

## ARAB CITIZENSHIP REVIEW N. 7



DEMOCRACY AND CITIZENSHIP IN NORTH AFRICA AFTER THE ARAB AWAKENING:  
CHALLENGES FOR EU AND US FOREIGN POLICY (EU-SPRING)

January 2015

### ARAB CITIZENSHIP REVIEW NO. 7 TUNISIA

**Supervising Tunisian Elections by civil society:  
How to improve it?**

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This project is supported by Compagnia di San Paolo



## INTRODUCTION

On October 26, 2014, Tunisia held its second democratic **legislative** elections. Participation among more than 5 million registered voters was at about 60%, a relatively good turnout for the country, compared to the 52% voters in 2011. Preliminary results for the 33 constituencies (27 within the country and 6 for expatriates) reveal that secular frontrunner Nidaa Tounes (**Call of Tunisia**) won around 37% percent of votes while moderate Islamist party Ennahdha, winner of the 2011 elections and leader of Tunisia's post-revolution government, received 27% of votes. Other parties with notable percentages are the Free Patriotic Union (French: UPL) with 4.4% and the leftist party, Popular Front, with 3.7%.

Legislative were immediately followed by two round presidential elections the first one held on November 23, the second one after one month. Conversely to what was expected, people were more attracted by presidential elections even though president has notably less prerogatives than the parliament: representing the state, he is mainly responsible for determining the general state policies in the domains of defense, foreign relations and national security (article 76.) This paradox is ascribed to national imaginary more confident in a "Zaim" (leader) rather than a collective institution such as a parliament. The turnout was at about 64% within the national 27 constituencies. Out of 70 candidates (including 5 female), 27 (with only one female) met the legal requirements to run for the presidency. The result confirms the legislative trend and Beji Caid Essebsi, leader of Nidaa, was proclaimed the third President of Tunisia. He gained 39.46% of the votes at the first round elections. Essebsi was followed by Moncef Marzouki who received an unexpected score (33.43%) at the first round, thanks to the support of Ennahdha audience and to an active and insistent campaign focused on the idea that revolution is threatened by old regime guard "come-back."

Rewarded for his long militant live, the extreme leftist Hamma Hammami in a new look gained 7,8% of the votes while the new comer Slim Riahi received 5,5% despite rumors circulating on his personal reputation. Notably, Kalthoum Kennou gained 0,55% (18.287 votes) but listed eleventh out of 27.

### Implications

While there is much to say on the results, the current political arena is bipolarized between the centrist secular Nidaa and the moderate Islamist Ennahdha, squeezing others small parties whether they are leftists or rightists. With no party holding a clear majority in parliament, the challenge will be to come over fragmentation and volatile politics. By conceding the two vice presidencies to Ennahdha and UPL while keeping the presidency to one of theirs, in full compliance with the result of the elections, Nidaa Tounes has succeed a parliamentary "cohabitation" and is probably figuring out a future governmental "coalition". Whether the government will be shaped by a majority or a broader national unity is an open question. Moreover, the presidential elections were decisive either to give full power to Nidaa. Nonetheless, the political capacities of actors to maneuver are very limited. Given the current situation, the country needs a stable government for the next five year, in order to meet social and economic demands. Unfortunately, public opinion and civil society are sharply divided between "idealists" and "realistic" (including within Nidaa leadership), those who are deeply hostile to any governmental coalition with Ennahdha and those who are worked out by a spirit of cooperation. Once again, civil society can make the difference by informing political actors about its expectations, its agenda and its commitments.

Celebrated as a real step toward a democratic consolidation, elections confirm strong commitments to democracy coming from political parties, but also from civil society. Acting as an entire

part of the whole process, NGOs played a key role in all stages of the electoral process, from campaigning for the right to vote to the control of the electoral process. International and local observers agreed that elections were free, fair and transparent. There were isolated irregularities and incidents, none of which, however, was serious enough to threaten the electoral process. However, while international observers were highly optimistic, Tunisian civil society actors were relatively less enthusiastic and few of them were harshly critical. Incidents and instances of irregularities denounced were already mentioned in 2011 but in order to prevent any contest and to strengthen the electoral process, how to improve mechanisms of supervising elections?

## Background

The constitution guarantees fundamental rights related to pluralism and fair competition. Thus the preamble stipulates that the constitution is drafted “with a view to building a participatory, democratic, republican regime, where the state is civil; where sovereignty is granted to the people through peaceful rotation of power through free elections, and on the principle of the separation of powers and balance between them”; also the state guarantees “the rights to election, voting, and candidacy” and “women’s representation in elected councils” (article 34) and “the freedom to establish political parties, unions, and associations” (article 35). In order to manage and organizing elections an electoral authority is entrusted. Considered as a constitutional body, the commission has regulatory power to ensure the soundness, integrity, and transparency of the election process, and announce the results (article 123). Composed of nine independent, impartial members possessing competence, representing a set of civil society component, the commission named ISIE (French acronym for Higher and Independent Commission for Election) is created by an organic law (December 20), and its members elected by the NCA (National Constituent Assembly) in July 2014. According to its legal mandate, ISIE recruited more than 120.000 supervisors, selected through individual applications whose conditions were fixed by the ISIE. For its part, civil society was involved through volunteers.

Twenty two international organizations and twenty one local civil society organizations were accredited, whether committed particularly to electoral monitoring or having a general civil rights agenda. International organization had more than 650 delegates while locals were at about 22.000. They were disseminated in 4534 stations vote divided in 10567 casting votes. While the international supervisors moved from station to another on a large scale during the Election Day, local organization did both committing permanent observers in situ, i.e. in station poll. Together, they did a remarkable work to make sure that the whole process would succeed. In Tunisia, only eight NGOs have a specialized mandate, according to their status, to supervise elections : *ATIDE*, *Mourakiboun*, *La Ligue des Electricites tunisiennes*, *Tunisievote*, Marsad Chahed (Observer Center), *Ofiya* (Network on transparent elections), *Jeunesse sans frontieres* (Youth without frontiers), and *I watch*. Other civil society organizations created first a watch commission in May 2014 and then each of them decided for its own to supervise the elections, such as the UGTT (Trade Unions), la LTDH (Tunisian Human Rights League) the Bar of Tunis, *Destourna* (Our constitution), Journalist syndicate. Out of eight specialized NGOs, four get a large mandate in order to cover the entire electoral process (*ATIDE*, Marsad Chehed, *Ofiya* and *Mourakiboun*).

## Achievements

Their achievements before the poll consisted in training, mobilization to vote, and supervising the poll. For instance, *La Ligue des Electricites tunisiennes* organized various sessions devoted to empower women and youth capacities to vote. *Tunisie vote* improved political parties’ skills. And all of participate in training trainers (TOT) whom, for their part, trained individual observers. As for mobilization to vote, ISIE organized since May 2014 many consultative sessions on various issues:

educating voters, consolidating good practices, a Day of consultation to enlistment to vote. On July, a grass root campaign was organized in Tunisian neighborhoods. On 26 October 2014, during elections day, more than 14.000 local delegates accredited by the ISIE and near 500 international observers were deployed to monitoring polling stations around the country. International and national observers describe Election Day as taking place in orderly and a peaceful atmosphere and presented their findings on a highly positive note. However, Tunisian NGOs were more critical.

## Reports

Elections monitoring was a relative success thanks to a spirit of collaboration among the civil society actors, including the ISIE decision to cooperate with non-official groups, in order to face suspicion of none neutrality, coming back to the way ISIE members were selected by the NCA. While local NGOs share positive statements, they take note of detailed instances of irregularities, case by case covering a large spectrum. In its Press release on 26 November, ATIDE refers to four kinds of dysfunctions: (1) organizational, (2) functional, (3) absence of neutrality of the ISIE appointees and (4) political interferences. While organizational and practical dysfunctions were interpreted as not being intentional and ascribed to the lack of experience of administrative staff and volunteers, the absence of neutrality of ISIE appointees has to do with the procedure of selecting members and presidents of vote stations. Political interferences such as influencing or buying votes or making propaganda represent one quarter of infractions.

That same day, president of Mourikiboun considered that the ballot was regular in 84 percent of electoral office (bureau) while 15 percent registered non significant errors and 1 percent was subject to major irregularities such as verbal violence or buying votes in out of 123 various cases. He noted that Ennahdha's delegates were present to monitor the vote at a higher level (they were present in 96 percent of polling stations), a little more than Nidaa Tounes (present in 89 percent of polling stations). While sharing the same conclusions, Tunisie vote focused on the transparency of the ballot: namely how many voters put the mark on wrong side of the ballot and the electoral propaganda during the "silent day" and even the election day. *Ofiya* (Network on transparent elections) registered 114 cases of irregularities divided in 19 kinds. It considered that the main repeated instances are the following: disturbances of the voting process limiting access to vote (26%), propaganda in the pool stations (36%), buying vote (13%), procedural irregularities made by ISIE representatives (7%), and hindrances of observers' supervision (2%). Marsed Chehed (Observer Center), raised close percentages: propaganda in polling stations (34%), obstruction and threat (10%), buying vote (9%), non individual vote (7%), depriving from voting (7%), violence (6%), replacing handicapped voters (5%).

As for the process of registration and vote abroad, civil society actors, at least for those that controlled the whole electoral process, deplored numerous deficiencies. And the ISIE accepted to revise the lists of registered abroad in the coming days in order to organize the presidential elections held in November 23. The preliminary report of *La Ligue des Electrices tunisiennes* focused on gender issues. It mentioned the relatively weak percentage of women top of the list (12%, i.e. 143 lists out of 1324.) It highly praised women participation in securing the safety of the ballot among police and military services. However, it deplored various instances of factual irregularities: (1) absence of gender parity among official observes not obedient to the constitution, stipulating that the state is committed to protecting and achieving women rights including parity (article 46) and equality between male and female (article 21); (2) recklessness on illiterate and older women voters often misled by political interference. It recommends the electoral committee to cooperate with public regional and local authorities able to impose the rules of law; it urges electoral authorities to put an end to laxity and impunity.

Thus, Election Day was not without problems. Some are ascribed to official polling station observers who had different interpretations of procedures, particularly concerning assistance for dis-

bled voters and handling of voters' phones and identification cards. So, how to improve supervising next elections?

### **Improving supervising elections**

Election administration successfully oversaw the process which included active participation of political parties, voters, the media and civil society. In this spirit, a series of actions ought to be taken in order to improve the process.

First, confidence between elections authorities and civil society needs to be built. Taking lessons from this experience, the ISIE, political contestants, and NGOs may consider measures to further build public confidence for the next polls. This includes consistent and transparent communication by the ISIE; an efficient vote education campaign, a better training of observers. Close cooperation with NGOs is needed, particularly by allowing NGOs to access to open data related to the electoral process, at least for public information none concerned by the law protecting access to personal data (Organic law, July 27, 2014).

Secondly, an amendment of the electoral law (Organic Law, May 26, 2014) is required to make NGO action more efficient. For instance, in order to prevent violence, penalties must be added particularly for aggression against NGOs observers coming from official representatives of candidates in the ballot. For the moment, penalties are stipulated only to protect ISIE members and candidates (article 160, electoral law.) Also, it is necessary to enlarge the judiciary capacities to suit cases presently only given to candidates (articles 145, electoral law.) This possibility is implicitly opened by the Decree-law organizing associations (September, 2011) by stipulating that any association is able to suit case related to its mandate and objectives (article 14.) Also, gender parity must be legally reinforced in the due electoral process actually stipulated by only one of 16 ISIE' s rule decisions, related to electoral propaganda campaign asked to avoid discourses on discrimination based on gender (ISIE rule 28, September 2014).

Thirdly, coordination between civil society organizations is strongly needed. Each of them did a tremendous job, but without any cooperative spirit neither in poll stations nor in coordinating a common decision on the outcome of the elections. Since none of them covers the entire process, it happens that they delivered approximate, partial and redundant statements. It will be of higher interest that these organizations join their efforts to maximize the outcome, either by specifying the sphere of intervention and division of labor, or by creating a pool or network and coordination consortium. This latter committee should include representatives of specialized vote NGO', backed by none specialized civil society NGO's.

On October 26, Tunisians went to the polls. They participate in their first democratic legislative elections. The process was distinguished by active participation of voters, candidates and observers. Civil society and political parties played an active role, taking a strong commitment to democratic institutions. Observers reported various instances of irregularities and incidents, none of which, however, was significant enough to affect the final outcome of the ballot. Whether premeditated they are or not, ascribed to political actors, supervisors or citizens, these instances of wrongdoing must be overcome. Thanks to civil society NGO's vigilance and professional skills, the electoral process can be improved in order to consolidate democracy for the safety of honest, transparent and fair elections.

### **Recommendations**

While legal authorities and NGO's did a tremendous job, enhancing the making process decision requires a series of measures. For the electoral authorities, ISIE must provide data at time and promote a consistent and transparent communication with NGO's. Given the risks of violence, amend-

ing the electoral code in order to enlarge protection to observers (limited to officials) and empower their legal capacities is absolutely needed. For the NGOs, a better coordination between electoral specialized NGO' and none specialized NGOs is at stake. NGOs' have to specify their respective sphere of intervention by creating a pool or network and coordinating consortium. This will rationalize the job of monitoring elections and will innerve public opinion, media and international actors credible and non redundant information in real time. In this context, international actors must bring their expertise to Improve skills and training of local NGO's many of them lacking expertise and complaining of limited resources. For both legal authorities and civil society actors, reinforcing cooperation and building confidence are one of the main challenges to fill the gap between the state and society.

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