

TUNISIA

Under the difficulty of the second democratic transition in Tunisia, the electoral legitimacy lives in a representation crisis as political choices of the voters move differently from the candidates' expectations. It is noteworthy that the second democratic transition is considered the stage of establishing the political authority that is capable of completing it. It is a confidence crisis which becomes greater by the day considering the inability of the governance system to achieve what it promised on the social, economic and political level. The democratic transition in Tunisia has become less democratic than it should be. It is noticed that the democratic transition is subjected to the balances of parties' interests, positioning bets and preserving existence after it becomes clear that the ruling experience is a perfect political holocaust. As for example, Mohamed Abbou had declared previously his retirement from what hurts him, according to him. In addition, the parties which represent the most important intellectual and ideological currents don't appear in the scene. Its absence imposes a question concerning the transition's nature whose pillars are controlled by political phenomena that are originally the derivant of the former regime or its counterpart.

This situation has led to the dominance of the conflict between authorities and whoever heads them. As such, it tended to become personal and attributed to the Speaker of the Assembly, Prime Minister and Presidency of the Republic. And in the background, the Ennahda

Movement party which is a main element in the equation and wraps around it parties that appeared, based on a certain circumstance such as (the Heart of Tunisia) or the Dignity Coalition. It is clear that the Ennahda Movement benefited from the partisan organizations' decline and the rise of populist momentum in the presidential and legislative elections.

Practically, the democratic transition crisis in Tunisia is a transitional and democratic crisis. They are two related levels., On one hand, legal frameworks and institutions that haven't been completed yet and on the other hand, the absence of democracy among political actors and the weakness in establishing it both as a value and as a practice in the social sphere.

Perhaps the violations related to human rights aren't systematic, however they are always possible due to the weakness of the official actors in its field. In addition, the presence of hostile currents to the comprehensive approach defending human rights as approved in the constitution. This is observed concerning the various independent and constitutional institutions as they are ignored by the State itself and the government. This matter raises a question concerning its feasibility, necessity and the prospects of improving its performance under all these obstacles.



The policies and legislations related to the democratic transition in the second transition.

The democratic transition crisis is considered a transitional and democracracic one at the same time. This is what the quarterly report of DAAM center focused through a temporal concept that is the second transition. The latter remains far from being achieved, although it is considered an interpretation of establishing a political authority which is capable of managing and ending the transition according to terms, principles and goals related to all cultural, social and economic files. The transition's management, authorities and institutions are confused and weak. And at the same time they are not finding a democratic assistance by the parties and the political scene that would contribute in ensuring their effectiveness and direction. The sections review in detail the indications of the crisis of transition and democracy in Tunisia during the monitoring period.

The three powers and the balance among them

The Assembly of the Representatives of the People Between the crisis of representation and ruling

At the beginning of October, the Assembly of the Representatives of the People started the second regular parliamentary term of 2019-2024. The parliamentary blocs were distributed at the beginning of this term compared to the last term as follows¹

1- Concerning the distribution of blocs. <https://bit.ly/2LNeBRo>

	The first regular parliamentary term	The first regular parliamentary term at the end of October	The second regular parliamentary term
The Ennahda Movement	54	— 54	— 54
The Democratic bloc	38	— 38	— 38
The Heart of Tunisia	26	▲ 30	— 30
The Dignity Coalition	19	▼ 18	— 18
The Reform Bloc	16	— 16	▲ 17
The Free Constitutional Party	16	— 16	— 16
The National Bloc	11	▼ 9	▲ 16
The Long Live Tunisia bloc	10	— 10	— 10
The Future	9	▼ 0	▼ 0
Individuals	18	▲ 26	▼ 18

Abolition of permanent special committees



The increase of the number of permanent committees to 14 with the decrease of the number of its members



It is noteworthy that after a series of resignations, the technical Future Bloc disappeared. It is worth noting that it is formed with the beginning of the first regular parliamentary term. The second term didn't promise a lot since its start. At the end of October, the Assembly's composition was changed as follows after the resignation of 7 representatives from the National bloc. During the monitoring period, the discussion continued concerning the amendment of the Assembly's bylaws. In a session on Tuesday, November 17, 2020, the Committee of the Rules of Procedure, Immunity, Parliamentary and Electoral Laws approved the proposed amendment with the majority of the attending members, with one objection and abstainer. The Plenary session was scheduled for January 5, 2021. In this regard, the head of the committee explained that the special committees were canceled and the standing committees remained while increasing its numbers from 9 to 14 committees and decreasing the number of members of each committee from 22 to 15 members. In addition, specific committees would be formed for specific missions or issues.

Regarding the absences of MPs, the head of the committee confirmed that penalties have been tightened for the record absences in the plenary sessions and committees by reducing the

minimum limit of absences in the plenary session and increasing the deduction rate due to absence. In addition, putting a set of penalties that would be taken by the session's head or the head of the bureau in this regard. Regarding partisan tourism, it is explained that the proposed amendment stipulated that the representative who resigned from his bloc, couldn't join any other bloc in the Assembly. Also, whoever resigns from his party, would lose his membership in the Assembly (new Article 45), indicating that there is a constitutional problem related to this point, however the problem would be studied and introduced during the plenary session according to the head of the committee²

Perhaps the proposed amendments promise to change the Parliamentary scene, yet, they wouldn't fulfill their promises in terms of their practical connection with other determinants that goes beyond the bylaws.

The partisan scene: This scene ranges between ideological parties that obsess about political positions and existence preservation, "functional" parties and parties relying on severe ideological reactions. The Free Constitutional party continues its rhetoric based on the contradiction with the Islamic current represented by the Ennahda Movement. The Dignity Coalition in the Assembly plays a functional role which works with the movement through adopting the counter speech to the Free Constitutional Party, and at the same time it is able to change its situation regarding the Heart of Tunisia party that joined it in the political formation of the government. This provides an impression on the relations' change among the political "groups" according to the necessities of the political positioning. This narrow functional nature canceled the functional role that should be played by the partisan and political groups in particular. Usually parties form a link among the electoral will, political institutions, authorities and their outcomes. However, due to this role, they weaken this link. This is because all parties are rejected by public opinion due to the changes that differ from the expectations of their supporters.

The semi annual report of the Democratic Transition and Human Rights Support Center (DAAM), in its title "the democratic transition: The failure of transition is due to the institutions' deadlock and militarization of the state and society" indicated that fact. It doesn't seem that the parties are about to change their performance after the presidential and legislative elections represent a shock to them because there is a clear tendency for citizens to change the persons who are engaged in the public affair. The debate between the two sides had formed the parliamentary scene in the first term and it is continuing during the monitoring period, as it is. And it developed into a

verbal and physical violence as what happened to the representative of the Democratic Current, Anwar Al Chahed who was assaulted by the representative of the Dignity Coalition inside the Assembly. It is noteworthy that during the

2- Regarding the amendments <https://bit.ly/3qvgL64>



participation of Anwar Al Chahed in the discussions of the women's affairs committee which led to his face injury that made him bleed. Afterwards, the representatives started to exchange insults and swears, while hands rose and hands fought³

Establishing the democratic practices: It is not possible to democratize the society and state while having undemocratic parties, especially that they are concerned with managing the public affairs after ensuring minimum representation for citizens. The internal crisis of the Ennahda Movement represented an indication of the nature of parties' life in Tunisia. Previously, in mid-September 2020, one hundred leaders in the Ennahda Movement, including the former Minister of Health, Abd El Latif Al Mekki and Samir Dilo went to its head Rachid Al Ghannouchi to ask him to make a pledge for respecting the movement's bylaws and not running for the presidency during the 11th conference. It is noteworthy that on November 16, 2020, this conference was postponed after the movement's shura council. The movement's bylaws stipulate in its Article No.31 that "none of the members has the right to assume the presidency of the movement for more than two consecutive terms". However, due to the disagreements between two currents which one of them call for the exchange of authority and the other supports the head of the movement who headed it for various periods for more than thirty years. The conference wasn't held to give an impression of the absence of democracy inside the most stable parties. 4

In addition to the aforementioned, the rest of parties don't differentiate from the Ennahda Movement due to the continuing personalization of the partisan scene as in the case of the Free Constitutional party which could be summarized in its Secretary General, Abir Mousi, while the Dignity Coalition gives an example of the noticeable ego inflation. They adhere to a discourse that praises persons in order to distinguish them. This discourse bypasses restoring revolutionary discourse to focus on the discourse of identity and patriotism. Thus the history of the society, state, confronting colonialism and its heritage is declined in favor of the religious discourse⁵

The Assembly of the Representatives loses its political weight due to the weakness of the representation function of the parties in favor of their functional roles which move according to the political conflict. It is a weak function originally due to the gap between it and society. Most of the parties do not have a true youth base that provides new leaderships, and expanded and extended bases in society.

Based on the aforementioned, it can be said that the amendment of the bylaws does not promise much in turn, as it is a

3- Scenes of violence inside the Tunisian Assembly and Al Ghannouchi made a pledge to open an investigation <https://bit.ly/3sFrjCj>

4-A new gambit from Al Ghannouchi to control the Ennahda internal crisis. <https://bit.ly/3sDBLkK>

5The semi annual report of the Democratic Transition and Human Rights Support Center (DAAM): .

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partial solution to a problem related to the establishment of democracy in political life, whether in the state or society and its representatives. However, today the current situation has led to a growing suspicion in democracy and reinforcement of nostalgia. It is the gap that allowed populist currents to suspect democracy and its requirements or the revolution which was the reason to make it possible to appear and top the scene. As a result, all laws have become controversial, especially as regards the budget law and the exceptional measures inside the Assembly of Representatives to counter the outbreak of the epidemic. These projects have revealed the extent of conflict among the authorities and the state's institutions cum inter se. In this regard, The Central Bank has imposed the withdrawal of the budget's bill to be reviewed from the government. In the end, the crisis of representation inside the Assembly was reflected in the ruling which is practically evident in the reality of the Executive authority with its two heads.

The Executive Authority: The conflict of the heads of the authority



After a month has passed since Hecham Al Mechichi's government started work, controversy started on the necessity to make a cabinet reshuffle in order to exclude the ministers affiliated with the presidential palace. On October 5, 2020 the Prime Minister dismissed Walid Al Zaidy, the Minister of Culture who is one of the ministers affiliated with the President Kais Saeied. That took place due to his refusal to implement the government's resolution to suspend the cultural protests for the fear of the outbreak of Coronavirus. Thus, this is considered a step for the Prime Minister to make a comprehensive cabinet reshuffle that satisfies the parliamentary front that supports him which consists of the Ennahda Movement, the Heart of Tunisia party and the Dignity Coalition.

The conflict's roots between the two heads of authority dates back to September 2020 and the start of October due to a disagreement on some appointments that were rejected by the Presidency of the Republic on the background of corruption cases that pursue some ministers. In addition, the background of appointing Hecham Al Mechichi to be the prime minister has indications of the President's desire to influence the government and its work, besides excluding parties, according to the most important parliamentary bloc. that is related to the aforementioned crisis of representation which deepens it. The Presidency of the Republic has a strong discourse against the parties due to their failure to manage economic and social files.

In addition, he has a vision that bypasses it and adopts a different perception of the ruling's model.

In the absence of an effective representation which is capable of launching social and economic programs and policies, the Tunisian government is working on the files occasionally in order to calm the situation. And that fact appeared in the government's dealings with the Al Kamour sit-in. On November 6, 2020, the government announced that the protesters in Tataouine had reached a final solution to the Al Kamour crisis. Thus the power facilities were restarted to work under the pledge to provide hundreds of jobs and establish governmental companies to invest in the region.

In the details of the agreement, part of it revealed the existence of an employment option which is separated from development. Most of the proposed solutions are linked to companies and institutions of a public nature that are unable to add the new to the local economy, however they enhance the operational role of the public sector through a quantitative rather than qualitative mandate.

A part from this fact becomes clear in the details of the agreement:

Regarding the Environmental, Planting and Gardening Company

- The Environmental, Planting and Gardening Company of Tataouine is categorized as a public shareholding company under the supervision of the Ministry of Farming, Water Resources and Fishing, in addition it is subjected to the increases of the public sector.
- The permission to accelerate paying the wages of the company's frameworks and employees.
- The authorization to recruit 1,000 employees.
- The authorization of the local committees to open the file of recruiting while guaranteeing the representation of the regional delegation which has all powers in choosing its representatives.
- Approving of the principle of general increases for the wages of the employees and frameworks of the company to be disbursed starting from October 2020 (the second and third installments of the special grant and the increase in the years 2017-2018-2019), provided that the retrospective disbursement of the increases takes place from January 2021.
- The Authorization to start the study of the business plan prepared by the company.

Regarding the Southern Company for services

- The authorization to conduct an audit in the area of financial and administrative management and to define responsibilities.
- The authorization to raise the company's capital in light of a business plan submitted to the company's structures for approval within a period not exceeding three months.
- The authorization to sign contracts with petroleum companies, and to give the priority to the company in new contracts for a period of five years with a renewable period.
- In addition, The agreement authorized to launch studies to create public shareholding company that is able to create job opportunities in several fields mainly related to petroleum services, raw materials and fortunes in the region (the National Company for the Exploitation and Manufacture of Gypsum in Tataouine, the National Company for Living and Residence in Tataouine, the National Company for Public Works and Petroleum Services and power in Tataouine, the National Company for the Transport of people, equipment and materials in Tataouine, the national company for agriculture, reclamation and development in Tataouine).

The financial obligations of the state after the Kamour agreement; 300 million Tunisian Dinars

In addition, the government resorted to the immediate employment of 215 citizens with permanent jobs in the Sahara before

the end of 2020 and permission to submit permanent mandates programmed in the Sahara for 2021, 2022 and 2023 to the first trio of 2021, which is 70 mandates.

Practically these options are limited because they do not engage in comprehensive development programs that bypass the deterioration experienced by the public sector, and they send negative messages to the rest of the country. The success of the Kamour sit- in encouraged other sectors to take the same steps. Protesters in other separated regions started to implement protests in order to improve their development conditions and recruiting the unemployed persons⁶

The protests began in Gabes after protesters closed the entrances of the Tunisian Chemical Complex, demanding the activation of several previous government decisions related to the governorate and related to employment and the region's entitlements in development, health and the environment, which led to the complete paralysis of the chemical complex and the institutions located in the industrial zone. ⁷

The government's action with the results of the Kamour sit-in proved that the government is in the position of reactions that seek to calm the situation. After the Prime Minister issued a statement in which he adopts the Kamour'd model in dealing with the protests while focusing on the governorates of Gafsa, Kebili, Jendouba, Kasserine, and Sidi Bouzid, he continued in another statement after the protests of other governorates to confirm that his mention of some of them was to name a few.⁸ Within this description, it is clear that the decision depends on political disagreement that is far from the programs and the common vision. Under a political regime that doesn't have a stable representation model and the absence of parties' role, the ruling became a personal discourses that bypasses procedures and institutions. An example of this fact ,is the visit of the President of the Republic to the headquarters of the Ministry of the Interior to view the preparations for the New Year. During the visit, the President Kais Saeied Ali focused on his title as the supreme command of the Armed Forces (the Military and the Security) by repeating that several times. Some persons explained that is an implicit message to the Prime Minister⁹

Under this situation, the reformation projects have continued to be stopped which remained a political promise without any achievement. This is highlighted by the situation of the Judiciary which became clear every time the extent of the attempts to be controlled with the reality of the deterioration of its infrastructure and logistics.

6- Protests surround the Mechichi government from each side.. Could he face?. <https://bit.ly/3sFAtoL>

7- Tunisian analysts: The Mechichi's government faces "the winter of protests" <https://bit.ly/3o2o30h>

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The judicial sector entered a strike that has continued for more than a month, after it started on November 15, 2020 to mid December 2020 when the government reached an agreement. Thus, courts resumed work on December 25. Four main demands are in the agreement's detail, according to the head of the Judges Association:

The first demand is related to "providing protection and health care for judges and their families. In addition to sterilizing the courts and putting a health protocol that takes into consideration the judicial work and protects the judge, litigant, all workers, civil servants and citizens".

- The second demand is " the demand of all Tunisian people for effective and powerful justice, and courts that rise to the level of the international standards and the judicial service provided to the citizens".

- The third demand is "to provide judges with financial conditions that meet the international conditions".

- The fourth demand is " the main and fundamental reformation in Judiciary"

In addition to a set of other demands that weren't mentioned by the Head of the Association of Judges because the agreement wasn't published for the public by the government. This sparked a widespread disapproval among the Tunisian public opinion.¹⁰

There aren't any actual real guarantees regarding this agreement, same as the other agreements that were ratified by the government with the rest of sectors and protesters. Compulsions, the lack of developing common visions and the absence of a political will would continue to impede a smooth change in the democratic transition.

Under this situation, thinking about a consensus solution and national dialogue returned strongly once again. When the managers of transition failed in their task through institutions and law, solutions from outside these frameworks were chosen.

10- Politicians and human rights defenders denounce "the secret agreement" between the government and the Association of Judges. <https://bit.ly/2XX9mB4>



The previous experience of the national dialogue under the auspices of the quartet represented a rational and direct result for a confused context which witnessed political defamation in the early periods of the democratic transition. Moreover, its consequences which enshrined the idea of consensus among the largest parties have not been able to complete the institutional conditions for the transition, especially with regard to the constitutional bodies, especially the Constitutional Court, and the rest of the projects related to reform and development are always suspended to this day. This indicates that dialogue or consensus bypasses itself as a solution to requirements related to the nature of its parties, including parties and personalities.

Previously, some opposition parties, the most important of which were the Machrouu Tounes, the People's Movement and the Democratic Current, demanding a national dialogue, so that the Tunisian General Labor Union returned to proposing an initiative and handing it over to the Presidency of the Republic. The union's national initiative for managing a national dialogue proposes forming a wise committee to supervise a national dialogue that leads to consensus in order to save the country, and assigning 5 independent national figures in the committee.

The Secretary-General of the Union, Nouredine Taboubi, said in an exclusive interview with the Tunis Africa News Agency, that the nomination of the members of the Council of Wisemen is subject to consensus on proposals submitted by the participants in the national dialogue. Taboubi stated that the initiative stipulates that the field of competence of the five members of the Council of Wise men includes various specializations in Economic and social fields and constitutional law, explaining that the selection of the aforementioned competences aims to reach consensus based on scientific recommendations. The secretary general of the working organization stated that this vision allows the president of the republic to converge views by supervising sessions that bring together the parties that would participate in the national dialogue.¹¹

The economic and social situation pushed all parties to think about a national dialogue. Then the voices which greeted that move raised. The irony is that the results of the first dialogue alleviated the crisis, however it did not provide a basis for

11- The Tunisian President approves "the General Labor Union" initiative to launch a national dialogue. <https://bit.ly/3igt29W>

solving the political crisis that was launched in order to solve it. As the political crisis deepened and was replaced by the three authorities and the state's institutions. Then it moved to the elements of the democratic transition, thus the crisis became greater. And that appears in the path of transitional justice and the role of the Truth and Dignity Commission.

The process of the transitional justice

The statement of the President of the Association of Judges, Anas Al Hamaidi, summarized the transitional justice process and its results. In the context of evaluating the specialized criminal circuits in the transitional justice in Tunisia, Al Hamaidi mentioned that the delay in the judicial rulings in transitional justice cases is because that these circuits suffer from a shortage, the transfer of judges in this specialization and the assignment of other judges who didn't receive any training in transitional justice. In addition, he explained that the reason is due to a political delay for this file and a parallel initiative that passed directly for reconciliation before the accountability. He denounced the inability till now to end any case of the transitional justice, explaining that several sessions are held only to postpone the consideration in the case¹²

It seems that what its inputs have shortcomings, it couldn't achieve the desired results. The work of the Truth and Dignity Commission paved the way to form special judicial circuits, however it becomes clear through the report of the Court of

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The statement of the President of the Association of Judges, Anas Al Hamaidi



Accounts that the Commission has its shortcomings. These shortcomings affect a Commission that supervises a pivotal file in achieving the democratic transition.

Violations of disposition of the Truth and Dignity Commission according to the audit report of the Court of Accounts

The report of the Court of Accounts came to confirm that the Truth and Dignity Commission has stormed the process of transitional justice. According to the report, the commission did not even respect the basic law that regulates it. In principle, all of the commission's decisions were taken without a quorum. After resignations and exemptions within the Commission's Council and the failure to fill the vacancy by the Assembly of Representatives, the Commission exercised its work in the absence of a quorum. In a desperate attempt to circumvent Basic Law No.53 of 2013 of December 24, 2013 related to establishing and organizing transitional justice through amending Chapter 9 of its bylaws and making the quorum with a majority of those who attended, in clear contradiction to Article 59 of the Basic Law. Thus this prompted the Prime Ministry to reject publishing it in the official gazette.

Returning to the report of the Court of Accounts, for example, we could find that we find that the Commission gave a grant

of the school return to a person who was discovered to be single. This example is considered one of the simplest observed violations, and here are some of the many that were monitored through this audit mission:

Within 6 days, the number of abandonment, abstaining and rejection decisions increased to 17,496 decisions during the period from the 26th to the 31st of December of 2018, thus depriving the owners of these files from appeal.

The temporary committee to look into the social aid requests issued 554 decisions with a total financial value of 277 thousand dinars. 469 decisions were proposed and signed by the head of the committee, which is considered a collection of different tasks and therefore they are illegal decisions.

- 18,928 thousand dinars were given to persons who do not have the status of a victim.
- The percentage of files that were reviewed from the arbitration and reconciliation committee's report amounted to 12% of the total number of 25,998 files received on the commission. Among the decisions studied, only 9 final arbitration decisions were issued.
- The issuance of immediate health care decisions for file holders who do not have the status of a victim or based on an agreement with the head of the commission, or the status in their affairs has been changed from a victim to "requires further investigation".
- The exemption of two members for being absent without an excuse according to Article 37 of the Basic Law of transitional justice, while no disciplinary action was taken in the matter of a member who was absent 8 times without a legitimate excuse.

The members would be granted an exceptional grant at a total cost of 247,811 thousand dinars to mark the end of accepting the victims' files

- The authority ratified a contract with an association for providing services under which it dedicated an amount of 161,5 thousand dinars to the personal bank account of the president of the association instead of the association's bank account.

556 thousand dinars is the cost of two hearing sessions

- The composition of the committees decreased from five to three members for the functional examination and institutional reform committee and the arbitration and reconciliation committee, and from five to one member for the reparation and rehabilitation committee which is considered a violation of the Commission's bylaws

- The audit work in the secret hearings and in the testimonies carried out successively by the Internal Audit Department on March 28, 2017 and one of the members of the authority commissioned by its board on June 8, 2017, led to a discrepancy in the inclusion of data related to the benefit from one listener to another and in the hearing results of the same nature of the violation on similar to the difference in the transmission of the testimony's requests, in assessing the case, and in registering the victim's data.

- On July 11, 2017, the Commission's Board deliberated on issues related to the lack of precise mention of the information regarding the professional situation, age group, or educational level that was listed as "unspecified" on at least 2000 occasions, in addition to not specifying the nature of the violations in detail and not including data related to the files of financial corruption in the application. The aforementioned shortcomings contributed to the increase in the number of unsealed affidavits which reached 1181 at the end of July 2018. And that prevents sufficient credibility of the results of the confidential sessions from being given.

- Despite the sensitivity of the data in the hands of the Commission and their link to a sensitive file especially that they are victims (an economic, social, physiological fragile group), it wasn't an obstacle to its decision to store them pursuant to a ratification which was issued by the Commission's council dated back to September 13, 2017, as the council approved a purchase request related to the acquisition of a system for automatic data storage and storage by adopting the technology of withdrawing data storage Cloud for a foundation that is responsible for storing data abroad. Thus this is considered a violation for Article No.27 of the law related to Archive. This offer was withdrawn after announcing a request for bids to acquire a new server with Tunisian suppliers.

- The total number of decisions to reject the status of the victim in September 2018 totaled 4,036 decisions regarding 278 of them appeals. It was found that, until October 2018, no decision had been made on any request, despite the initiation of its acceptance with the commission since April / April 2017.

- The Commission issued immediate health care decisions without studying the files and ensuring that the standards were respected, regarding 9 of the 21 decisions approved in 2016 by the president of the authority without referring to the reparation and rehabilitation committee. On July 4, 2016, that is, after the creation of the Immediate Care Unit, a decision was issued to enable 15 beneficiaries to receive social assistance, at a value of 400 dinars from each one of them based on an agreement concluded between the head of the Commission and the owners of the file in 2017. After they received the grant, the character of 4 of them changed from "victim" to "need further investigation", while the character of a victim is no longer active.

- The reconsideration of the capacity requires stopping the implementation of the decisions issued in the matter of the file, however, the Commission has implemented 25 decisions for the benefit of ten persons who filed the files after January 30, 2017 which is the date of changing their status from "victim" to "requiring further investigation". The owners of the aforementioned files benefited from a total of 6.960 thousand dinars under the title of immediate care interventions.

- The procedures followed by the Commission regarding the disbursement of immediate care interventions did not prevent deficiencies that would ensure that the interventions were dispensed to those who deserve them. Thus, it became clear through examining a sample of 106 medical interventions that the payment authorization does not carry serial numbers, and 12 of them do not include the signature of the official which would not allow for verification of disbursing the grants to those persons who deserve them.

Until December 31, 2017, the Commission's president nominated 19 employees out of 53 job vacancies without the approval of the Board in contravention of the bylaw of the Commission that assigned the powers to nominate the employees, define their privileges to the Commission's Board and set the task of the Commission's Chairman in the purpose of signing nomination decisions after approval by the Board.

These are then only some of the observations contained in the audit report on breaches within the Truth and Dignity Commission. The Commission's answers generally ranged between justifying the absence experience at times, and the complexity of the process at other times. Thus, the Commission doesn't differentiate from the other institutions that are engaged in the public affair. In addition, it was politicized throughout the period of its supervision on the process of transitional justice.

What we could conclude from this report is that the violations included almost all phases and stages. And that the grave mistakes made by the Commission, make its actions questionable and suspicious. Depriving more than 20,000 people whose demands were rejected in the objection may have prevented many from taking their rights, as it may have leaked to the final lists, errors also in the adjustment and in granting rights to their owners, and the report is not free from suspicions of corruption, especially in the financial aspect of the Authority's bRegarding the organization of the public hearing sessions on 16 and 17 December 2016, the Commission undertook a consultation instead of conducting a request for proposals, in contradiction of Chapter 6 of the Procurement Procedures Manual, which stipulated the necessity to conduct a request for proposals regarding purchases whose amount exceeds 50 thousand dinars, given that the Commission had previously organized two hearing sessions with the cost of 440.000 dinars. Moreover, organizing these two sessions with its 3 installments was given to two companies which had the same legal representative, for a total amount of 230,835 thousand dinars.

behavior. This report may be like other oversight reports that would be neglected and forgotten, especially since the reaction to this report was below expectations despite the monitoring of serious violations and suspicions of financial and administrative corruption.



The development of policies and legislations related to human rights

In its section on human rights, the report exposes the activity of the institutions, the relevant bodies with human rights especially in its communication side and the level of decision-making whether in their relation with the government or in making its own decisions. This level confirms the difficulty of the democratic transition and consolidating human rights institutionally and societally. The latter is regarded as an advanced element of the requirements for achieving the desired democracy.

Freedom of expression

Freedom of expression and its own branches especially freedom of the press is protected constitutionally in Article No.31 of 2014 Constitution/ In principle, the Independent High Authority for Audiovisual Communication is the revisionary institution in charge of the media scene. The latter was supported by Decree No. 116 of November 2, 2011. This decree establishes in various articles, in particular Articles 3, 4, 5 and 15, the freedoms mentioned above.

It could be said that the state's approach and the official policy regarding it have not changed, considering the lack of a unified vision regarding it. This opened the door to initiatives supported by specific and partial parties from the political and partisan scene, and overlooked projects that were acceptable to those persons involved in the media and press sectors.

Prime Minister Hicham Al Mechichi withdrew the "Law Concerning the Freedom of Audio and Visual Communication," along with a set of other laws. On October 22, 2020 the Bureau of the Assembly of the Representatives of the People approved the Prime Minister's request on withdrawing a number of bills in order to reconsider them. In addition, it approved the request on the presented bills to the committees. It is noteworthy that the bills which were withdrawn are the bill related to the governance of contributions, facilities and public institutions, a bill related to exceptional rulings in order to accelerate the completion of major projects and a basic bill related to freedom of audiovisual communication and the organization of the audiovisual communication body and the control of its powers.

Draft Basic Law No. 95/2020 related to freedom of audiovisual communication, organizing the audiovisual communication authority and controlling its specialities, which was referred to the Assembly of Representatives on July 09, 2020. This draft

law represented the fruit of a participatory process since 2017, which included the various relevant structures and parties. It included in one of its stages the withdrawal of the government's first draft law before returning a final version to the Assembly



which has the support and approval of the various actors who recognized its response to international standards.

On the other hand, the Dignity Coalition bloc submitted a proposal for a law related to the revision of Decree No. 116 related to freedom of audiovisual communication under number 20/2020. The Assembly of Representatives Bureau announced within the estimated timetable for the parliamentary session 2020-2021 that this proposal would be presented to the consideration of the plenary session of the Assembly on October 14, 2020. However, the initiative itself was withdrawn. The initiative presented from the Coalition is regarded as dangerous on freedom of the press and media. Journalists considered that the initiative represents a reflection to the strict direction which seeks the control over the media institutions. At the same time, at the end of October and after the withdrawal of the aforementioned bill, the Syndicate of Journalists denounced the withdrawal of the bill. It considered the withdrawal of the bill a retraction from an important step and an irresponsible decision that strikes the principle of state continuity and contradicts the government's pledges and the Tunisian state's commitment to support legislation related to freedom of the press and audiovisual communication. According to the Press Syndicate, this decision is considered the complicity of the Prime Minister with the parties directly benefiting from revising Decree No.116 and the fortification of illegal media institutions that speak in the name of the parliamentary Troika in order to achieve narrow goals based on politics and clientelism that have nothing to do with the country's interest and the interest of the media scene in Tunisia.¹³

In the meantime, the commission continues to work by decree that is not detailed enough in order to provide sufficient guarantees for modifying the media landscape and for freedom of expression. Therefore, the commission considered the government a schemer in a violation that would danger these freedoms. For more confirmation, the Commission believes that this government's situation would return us to the square of tyranny, dictatorship, and control of the media, which will lead to the return of previous violations.

The Commission considered 2020 a resounding fall for the telecommunications sector. According to its public announcement, the government is considered the reason for the deterioration of freedoms through the withdrawal of the mentioned

law.¹⁴And the proposal of the bill on the repression of the attacks against the security forces. In addition to the amendment of the special law of the Constitutional Court as it is regarded, it has a direct connection with the system of public and individual rights and freedoms.¹⁵

The right to the human dignity and physical safety

The right to human dignity and physical safety is characterized by being a central focus of the various institutions in Tunisia. In fact, attempts to enhance human dignity and threaten bodily integrity continue. Sadly, the violations are widespread in Tunisian television programs. The Independent High Authority for Audiovisual Communication intervened through a statement calling for the cancellation of the "Saffi Qalbk" program which normalizes hatred and violence against women without considering the psychological effects that such speeches leave on the victim. In addition, the Authority imposed a fine on M-Tunisia and stopped the "Without a Mask" program that was broadcast on it for violating the aforementioned rights. In addition, on December 18, 2020, the authorities suspended the Holy Quran Radio station for the gross violations and assaults on human dignity and physical safety after humiliating women and likening them to "factories". As a result of this attack, the authority imposed a fine on Radio Najma FM based on the same legal basis.¹⁶

These rights were subjected to severe violations that were denounced by the National Commission to Combat Human Trafficking when a young man sold his kidney "without force" for an African citizen for 15.0000 US\$ through an active human trafficking network in at least three countries. Later, the authorities seized the profits and opened investigations concerning the network.

The women's rights

Protecting women from violence that they were subjected to preoccupies the Independent Supreme Authority for Audiovisual Communication (HAICA) In fact, the program "Saffi Qalbak" is the starting point through which the Authority issued a warning to Al Hiwar Al Tunisi as a result of incitement to violence against women through one of the episodes of the aforementioned program. Without any regard to laws or ethics, violence was brightened and encouraged. Thus the Authority warned Al Hiwar channel, demanded editing the episode and deleting the parts which contain violation from all future and current social media means of communication. Moreover, on Tuesday, November 3, 2020, the authorities criticized "the participation on designing and marketing a humiliated picture for woman" after imposing a

14- An emergency meeting of the Commission's Board. <https://bit.ly/3pft273>

15-An open message directed to Mr. Hecham Al Mechichi, the Tunisian Prime Minister. <https://bit.ly/3nNjNtE>

16- The Authority warns Al Hiwar Al Tunisi channel and demands it withdraw a clip from an episode of "Saffi Qalbak" t.v program. <https://bit.ly/37DxGxx>

fine estimated by 20.000 dinars on Tunisia M. After that, the authorities described naming the women's vaginas as "factories" in the Holy Quran Radio Station with violence, according to the current laws (in the Constitution, international conventions and basic laws).

These practices continue in Tunisia at the societal level in the absence of societal institutionalization of human rights. During the monitoring period, the Assembly of the Representatives of the People represented a platform for spreading speeches with an ideological orientation that did not respect the controls of communication in the Assembly as an official institution and a common public space. In the name of freedom of expression, MP Mohamed Al Affas made insulting statements against women and single women in particular, in addition to accusing the organizations and those persons who defended them with charges of morality (cuckoldom) and accusations of betrayal.¹⁷

Child Rights

The Independent High Authority for Audiovisual Communication imposed a fine of 20,000 dinars on M Tunisia and ordered the suspension of the program "Bela Qena'a" for broadcasting harmful videos of drunk children expressing their desire to commit suicide. In addition, describing how they wish to do so and videos showing homeless children who encourage this behavior. It should be noted that the Authority had warned M Tunisia after the radio broadcasts that pose a threat to the protection of children, their best interests, and human dignity in general. The Authority fully pushed its decision through various rulings. However, although we value the efforts of the Authority, we blame the length of time in order to take action. For example, the episode which contains violations, was broadcast in July, while the Authority did not move a finger until November 3, that's after 4 months from the crime.¹⁸

The National Commission to Combat Human Trafficking condemned the incident of Rahma who is girl who died as a result of falling into the sewers and drowning as a result. In addition, The commission denounced the decision of the Court of First Instance in Sidi Bouzid, which pledged to consider the conviction of the owner of the Qur'anic school of Regueb after his prosecution for human trafficking. The special Commission criticized the court's ruling after hearing the lawsuit despite the existence of sufficient evidences for conviction¹⁹ Meanwhile, the High Commission to Combat Human Trafficking announced a strong call after shocking facts concerning mothers who sell their children on Facebook or sometimes even selling embryos or their organs. The head of the Commission stressed that the child's work remains a real problem in Tunisia.

The principle of State's continuity The human rights guarantees

The Independent High Authority for Audiovisual Communication reproached the government for withdrawing the basic bill on freedom of audiovisual communication during October 2020. It considered that action as a strike to the principle of state's continuity as the government was a main actor in writing the aforementioned law's articles. Then the Commission was surprised that the government withdrew the bill, thus this action contributes in creating an atmosphere of inconsistency and seriously undermines the freedom of the Audiovisual Communication Sector, its efficiency and even its legal safety.

This path is linked to the feasibility of the participatory path in drafting laws related to human rights. Establishing participatory

17- The organizations Denounced Al Affas's statements against women: Organizations asked the Assembly to issue an official situation against it. <https://bit.ly/3oYhCg9>

18- The Authority decides to impose a financial fine against the channel "Om Tunisia" and the final suspension of the "Bela Qena'a" program. <https://bit.ly/2KiB0W7>

19- The Statements of the Head of the Commission. <https://fb.watch/2QqDPHjED/>
: The Midetrannean sea: Losing a girl child who fell in a sewerage: <https://bit.ly/3bcNA46>
: <https://bit.ly/2L3d612>

The right to human dignity and physical safety is characterized by being a central focus of the various institutions in Tunisia. In fact, attempts to enhance human dignity and threaten bodily integrity continue. Sadly, the violations are widespread in Tunisian television programs.

paths and dialogues with those involved persons in this field is one of the applications of participatory democracy in the legislative process that goes beyond the committees and corridors of the Assembly of Representatives. However, the change in the government's situation could undermine the credibility of the participatory process as a whole.

The right to a private life, inviolability of domicile and the privacy of communications, messages and personal information.

The Independent High Authority for Audiovisual Communication considered that Om Tunisia channel violated these rights which are constitutionally protected. As the later broadcast videos of drunk children along with hate speeches against homosexuals and encouraged violations against them. This is a violation of the laws in force, as well as Decree No. 116, which regulates the work of the Authority.

Concerning the National Anti-Corruption Authority and the National Authority for Protection of Personal Data, it is noted that they work to protect these rights according to the field of each one and the extent of their powers. For example, the National Authority for Protection of Personal Data prohibits handling of personal data to the other without the permission from its owner in a clear way that shows his approval, according to the law. On the other hand, the Authority requested clarifications from the Central Bank of Tunisia about the status of the personal data of bank account holders since 2015. In addition to the method of using them and providing them to commercial and economic institutions as practically the latter could see the status of the bank account within the framework of financial transactions and concluded contracts. As the Authority received several complaints concerning that issue. However, until today after 6 years, unfortunately the Authority didn't receive an answer from the Bank.

In addition, the Authority expressed its encouragement for the judicial ruling which was issued on December 24, 2020 which ordered the defendant to remove the security cameras which overlook her neighbour and violate his personal life. The Authority published the aforementioned decision on its Facebook page and it removed the personal data of the parties to the conflict.²⁰ In addition, and in a frank condemnation against the government, the National Authority for Protection of Personal Data directed an open reproach and blame for its exclusion from the consultations to activate the Single Identifier Project that is the reason for its existence. It is noteworthy that the authority and the overlapping parties formulated this project, which promises a revolution in digital data for the beneficiaries of administrative services.

In a similar move, the current government continued to ignore the commission by excluding it from the * Register Me * project, which collects all the personal data of mobile phone holders - meaning, in practice, all Tunisians - for the purpose of protecting the national economy and the mobile phone sector from smugglers and the black market. For example, it should be noted that the Single Identifier Project came by a governmental decree from the former Prime Minister Elias Fakhfakh, and it refreshed the Tunisian administration unless it ignored the National Commission for Protection of Personal Data which is legally protecting it.

Considering the enormous size of the work and the volume of the tasks, this raises a question about the effectiveness of its existence, especially with the scarcity of the resources assigned to it. The budget which does not exceed 130 thousand dinars

20-To view the judicial decision. <http://bit.ly/2XQP6B0>

and only 80 thousand remains after the payment of the headquarters rental fee, to divide the rest between the wages of the employees and multiple bills. It is noteworthy that the Authority complains from lacking employees.

This actually raises serious questions about the role of bodies and the feasibility of them in light of the lack of official policies and cooperation between them, which are formal structures.

The right to health care

The National Anti-Corruption Commission has condemned such practices and has received many complaints regarding it, which must be employed and seriously exploited to pursue and prosecute suspects in this regard.²¹ It is reported that a black



market for medical materials and medicines has increased since the outbreak of the epidemic in Tunisia, effectively threatening official routes and the already decrepit public health sector. This has not been reviewed or acted upon by launching real reform programs or direct interest in workers of all kinds, as the unions and organizations representing them have continued to protest to this day. This raises a crisis that is more profound than just its economic and social dimensions, but a moral crisis over the size of the responsibility that this sector can bear in front of cases of death and epidemic disease that challenges the role of the doctor and his assistants. All institutions should pay attention to the right to health care, as it is rooted in human life. However, it was noted through research that the National Committee for Medical Ethics was closer to deadlock, even in the context of the health crisis.

21-Concerning the reports of the authority. <https://bit.ly/3aNktEo>

The right to a decent life

The Anti-Corruption Commission was informed on several occasions about the monopoly of many products during the last quarter of 2020. In reality, there are many violations, including the monopoly, to give the impression that they exceed the ability of the authorities to resist them, especially as they cover the entire country with varying degrees of severity and in all sectors.²² This is what the bulletins of the National Anti-Corruption Authority detailed without real and complete follow-up for the violators, in light of the continuing violations in reality.

The Right to Access Information

Despite the importance of this right, the body (the Access to Information Authority) mandated to properly implement it was not effective with the exception of seminars and internal training in the fourth quarter of 2020, that is the period which is covered by this report. Concerning the Higher Committee for Human Rights and Fundamental Freedoms, the previous three months were limited to congratulations and condolences in its official platforms. This is a profound weakness, especially given the importance of the budget allocated to it. In addition, old reports cannot give a clear picture of dealing with this right in light of its failure to include it as a component in a comprehensive administrative reform that goes beyond the sick bureaucracy of the Tunisian state.²³

In addition, the litigation process for access to information devotes the protection of administration rather than facilitating and making information available. Rather, administrations continue to refuse to provide information, starting with the ministries, the Central Bank, and the House of Representatives itself. It is noteworthy that the Public Prosecution has submitted nearly 54 requests to lift the immunity of 54 MPs in the Assembly of the Representatives of the People since the start of their current parliamentary term, meaning that about 25% of the people's representatives are being prosecuted and are being monitored by the Public Prosecution, and among the names: Sofyan Tobal, Abeer Musa, Mabrouk Korsheed, Zuhair Makhlouf, Mohamed Ammar, Yassin Al Ayari, Mabruk Al Khashnawi, Mohamed Al Affas, Maher Zaid, Saif Al Din Makhlouf, Ghazi Al-Karoui and others. The charges against the MPs range from financial corruption, criminal or civil cases, fraud, extortion, sexual harassment, or in the context of settling political scores. However, it is noticeable that the Assembly's office refrains from providing information in this regard.

Recommendations

The democratic transition seems threatened due to the interconnected crises politically, economically and socially which poses many responsibilities that include everyone:

- The need to review the electoral law and bylaws of the Assembly of the Representatives. In addition to the need to establish frameworks of accountability for the parties that don't respect democracy inside it or use non-democratic tools in dealing with the political affairs.

Following up the parties, their sources of funding, and their respect for the internal democratic principles and the democratic practice in ruling. That would contribute to restoring their representative role which would provide a step to restore their representative role of the Assembly of the Representatives.

22- Concerning the reports of the National Anti-Corruption Authority. <https://bit.ly/3prX8fw>

- Restoring the citizen's confidence in the State's authorities and institutions to ensure the participation of the citizen in the democratic transition instead of leaving the opportunity for the populist or anti-democratic currents. Thus the parties could play a pivotal role in that through expanding their structure towards attracting youth bases in democratic ways based on volunteer values, and the political and civil work.

- Restoring the role of the judiciary and the judiciary assistants by launching a real reform project that improves the conditions of the judiciary in order not to have sectoral demands. In addition to providing conditions and guarantees for its independence as an independent authority according to the constitution and the international principles.

- Bypassing the narrow conflict of interest which exploits the diffusion of responsibility which requires at a certain stage to review the current political regime which initially enhances participatory, however it diffuses responsibility under the disclaiming of liability of the officials and their failure in achieving their promises.

- Accelerating the completion of all constitutional bodies, especially the Constitutional Court. Reviewing the frameworks of the independent bodies and respecting its role through the response of administrations, ministries and dealing with them as the law imposes instead of ignoring them as currently prevailed. This matter requires increasing its budget and supporting it logistically and This applies to regulatory bodies that issue reports without following up on their recommendations.

- Reviewing the path of transitional justice based on evaluating the gains and bypassing the shortcomings. That requires reviewing the body itself and its role through restoring the approach based on the victims' reparation instead of politicizing their file. It is the reality of civil society which follows up transitional justice, where civil society lined up in coordination groups that were divided on ideological backgrounds in a first stage and the attempt of the Authority to control the path whether through ministries or through the Commission itself.

- According to these introductions, the results and outcomes which were ended, could be evaluated by the sit-in of the wounded persons of the revolution on the 10th anniversary for demanding their rights.