction of voting rights based on military service, nor does such a restriction seem to be reasonable. Although a few countries continue to restrict voting rights for members of the military, a number of others have abandoned such restrictions, including Argentina, Ecuador, Indonesia, and Peru. In addition, under Tunisian law, the definition of “security forces” is broad, including not only police but also prison guards, firemen, and others.<sup>5</sup> Restrictions on fundamental voting rights for these categories of citizens do not appear reasonable or justifiable.

While ensuring voting rights of military and security forces may present practical difficulties, this does not justify the blanket denial of voting rights. To the greatest extent possible all adult citizens, including military and security forces, should have the right to vote. The ability to exercise their rights due to reasons of deployment is a separate question. It is legitimate and necessary to put measures in place to ensure that their votes are not cast under pressure or coercion, for instance by assigning these voters to civilian polling stations. It would also be permissible under Tunisia’s international obligations to restrict candidacy rights for high-ranking military or police officials if there are reasonable grounds for doing so.<sup>6</sup>

### **Voter Registration**

The draft legislation proposes an “active” voter registration drive to register citizens to vote. The provisions differ from the process conducted in 2011, when over 4,000,000 citizens who did not actively register were automatically included on the voter register and assigned to overflow polling stations. The draft legislation also provides for proxy registration and authorizes the ISIE to conduct remote registration (for instance, via the internet). These measures serve to further the state’s interest in securing the broadest possible participation in the elections, while taking appropriate measures to

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<sup>3</sup> General Comment 25 of the United Nations Human Rights Committee identifies a limited number of restrictions that are permissible if applied reasonably, including minimum age, conviction for certain crimes, and established mental incapacity. The UN Convention on the Rights of Persons with Disabilities effectively prohibits restrictions based on mental disability.

<sup>4</sup> The UN Committee on the Rights of Persons with Disabilities has stated that “an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability.” (Communication No. 4/2011, “Zsolt Bujdosó and five others v. Hungary”). The Committee has also recommended that Tunisia adopt “legislative measures to ensure that persons with disabilities, including persons who are currently under guardianship or trusteeship, can exercise their right to vote...” Concluding Observation on Tunisia (CRPD/C/TUN/CO/1), para 35. See also, UNHRC, Concluding Observations, Belize (2013) para. 24.

<sup>5</sup> Article 4 of the law of Aug. 6, 1982 states “internal security forces comprise members of the national security force, national police, national guard, civil protection forces, prison security and juvenile corrections officers.”

<sup>6</sup> UNHRC, General Comment 25, para. 16.

allocate potential voters to polling stations in advance. These steps would preclude the need for auxiliary polling stations and allow the ISIE to anticipate voter turnout more accurately than was possible in 2011 and allocate necessary materials and polling staff more appropriately.

Over time, Tunisian authorities should consider implementing a continuous registration system, as provided for in the Law on the ISIE (Article 3.1). A passive system in which voters are included on voter lists automatically on the basis of external state databases is a long-term option. It would, however, require extensive preparation to ensure that data held by the state is complete and accurate. The tight timelines of the anticipated 2014 electoral process likely preclude this option.

The draft electoral law contains relatively few provisions on voter registration, leaving detailed regulation to the ISIE.<sup>7</sup> This is an accepted international practice and gives the ISIE the ability to adapt to changing circumstances. The NCA should, however, consider including specific language to establish the ISIE's authority to determine registration requirements. The current draft does not, for example, specify any residence requirements; a court could potentially interpret this absence as precluding the imposition of a residence requirement by the ISIE. While flexibility is needed for regulation, there should be an adequate legal basis for the ISIE to provide for registration at place of residence (or another place) if desired.<sup>8</sup>

### **Candidacy and Gender Equality**

In accordance with the country's commitments to international standards,<sup>9</sup> Tunisian law established the principle of requiring gender parity in the 2011 constituent assembly elections by requiring that women and men be nominated in alternating positions on the closed lists of candidates. The draft law further develops the gender parity requirement for legislative elections, requiring that at least one third of lists submitted by each entity nominating a list be headed by a woman. This is a positive measure intended to increase the participation of women in the new parliament. The constitution adopted in January takes a strong position in favor of women's rights and gender parity in elected offices.<sup>10</sup> If the NCA decides to establish full gender parity across constituencies for heads of lists, this would also be a positive measure and would work to further the aspirations elaborated in the constitution. For the sake of clarity, the law could specify that the requirement for parity for heads of lists applies only to parties and coalitions submitting lists in at least two constituencies.

At present, the draft law requires that each candidate list have the same number of candidates as deputies to be elected from the constituency. Each list must also be accompanied by a supplementary list to be used in case of withdrawal, incapacity or death of a candidate before the announcement of final results. In general, candidacy requirements which inhibit participation should be avoided. An amendment adopted in the plenary would require the submission of a minimum of two supplemental candidates, rather than a full supplemental list as foreseen in the original draft. This amendment would facilitate efficient replacement should a candidate withdraw from the electoral process, without placing an unnecessary burden on smaller political parties or independent lists, and is a positive compromise on the issue.

The draft law does not foresee the use of the supplementary lists to fill vacancies in the assembly. Instead, the current text calls for by-elections to be held in the respective constituency once the primary list is exhausted.<sup>11</sup> In many countries, by-elections are not held within a certain time period

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<sup>7</sup> Law on the ISIE, Article 3.

<sup>8</sup> For example, Decree-law 35, article 6, included a reference to residence as declared by the voter.

<sup>9</sup> For example, UNHRC, General Comment No. 28(68): Equality of rights between men and women (Article 3), para.3: "The State party must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women."

<sup>10</sup> Tunisian Constitution, Article 46: The State guarantees equality of opportunity between men and women in assuming various responsibilities and in all fields. The State works to achieve parity between women and men in elected assemblies. 11 . Article 32 of the draft elections law stipulates that in case of a vacancy in the Assembly of the People's Representatives, the member in question is replaced by the next candidate in the ranking of the main list, and within a period not exceeding 45 days from the date of the vacancy.

If the initial list is exhausted, by-elections are organized within a maximum period of 90 days from the date of vacancy.

leading up to general elections (e.g. six months in New Zealand, or one year in France). As the draft law is silent on this issue, the NCA may wish to consider specifying such a time period.

The draft law currently excludes certain persons from candidacy rights for legislative elections, including 1) those who held a position in the government under the Ben Ali regime and were Democratic Constitutional Rally (RCD) members, and 2) those who held positions in the RCD, as defined by decree 1089 of Aug. 3, 2011. The Carter Center has previously commented on this issue, recommending that the assembly carefully considers lifting such a ban in future elections.<sup>12</sup> If the exclusion is maintained, the NCA should establish transparent mechanisms and use the least restrictive means possible to determine which individuals should be excluded from candidacy. While such limitations in new democracies are permissible under international law, they should be limited in scope to persons who pose a threat to the new democracy, and they should be limited in time. The broader the category of persons excluded, the greater the requirement is for consideration of individual circumstances.

Positively, the category of *mounachidoun* has been removed from the restriction in the current draft, as has that of former ministers under the old regime who were not RCD members.<sup>13</sup> The categories of persons excluded could, however, still be considered overly broad and should be reviewed to ensure that the persons not allowed to be candidates are excluded due to the threat they would pose to Tunisian democracy if elected to the assembly and not to avenge previous activities.

The law does not specify how this exclusion would work in practice. If exclusion is based on pre-determined lists, as it was in 2011, the ISIE should not be the body charged with compiling such lists, as this is not the role of an election administration body and could impact public confidence in the work of the ISIE and perceptions of its integrity and impartiality.

### **Electoral Period**

The draft law introduces the concept of an electoral period, including the three months prior to the start of the official campaign period as well as the official campaign period. The regulation of election activities prior to the start of the official campaign is in principle in accordance with international good practice, as it helps to ensure greater equality of opportunity with respect to campaign financing and expenditure and to media coverage of prospective contestants.

Article 19 of the International Convention on Civil and Political Rights (ICCPR) commits States to fully respect freedom of expression, including the exchange of ideas, information, and opinions. This right can be limited only in accordance with narrow motivations specified in the article.<sup>14</sup> It is important that measures to ensure equality of opportunity in the election period do not unnecessarily restrict freedom of expression and do not prevent parties, coalitions, and independent candidates from making their ideas and views known to voters.<sup>15</sup> The Carter Center encourages the NCA to carefully

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<sup>12</sup> The issue of candidacy rights was considered in the statement, “Carter Center Urges Tunisia's Constituent Assembly to Protect Political Rights”, June 11, 2013. In its Final Report on the NCA Election, The Carter Center recommended that the NCA “should carefully consider lifting such a ban for future elections,” and that if such measures were adopted 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.”

<sup>13</sup> The term “Mounachidoun” refers to persons who in 2009 publicly called for then President Ben Ali to run for president in 2014.

<sup>14</sup> ICCPR, Art 19, “1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.” The Tunisian constitution contains similar language (Article 49).

<sup>15</sup> UNHRC GC 25 (para 25). “In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21, and 22 of the Covenant,

consider proposed restrictions in the electoral period in light of these principles. For instance, an absolute ban on political advertising in any media for the entire electoral period, currently foreseen in Article 54, may unduly limit the ability of new parties and candidates to make themselves known to voters. Regulation of advertising in the electoral period prior to the campaign – for example, by limiting the amount of money spent or the amount of time purchased – could be an alternative to a ban in order to avoid unnecessarily restricting freedom of expression.

Article 67 of the draft law prohibits the publication of the result of opinion polls, as well as studies or commentary on the results of opinion polls by journalists, from the beginning of the election campaign period (a total of 23 days). Article 169 in the transitional provisions extends the prohibition to the start of the electoral period (some 110 days before election day), until the adoption of a law on opinion polls. These provisions could be considered an excessive restriction of the right to freedom of expression and access to information. The UN Human Rights Committee has previously stated that it may be legitimate for a State party to restrict political polling for a limited period preceding an election in order to maintain the integrity of the electoral process, but it has noted in its case law that a cut-off date of 23 days prior to the election is unusually long.<sup>16</sup>

Moreover, the access of citizens to foreign websites renders ineffective a lengthy ban on publication and discussion of opinion polls in national media. In such cases a ban could allow false information published abroad to circulate in Tunisia without allowing political commentators the ability to contradict it. Another option, in greater alignment with Articles 19 and 25 of the ICCPR, would be to regulate in the election law the publication of opinion polls during the electoral period, requiring for instance the name of the polling organization and the disclosure of who requested the poll, the number of people asked, the margin of error, or other data.

Article 3 defines the term “electoral expense.” As a technical matter, the term should be used consistently in subsequent articles concerning campaign finance in order to ensure that expenses incurred during the pre-campaign period are monitored by the regulatory institutions and are declared by the candidate lists. For instance, Article 78 currently uses a slightly different term and appears to refer only to expenses incurred during the campaign period.

### **Voting, Counting and Announcement of Results**

The accompaniment of illiterate voters in the voting booth has been a contentious issue. The General Legislation Commission included a provision on the subject in the draft legislation, citing the problem of illiteracy in Tunisia and the high number of invalid ballots in the 2011 constituent assembly election as a justification.<sup>17</sup> Assistance to illiterate voters is not in principle in contradiction to international standards if it is independent and does not compromise electoral integrity.<sup>18</sup> On the other hand, concerns have been raised that allowing accompaniment for illiterate voters in the voting booth may open the door in some cases to the inability of some of these voters – particularly women – to make a free choice.

In considering the need to provide for accompaniment of illiterate voters, the need for voters to be able to make an informed choice should be balanced against the principles of the secrecy of each

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including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.”

<sup>16</sup> UNHRC, General Comment 34 on Article 19 of the ICCPR, para 37. UNHRC Case 968/2001, Kim Jong-Cheol v. Republic of Korea, para 8.3. For technical reasons the UNHRC decided not to address the length of the prohibition on publication of opinion polls.

<http://sim.law.uu.nl/SIM/CaseLaw/CCPRcase.nsf/3167fd85523cbf75c12567c8004d4280/ade0d78c58f7d122c125709100288f61?OpenDocument>

<sup>17</sup> According to the ISIE, there were 152,587 invalid ballots during the 23 October 2011 election, which represents 3.5% of the total votes cast.

<sup>18</sup> UNHRC GC 25, para 20, “Assistance provided to the disabled, blind or illiterate should be independent.”



individual's vote, the right to vote freely, and electoral integrity. In a new democracy, building confidence in the integrity of the electoral process is of paramount importance. In the Tunisian context, it may be difficult to guarantee the impartiality of voter assistance. Other measures to assist illiterate voters, including increased voter education and continued use of symbols on the ballot, may be preferable to allowing assistance, which could be perceived to be compromising the integrity of the vote.<sup>19</sup> If measures allowing voter assistance are adopted, international interpretive legal sources indicate that electors who are unable to vote independently should be made aware of the guarantee of impartial assistance.<sup>20</sup>

Transparency is a fundamental element of the counting process, as it is the only means to ensure that the counting is honest and accurate.<sup>21</sup> The draft electoral law should require polling staff to exhibit each ballot to observers and party representatives during the counting process. This practice should not be left solely to regulation by the ISIE, but should rather be specified in law. The law should also address certain technical issues pertinent to the counting and tabulation processes. Although the draft law sets the criteria for ballot validity, it does not specify who makes this decision (e.g., the president of the polling station, the polling station members collectively or otherwise).

Article 142 requires the announcement of the preliminary results 72 hours after election day at a maximum. The publication of the preliminary results, however, is not subject to a deadline, despite being included in the same article. It would be useful to mention a deadline for publication or to state that publication should occur within a reasonable time. Similarly, Article 138 does not foresee a deadline for the posting of result protocols on the ISIE website. Although international standards are silent with regard to the posting of individual polling station results, timely posting of the results protocols has proven to be an effective measure to achieve greater transparency and bolster public confidence in the system, as well as to help support any potential electoral appeals.

The draft law gives the ISIE the power to annul results, but it does not explicitly provide for the ISIE to order the partial or full recounts it deems necessary. The NCA should consider granting the ISIE legal authority to do so. In some cases, a recount may be an option to help determine the accuracy of the results. If this authority is not given to the ISIE in the law, it is possible that a court could reject an ISIE order for a recount, even if ISIE asserts this authority in subsidiary regulations.

### **Election Observation**

Transparency is a crucial part of ensuring the integrity of elections and of building confidence in the neutrality of the election administration. This is true not only for election day procedures but for the entirety of the electoral process. Election observers – both national and international, as well as party or candidate representatives – are an internationally recognized component of electoral transparency. The current draft of the electoral law references observers and party representatives but does not contain provisions specifying their overall rights and responsibilities.

Although the Law on the ISIE requires the ISIE to regulate observation, the electoral law should establish an appropriate framework for such regulation. Ideally, the law would establish rights for observers to be accredited as of the start of the pre-election period, attend meetings of the ISIE Council and meetings of any sub-national bodies established by the ISIE, observe technical preparations for elections, obtain or review documents, have access to all election day and tabulation procedures, and receive copies of the counting protocols at polling station level. The rights of party representatives, similar to those of observers, should also be defined in the law.

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<sup>19</sup> UNHRC GC 25, para 12, “Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice.”

<sup>20</sup> UNHRC GC 25, para 20.

<sup>21</sup> UNHRC GC 25, para 20, “votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.”



## **Recommendations**

The Carter Center encourages the NCA to consider taking the following actions as it revises the draft electoral law:

- Remove or narrow restrictions on voting rights for members of the military and security forces, so as to allow the broadest participation possible in the polls;
- Consider measures to assist illiterate voters, including increased voter education and continued use of symbols on the ballot, rather than voter accompaniment. While voter accompaniment is discouraged, if incorporated into the law, legislators should ensure steps to protect the secrecy of the ballot and electoral authorities should undertake civic education efforts to make illiterate voters aware of the guarantee of impartial assistance;
- Refine requirements for gender parity among heads of lists to clarify that the measure applies only to parties and coalitions nominating candidate lists in at least two constituencies;
- Ensure freedom of expression and communication by providing for media freedom in the pre-election period, and consider regulating advertising rather than banning political advertising;
- Eliminate or refine the exclusion from candidacy rights of persons who held positions in the former ruling party in order to ensure that only those who pose a clear danger to Tunisian democracy if elected are excluded. Establish a means of consideration of individual circumstances for potential candidates;
- Consider regulations governing the publication or discussion of opinion polls during the electoral period rather than prohibiting those activities;
- Grant the ISIE authority to define criteria for voter registration, including residency requirements;
- Campaign finance regulations in Article 78 should refer to the electoral period rather than the electoral campaign, in order to ensure reporting of expenses incurred during the entire electoral period. The term “electoral expenses” as defined in Article 3 should be used consistently throughout the text.
- Increase the transparency of ballot counting procedures by establishing procedures to decide the validity of ballots and requiring polling staff to exhibit each ballot to observers and party or candidate representatives during the counting process;
- Guarantee the provision of result protocols to observers at polling station and constituency levels, and establish a reasonable timeframe for the publication of preliminary results and result protocols or other measures to increase transparency of the tabulation process;
- Grant the ISIE the authority to order partial or full recounts of polling station results;
- Define the rights of observers and party or candidate representatives, granting explicit access to all aspects of the electoral process; and
- Submit the draft electoral law to a provisional commission charged with considering the constitutionality of draft laws, as soon as such a commission is established, to ensure that the electoral legislation is fully in accordance with the constitution.

- Adopt the draft legislation in a timely manner so as to allow electoral preparations to proceed in earnest.
- The Carter Center urges Tunisian authorities to prioritize measures to provide the ISIE with adequate premises and materiel resources, so that the election commission may take immediate steps to organize the polls.

Following its observation of the October 2011 National Constituent Assembly elections, The Carter Center has monitored the constitution-making process and developments related to the establishment of institutional and legal frameworks for subsequent elections. The Center assesses these processes against Tunisia's national laws and international treaty obligations.

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