



**Carter Center Preliminary Statement on Tunisia's 2022 Parliamentary  
Elections  
Dec. 19, 2022**

*This statement is preliminary; a final report will be published four months after the end of the electoral process.*

Tunisia's Dec. 17 parliamentary elections took place on the 12th anniversary of the spark that ignited the Arab Spring in 2011. The preliminary turnout results are historically low, 8.8 percent, reflecting the disillusionment of the Tunisian people with the current economic, political, and social situation. Tunisia now finds itself at a crossroads, not unlike what existed in 2011, when all Tunisians united and engaged in a true national dialogue to move the transition to democracy forward. The low turnout can also be read as a rejection of the roadmap outlined by the president in December 2021, which resulted in a flawed constitutional drafting process and referendum in which only 30 percent of the people voted.

The president understood the Tunisian people's disillusionment and disappointment in the fact that the last 12 years have failed to produce any tangible results in addressing the underlying causes of the revolution. Unfortunately, his approach to change has not been democratic, and the Tunisian people have now shown that they are not convinced that this is the way forward.

Election day itself proceeded calmly and without major irregularities, as have all elections in Tunisia since 2011. But work must be done to reset Tunisian democracy.

Tunisian leaders need to engage in an inclusive process to address the flaws in the 2022 constitution, the decrees amending the electoral law and the law on The High Independent Authority for the Elections (known by its French acronym, the ISIE) and renew the process of reform begun in 2011. The Carter Center recommends that the following issues be addressed:

- The need for a new electoral law and electoral system that will reestablish an independent electoral body and result in effective national policymaking.
- The establishment of policies that address issues such as corruption, security sector reform, and public administration.
- The re-establishment of the balance of power between the executive, parliamentary, and judiciary branches.
- Increased voter and civic education to engage the public in national dialogue consultations and reforms that will impact their daily lives.

- Steps to strengthen political parties and increase internal party democracy, resulting in more effective political party representation, including by women, youth, and marginalized populations.

### **Political Background**

The elections took place against the backdrop of the actions of President Kaïs Saïed on July 25, 2021, when he unconstitutionally invoked Article 80 of the Tunisian Constitution to grant himself the power to take emergency measures to address an “imminent danger threatening the nation’s institutions or the security or independence of the country,” citing an ineffective Tunisian parliament as the threat. He subsequently fired the prime minister, suspended the activity of the parliament, and lifted the legal immunity of its members. The lack of a constitutional court to determine the legality of his actions left those who opposed them with no legal or institutional mechanism to challenge him.

He deepened the political crisis on Sept. 22, 2021, by issuing Presidential Decree 117, which suspended all parts of the constitution except its introductory chapters on fundamental rights and freedoms; centralized all executive, parliamentary, and judicial power under the control of the president with no checks or balances — even explicitly prohibiting judicial review of his decree laws.

The president took advantage of the COVID-19 pandemic, which worsened the already precarious economic situation in the country; the ineffectiveness of subsequent parliaments to address the social and economic issues that fomented the 2011 Jasmine revolution; and the perception among many Tunisians that political parties and leaders — and the electoral system they created — failed to produce significant progress in their day-to-day lives.

In December 2021, the president announced his roadmap for reform, which included the drafting of a new constitution and holding a constitutional referendum on July 25, 2022. On March 30, 2022, the president dissolved parliament after MPs organized their first session since the suspension of their activities in July 2021. The session was attended by 124 deputies (of the 217 total) from the parliamentary groups of Ennahdha, Qalb Tounes, the al-Karama coalition, and Tahya Tounes, as well as independent deputies, with 116 of the 124 voting to abolish the exceptional measures and decrees issued by President Saïed since July 25, 2021.

Several Tunisian law professors criticized the president for applying articles of the constitution as he saw fit and ignoring others, using the constitution in an a la carte manner, relying on the fact that there was no constitutional court to review his actions. The president announced an initiative by the minister of justice to open judicial investigations into the MPs who attended the parliamentary session and to prosecute anyone involved for threatening the security of the state.

President Saïed initiated a constitutional reform process in January 2022, which featured a national consultation on potential constitutional changes. The consultation, which took place from Jan. 15, 2022, to March 20, 2022, was entirely online and failed to capture the interest of Tunisians. Only 534,465 citizens — of 8% of eligible citizens — participated. The consultation ostensibly allowed Tunisians to voice their opinion on what the new constitution should contain. Opposition parties and prominent civil society organizations urged citizens to boycott the consultation, arguing that

it was not a real consultation but rather a public opinion poll with questions developed by the government and structured to achieve certain results. Although the president insisted the draft of the constitution would be based on the results of the national consultation, many of the questions were about issues that are not normally addressed in a constitution. After the release of the consultation results, there was no public report on how they were incorporated into the draft constitution.

On May 20, 2022, the president announced the members of the High National Advisory Consultation Commission for a New Republic, who were mandated with producing a draft constitution by June 20. The Consultation Commission was made up of two advisory committees, one devoted to economic and social affairs, and the other to legal affairs. According to the president, the work of these subcommittees was to be based on the national e-consultation outcomes. No political party representative was named as a member of either committee, including those who expressed support for the president's actions since July 25, 2001. The president stressed that the national dialogue would be open to those who "embraced the corrective process" and would not involve those who are "devoid of patriotism, and ransack, starve and abuse the Tunisian people."

All opposition parties rejected the commission and called for continued resistance to the president, declaring the process and referendum to be without legal foundation and illegitimate. Many of those named to the commission refused to take up their positions, including the deans of the universities of law, legal, and political sciences and UGTT, the largest Tunisian labor union, who were to fill leading positions.

The commission submitted a draft constitution to the president by the June 20 deadline. The president publicly released the draft on June 30, less than one month before the vote on the constitutional referendum. The coordinator and several members of the commission announced that the draft text of the constitution released by the president differed substantially from the version they had submitted on June 20.

Unlike the inclusive national dialogue that took place during the 2011 Arab Spring, which led to the election of a National Constituent Assembly, and the in-depth legislative process that formed the basis for the 2014 constitution, the 2022 constitutional process was conducted in an extremely compressed timeframe and in an opaque and exclusionary manner. Constitutional articles that sparked intensive public debate in the constitution-making process from 2012-2014 were edited in less than a month by the 2022 commission and the president himself.

The lack of an inclusive, transparent process for drafting the new constitution violated international standards as well as norms for creating and amending constitutions, which indicate that constitutional changes should be made in accordance with provisions of the constitution itself, where possible, and certainly on the basis of the widest possible consensus.<sup>1</sup> The process that gave rise to the new constitution, regardless of its content, therefore lacked the legitimacy and sound legal basis required for a democratic constitution.

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<sup>1</sup> See Venice Commission Urgent Opinion on the constitutional and legislative framework on the referendum, issued May 27, 2022.

In addition, given the lack of public debate, insufficient voter education, and truncated timeframe for producing the draft, it is unclear whether citizens understood what they were voting on in the referendum. According to international best practices for constitutional amendments, such a process should normally take a year or more and reflect a broad consensus of all stakeholders, including a country's political forces, before being put to a referendum.

Given the lack of an inclusive and consensus-based process during the constitution drafting process, it would have been especially important for the referendum to include a quorum for participation. However, no such quorum or minimum participation threshold was established. The referendum was held on July 25, 2022. Fewer than one-third of registered voters participated. The final turnout figure for the referendum was 2,830,094 total votes out of 9,278,541 registered voters, representing 30.5 percent; 94.6 percent (2,607,884) voted yes, and 5.4 percent (148,723) voted no.

The new constitution severely limits the authority of parliament and greatly increases the president's power. It eliminates provisions that allow for the president's impeachment, either for political or criminal reasons, unlike the 2014 constitution. Parliament cannot question the president's actions if he breaches the constitution. The government is now politically responsible to the president and accountable to both houses of parliament. The president directly appoints the prime minister without the parliament's approval, unlike under the 2014 constitution, where the party with the largest number of deputies nominated the prime minister. The president, rather than the prime minister, also appoints the members of the government. The president may, on her or his initiative or the proposal of the prime minister, dismiss the government or one of its members. In contrast, under the 2014 constitution, the government could be dismissed following a vote of no confidence in parliament, and the individual dismissal of members of the government was the responsibility of either the prime minister or the parliament.

The president chairs the cabinet, which was formerly the prerogative of the prime minister. In addition, the president oversees the executive functions and determines the policy of the state instead of the prime minister, limiting the role of the government to the execution of state policies set by the president. As in the 2014 constitution, parliament is obligated to prioritize consideration of legislation proposed by the president.

The constitution calls for a yet-to-be-created new legislative chamber, the National Council for Regions and Districts (NCRD). According to the constitution, the elected members of each regional council will elect three members to represent the region. Then members of regional councils in the same district elect one member to represent the entire district. The NCRD has jurisdiction over laws related to the state budget and to development plans that must be approved by an absolute majority of both chambers. The NCRD will have what seems to be a formal but largely ineffectual oversight on matters related to the implementation of the budget and development plans. The relations between the two chambers will be defined by law.

While the 2014 constitution devoted an entire chapter to local self-government, enshrining the concept of decentralization and elected municipal and regional councils, the 2022 constitution contains only one article on local government. It does not mention decentralization or principles such as financial autonomy, participatory local democracy, or self-governance. It foresees three levels of local authorities: municipal councils, regional (governorate) councils, and district

councils but gives no details on how these authorities will be elected, referring to the law to provide these details.

### **Legal Framework**

According to international best practices, an election's legal framework should be transparent and readily accessible to the public. It should also address all the components of an electoral system necessary to ensure democratic elections.<sup>2</sup> The fundamental elements of electoral law, in particular the electoral system itself, as well as the composition of electoral commissions and the delimitation of constituencies should not be amended less than one year before an election.<sup>3</sup>

The constitution guarantees the right to vote to all citizens who are 18 or older and who are not subject to any kind of restrictions foreseen under the electoral law. The latest electoral law amendments in 2022 reinstated the general prohibition on military and security personnel voting in all elections — legislative, presidential, regional, and municipal — a restriction not in alignment with international standards.<sup>4</sup> Citizens in health care facilities, penitentiaries, and detention centers were not able to exercise their right to vote, as no mechanism for doing so exists in the law, contrary to Tunisia's constitution and international commitments.<sup>5</sup>

The electoral law was amended twice in 2022 by decree law. On June 1, changes were made to the referendum framework, and on Sept. 15 — only three months before the election — major changes were made to the framework of the parliamentary elections, including changing the electoral system from a closed list system to majoritarian single-candidate districts, requiring a second round if no candidate gets an absolute majority in the first.

The September amendment also imposed new restrictions on the right to stand as a candidate in the parliamentary elections. It strengthened some of the existing conditions (e.g., Tunisian nationality, proof of payment of taxes), and added new conditions (e.g., residency in the electoral district, a clean criminal record, collecting 400 endorsements).

Another major change was a provision allowing members of parliament (MPs) to be recalled. The recall process can be launched through a petition if MPs are found to have breached the obligation of integrity or other parliamentary obligations or made insufficient efforts to carry out their electoral program. The electoral law prohibits the submission of more than one recall petition against the same MP during the same mandate. It also prohibits the initiation of the recall procedure during the first year or in the last six months of the legislative mandate. The law, however, does not preview any tangible assessment standard or criteria for recalling MPs, making the decision on the recall petition discretionary and arbitrary, and susceptible to misuse.

Following the submission of a recall petition signed by one-tenth of the registered voters in the concerned district, it is up to the ISIE to accept or reject it and inform the MP and the assembly of the decision. The ISIE's decision can be challenged in court by the concerned MP or those who

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<sup>2</sup> OSCE/ODIHR, Guidelines for Reviewing a Legal Framework for Elections, page 4.

<sup>3</sup> Venice Commission, Interpretive Declaration on the Stability of Electoral Law; CDL-AD (2005)043.

<sup>4</sup> See ICCPR, Article 25: "Every citizen shall have the right and the opportunity [...] to vote and to be elected at genuine periodic elections...." Also, General Comment 25, para. 14: "The grounds for denying suffrage rights to citizens have to be objective and reasonable and must be prescribed by law."

<sup>5</sup> Right to universal suffrage on the basis of equal treatment before the law: ICCPR, Article 25(b); African Charter on Democracy, Elections and Governance, Article 3(3).

submitted it. If the recall petition is approved, a recall election is held. If the MP is recalled, this triggers a by-election, in which the recalled MP can seek to be elected again.

Although campaign provisions for the 2022 parliamentary elections are still restrictive, candidates have been granted the possibility to use the same forms of advertising as presidential candidates.<sup>6</sup> Article 52 of the electoral law states that electoral campaigning must respect the essential principles of equal opportunity for all candidates. Similarly, Article 3 of the law on the ISIE mandates that it guarantee equal treatment of voters, candidates, and all stakeholders.

According to Article 67 of the electoral law, the ISIE and High Independent Authority for Audiovisual Communication (known by its French acronym, HAICA) are mandated to issue a joint decision regulating campaign activities over audio and visual media. The ISIE and HAICA could not reach an agreement about the joint decision and instead issued separate decisions, each insisting that theirs took precedence.<sup>7</sup> This led to confusion and made candidates and media reluctant to cover the electoral campaign. The HAICA filed an injunction in the administrative court declaring that legally it had the authority to regulate audio and visual media during the campaign. The court rejected the request, ruling that because both bodies had jurisdiction over media during the campaign and the HAICA had not stated any grounds for relief, there was no basis to grant the injunction.

Under the existing legal framework, the HAICA has specific jurisdiction over monitoring of audio and visual media even during election periods.<sup>8</sup> The ISIE has jurisdiction over the monitoring of social and print media. There is nothing in the law that indicates what happens if joint agreement is not reached; however, according to the HAICA, since it has specific jurisdiction over audio and visual media, legally, its decision should prevail.

## **Electoral System**

The purpose of an electoral system is to translate the people's will into a representative government. International standards do not prescribe a specific electoral system.<sup>9</sup> However, such a fundamental aspect of the legal framework should be decided after consultation and broad consensus among all stakeholders.

The newly adopted 2022 constitution provided for a bicameral system, with the parliament directly elected by citizens in the Dec. 17 elections; and a National Council for Regions and Districts to be appointed by regional councils upon their election. The September 2022 amendments of the electoral law established a new electoral system for electing the parliament, with 161 single-candidate electoral districts, 151 in-country and 10 abroad. If no candidate achieves over 50 percent in the first round, the race is decided in a second round between the top two vote-getters two weeks after the announcement of final results.

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<sup>6</sup> Advertisement media allowed for candidates include fixed and mobile billboards, car wrapping, and online advertisement/sponsoring.

<sup>7</sup> Decision 8-2018 as amended by Decision 31-2022 on determining the rules and requirements mass media need to comply with during the election and referendum campaign.

<sup>8</sup> Chapter IV, articles 42 to 46.

<sup>9</sup> U.N., International Covenant on Civil and Political Rights; Article 25(b); United Nations Human Rights Council, General Comment 25, para. 21.

## **Boundary Delimitation**

For this election, new boundaries were created for the 161 electoral districts. The new boundaries were set without any consultation with stakeholders one month before the opening of candidate nomination. The criteria used to create the new districts were never made public. According to international standards, an appropriate combination of criteria needs to be set, such as the number of residents in the constituency, the number of resident nationals (including minors), and the number of registered voters.<sup>10</sup> Changing such a fundamental element so close to an election affects the amount of time stakeholders have to properly prepare for the election and violates international good practices.<sup>11</sup>

According to international best practice, deviations in size from district to district should not exceed 10% in general and 15% in special circumstances to ensure equality of the vote.<sup>12</sup> Carter Center analysis showed that 90 of the 151 in-country districts exceed the 10% deviation.

In the governorate of Tunis, three districts are under-represented and three over-represented.<sup>13</sup> The electoral district La Marsa-Carthage has 127,167 inhabitants, and in the same region, the electoral district Beb ElBhar-Sidi ElBachir has 55,732 inhabitants. A similar situation exists in the governorate of Tataouin, where the electoral district of Thehiba-Remada has 14,630 inhabitants, and the electoral district of Kebili-Rejim Maatoug has 22,372 inhabitants. Four governorates — Jendouba, El Kef, Siliana, and Gabes — were redistricted in a way that respects the principle of equality of the vote.

The boundary delimitation for this election is not in line with international good practices as the majority of districts do not respect the equality of the vote. In addition, the boundaries were set late in the process not allowing stakeholders, especially voters and candidates the time to understand the new demarcation.

## **Candidate Registration**

Candidates and political parties are important stakeholders in the electoral process. The right to be elected is a recognized principle in both regional and international treaties. However, it is not an absolute right and may be limited on the basis of objective and reasonable criteria established by

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<sup>10</sup> The Code of Good Practice in Electoral Matters of the Venice Commission (CDL-AD(2002)023rev, point I.2.2) provides that: “Equality in voting power, where the elections are not being held in one single constituency, requires constituency boundaries to be drawn in such a way that seats in the lower chambers representing the people are distributed equally among the constituencies, in accordance with a specific apportionment criterion, e.g. the number of residents in the constituency, the number of resident nationals (including minors), the number of registered electors, or possibly the number of people actually voting.”

<sup>11</sup> The Code of Good Practice in Electoral Matters of the Venice Commission (CDL-AD(2002)023rev, point II.2.B) provides that “The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law.”

<sup>12</sup> The Code of Good Practice in Electoral Matter (CDL-AD(2002) 023rev, point 2.2.iv) says that the permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).

<sup>13</sup> According to the last official population estimate made in January 2022, the whole population of Tunisia is 11,859,238, which would make the electoral quotient for one deputy approximately 78,538 inhabitants.

law.<sup>14</sup> The late publication of the fundamental elements of the electoral law, including the new electoral system and constituency delimitation, one month before the beginning of the nomination process affected the understanding of the rules and competitiveness in several constituencies in-country and in most constituencies abroad.<sup>15</sup> The requirement to collect 400 notarized endorsements represented the biggest challenge, discouraging potential candidates and affecting the competitiveness in several constituencies.<sup>16</sup>

The single-member constituencies with new delimitations and independent candidates set for this election greatly impacted the candidate nomination process. Candidacy has become individual, instead of list-based, in smaller constituencies than before. This has eliminated the role of political parties in approving and nominating candidates and the need for candidates to be political party members. While the new legislation opens the door to candidates with different profiles as well as newcomers who had not previously considered running for parliament, many of these candidates faced challenges in conducting campaigns because of the lack of public funding and support from political parties, among other issues. This was especially true for women and youth candidates.

The ISIE set the registration calendar for Oct. 17-24. The gathering of endorsements proved to be the most difficult step for potential candidates, who needed to convince 200 men and 200 women, 25% of them under 35 years of age, to endorse their candidacy and notarize their signatures in the municipalities, delegations, or IRIE offices. This was especially difficult for female and overseas candidates. Civil society organizations, media, and even members of political parties alleged that some candidates paid voters to endorse their candidacy. After consultation with regional coordinators, the ISIE decided to extend the registration deadline by three days to allow potential candidates to complete their applications with the required documents. In addition, some candidates said they had difficulty getting their criminal records (Bulletin 3) and municipality tax documents on time.

The ISIE regulation also required all candidates to have a platform explaining their political, social, and economic vision and have those endorsing their candidacy sign that they had read and accepted the platform. This requirement was driven by the new provision in the electoral law that allows a candidate to be recalled if they do not take sufficient steps to fulfill their platform.

The ISIE took one week to review and decide on the 1,427 candidates who applied, of whom 1,213 were men and only 214 women. On Nov. 3, the ISIE announced the preliminary list of 1,058 candidates who were accepted — 936 men and 122 women. Out of the 161 districts, 10 districts, including three abroad and seven in-country, had only one candidate. Eight in-country districts had just two candidates. Seven districts had no candidates. The highest number of candidacies was in the district constituency of Kasserine North-Zouhour, which had 22 candidates.

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<sup>14</sup> ICCPR, Article 25; AU, ACHPR, Article 13; Arab Charter on Human Rights, Article 24.

<sup>15</sup> Venice Commission, CODE OF GOOD PRACTICE IN ELECTORAL MATTERS, Sec. “The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law” CDL-AD(2002)023rev2-cor.

<sup>16</sup> There were seven constituencies without candidates (all of them are abroad), and there were 10 constituencies with only one candidate, and 8 with just two candidates.



The ISIE shared the profiles of the accepted candidates; 50% work in public administrations, schools, and universities. There were several members of municipalities, including 27 mayors, 26 former MPs, and several members of civil society organizations. The new constitutional prohibition on combining parliamentary work with any other remunerative or non-remunerative professional activity led to fewer candidacies by lawyers, doctors, and other independent professionals.<sup>17</sup> The new electoral system led to fewer female candidates, as the first-past-the-post system does not lend itself to quotas for female candidates like the proportional system does. Also, the new system led to an influx of candidates who had not previously run for political office.

Following the challenge period, two candidates were added to the acceptance list, and five candidates withdrew. On Nov. 22, the ISIE announced the final list of 1,055 accepted candidates, only 12% of whom were female.

### **Election Administration**

An independent and impartial body charged with implementing elections is critical to ensuring the integrity of the electoral process. The electoral management body responsible for organizing the elections should be impartial in the performance of its public function.<sup>18</sup> State practice sources suggest that the impartiality of election management bodies should be maintained at all levels, from the national commission to the polling station.<sup>19</sup> The ISIE is in charge of ensuring the regularity, integrity, and transparency of the electoral process and of proclaiming the results.<sup>20</sup> Its independence was questioned by stakeholders throughout various stages of the electoral process.

The ISIE organized six different elections during the last decade without major technical issues; however, the Dec. 17 election was organized pursuant to a new constitution, a new electoral law, and new boundary delimitations set a few days before the start of the electoral period, which represented a difficult challenge.<sup>21</sup>

The ISIE board in charge of organizing the legislative elections is composed of five members who were appointed by the president on May 9, 2022.<sup>22</sup> Initially, the board was composed of seven members, but before and during the constitutional referendum, one member resigned, and another was dismissed by the ISIE board.<sup>23</sup> The two members were not replaced. The appointment of the ISIE board by the president created the perception that the ISIE was an executive authority rather than an independent body.<sup>24</sup> Political parties and civil society organizations criticized the fact that

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<sup>17</sup> 2022 Tunisian Constitution, Article 61.

<sup>18</sup> AU, ACDEG, art.17(1)

<sup>19</sup> Venice Commission, Code of Good Practice in Electoral Matters, sec. II.3.1.b

<sup>20</sup> 2022 Tunisian Constitution, Article 134.

<sup>21</sup> The new constitution was published in the National Gazette (JORT) on Aug. 18, 2022, and DL-55, amending the electoral law, was published on Sept. 15, 2022.

<sup>22</sup> Under the decree, the president must choose three former ISIE members, one judge with at least 10 years of experience from among three magistrates proposed by the Supreme Judicial Council, one administrative court judge with at least 10 years of experience from three magistrates proposed by the Council of the Administrative Magistrature, one judge of the financial order with at least 10 years among three magistrates proposed by the Council of the Financial Magistrature, and one engineer specializing in information systems and computer security, with at least 10 years of experience from among three engineers proposed by the National Center for Information Technology.

<sup>23</sup> ISIE decision dated Aug. 25, 2022.

<sup>24</sup> Venice Commission CDL-PI(2022)026.

the president had exclusive authority to appoint ISIE members, raising the perception that the new ISIE board was executing the president's decisions.

The ISIE is composed of an executive body headed by an executive director now appointed by the ISIE president, and 37 Independent Regional Authorities for Elections, or IRIEs, each of which is composed of three members.<sup>25</sup> The in-country IRIEs oversee 151 districts, each of which supervise from three to nine districts.<sup>26</sup>

The ISIE published the electoral calendar for the parliamentary elections on Sept. 15. The calendar was amended once during the candidate registration process to extend the deadline for submission of applications by three days. CSOs criticized this extension as giving an advantage to candidates who waited until the last minute to file their paperwork. The three-day extension allowed for several candidates to complete their candidacies and for 178 new candidates.

The communication strategy of the ISIE was more reactive than proactive. It did not reach out to stakeholders and failed to initiate meetings with political parties and civil society organizations, waiting for these stakeholders to reach out to them. Contradictory statements by the vice president and the spokesperson about the role of political parties in the campaign, including the use of political party logos and platforms by candidates, confused stakeholders.<sup>27</sup> The ISIE also tended to communicate more through its Facebook page than its official website, which was considered useless according to stakeholders.

The ISIE used its discretion and authority to issue regulations to fill the gaps in the electoral law, including declaring that if two candidates received an equal number of votes, the younger candidate would be declared the winner and adding a rule requiring candidates to submit an electoral platform and have those endorsing their candidacy sign that they had read and accepted the platform, which was not included in the electoral law. Both actions appear to be outside the authority of the ISIE and should have been included in the law itself.

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<sup>25</sup> ISIE decision 2022-28.

<sup>26</sup> Two IRIEs oversee nine constituencies, including Sousse and Ben Arous. Six IRIEs oversee three constituencies, including Kebili, Tozeur, Tataouine, Siliana, and Zaghuan.

<sup>27</sup> ISIE vice president's statement that "there is nothing preventing the participation of political parties from participating in the candidates' election campaigns" on the "RDV 9" program on Attesia TV on Sept. 30 (6 p.m.). Link to the statement: <http://bit.ly/3PIRCZR>.

ISIE spokesperson's statement to Agence Tunis Afrique Press (TAP) that "political parties are not allowed to campaign during the election campaign period" on Sept. 29. Link to the statement: <https://bit.ly/3uGFhGg>.

Polling hours were set for 8 a.m. to 6 p.m.; as in previous elections, the ISIE issued special hours for several polling centers.<sup>28</sup> Additionally, for the first time in Tunisia, four constituencies in Medenine had longer hours, from 8 a.m. to 8 p.m., because of the Jewish Shabbat.<sup>29</sup>

The late publication of the electoral law, which significantly amended the rules of these elections, left the ISIE with less than three months to organize the election. The different phases of the electoral process, especially the candidate registration, was a real challenge, but the IRIEs managed this phase well and according to regulation.

### **Voter Registration**

According to international standards for voter registration, the register must be comprehensive, inclusive, accurate, and up-to-date, and the process must be fully transparent.<sup>30</sup>

During the voluntary registration period for the referendum, only 80,000 new voters registered. The ISIE called on the president to issue a decree allowing for automatic registration due to the low number of new voters who registered.<sup>1</sup> Automatic registration resulted in the addition of 2,335,238 new voters. For the parliamentary election, approximately 61,000 new voters were automatically added to the list.

Each new voter was assigned to a polling station according to the address of their ID card.<sup>31</sup> Because the ID card address does not reflect the current address for some voters, the ISIE allowed voters to update their polling station by providing proof of effective address via several offices in municipalities, using the online platform [touenssa.isie.tn](http://touenssa.isie.tn), or by text message. During the initial period from Sept. 26 to Oct. 13, 48,000 voters updated their polling station via the fixed offices, and 7,239 used the Touennssa platform and text messaging system. The ISIE has not published any relevant information for the second period from Oct. 28 to Nov. 20.

The ISIE published the preliminary list of voters on Sept. 26, 2022. At home, a total of 8,989,287 voters are on the list, 51% of whom are women, and a total of 350,469 voters, 38.6% of whom are women, are registered abroad. Polling stations were open from 8 a.m. to 6 p.m., with a maximum of 1,000 voters in each. The ISIE has not published the final list of voters for the parliamentary elections on its website or in the Official Gazette (JORT), which is not in line with the electoral

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<sup>28</sup> The ISIE set opening at 9 a.m. and closing at 4 p.m. for 135 polling centers in constituencies in Kasserine [Kasserine south (28 PC), Sbiba-Jedliyan-Layoune (32 PCs), Tala – Hydra – Foussana (29 PCs), Majel Bel Abbes – Feryana (10 PCs), Kasserine North (1 PCs), Sbitla (35 PCs), Sidi Bouzid: (26 PCs) ((Sidi Bouzid East (3 PCs), Menzel Bouzinane (2 PCs), Beyr Hafi (10 PCs), Jelma- Sebbalet Ouled Asker (11 PCs), Jendouba: (45 PCs) Jendouba North – Fernana (13 PCs), Ghardimaou (24 PCs), Tabarka – Ain Draham (8 PCs), Kef: (15 PCs) (Kef ouest (1 PCs), Nabr Twiref – Sakiet Sidi Youssef (12 PCs), El Kalaa Khassba (2 PCs), Siliana: (6 PCs) (Siliana-Berguou (3 PCs) Makther – Rouhia (3 PCs)].

<sup>29</sup> The ISIE set opening at 8 a.m. and closing at 8 p.m. for 92 polling centers in four constituencies in Medenine [(Djerba Houmet Souk (24 PCs), Djerba Midoune (21 PCs), Djerba Ajim (12 PCs), and Jerjiss (35 PCs)].

<sup>30</sup> International Institute for Democracy and Electoral Assistance. International Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections. International Institute for Democracy and Electoral Assistance, 2002, p.p. 45)

<sup>31</sup> For the legislative elections, the ISIE added 61,215 voters using automatic registration.

law.<sup>32</sup> On Nov. 30, the ISIE published the breakdown of voters by polling centers, and the number of polling stations per polling center, without publishing the final number of voters countrywide.

### **Voter Education**

The fulfillment of the international obligation of universal suffrage is partially dependent on effective voter education.<sup>33</sup> Considering the many changes to the electoral legal framework, including the electoral system and voter registration and the change in voting centers, voter education and information were even more important for these elections. Many CSOs criticized the ISIE for not undertaking a broad voter education program about these changes. There were a few spots broadcast on national TV, with sign language, and on national radio. As part of the second phase of voter registration, the ISIE had 32 sensitization spots on television during prime time, especially on Wataniya 2, and used local radio to broadcast the information.

During the last week of September, the ISIE posted several animated TV spots on how to check and update voter registration information, the dates of legislative elections at home and abroad, and the new districts in each IRIE on its official Facebook page. Moreover, a few CSOs undertook voter education activities targeting youth, women, and people with disabilities to encourage them to vote.

The lack of CSO involvement in the ISIE education campaign made it harder to reach voters. Unlike in previous elections, the ISIE did not coordinate or actively involve CSOs in outreach efforts.

### **Campaign**

Political pluralism and an open campaign environment that enables genuine choices for voters are critical aspects of democratic elections. Equitable treatment of candidates and parties during an election is important for ensuring the integrity of the democratic election process. A genuine choice of candidates, a free electoral environment, a level playing field for contestants, and an open transparent campaign environment are all critical aspects of democracy. Equal treatment of candidates and parties is essential for ensuring the integrity of the democratic election process.<sup>34</sup>

The campaign started on Friday, Nov. 25, and lasted 22 days. The campaign did not generate great interest from voters. Most candidates tried to contact voters directly and held small gatherings in coffee shops and markets, where they distributed flyers, instead of sponsoring large campaign events.<sup>35</sup> The lack of party involvement, low campaign spending limits, and no public funding also contributed to the low level of campaigning. Big billboards weren't used as in previous elections because of the high costs and low campaign-finance ceilings. Some candidates took advantage of available public space to put up posters.

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<sup>32</sup> Article 35 of ISIE Decision 2017-6 of 11 April 2017 on the rules and procedures for voter registration amended by Decision 2022-24 of Sept. 23, 2022: "The ISIE establishes the final electoral lists and publishes them on its website, and this, at the end of the appeal deadlines or once all judgments have been pronounced."

<sup>33</sup> ICCPR, Article 25.

<sup>34</sup> ICCPR, Article 25.

<sup>35</sup> Events observed in Sfax and Mahdia included door-to-door campaigning, setting up of tents, holding political cafes, and distributing flyers and involved a maximum of 50 people. Candidates said that they were trying to cover every locality of their constituency during the campaign period.

Before the start of the campaign, candidates affiliated with political parties who wanted to conduct activities using the party logo or platform were required to notify the ISIE by providing authorization from the legal representatives of the political party. Out of 1,055 candidates, only 61 notified the ISIE. They were from six political parties, with 37 from People Movement (Harakat Echaab). At campaign events observed by long-term observers (LTOs), 11.2% of candidates were affiliated with political parties. Many candidates preferred to run as independents even when they had party authorization, as they felt that running without political party links would give them an advantage.<sup>36</sup>

The first week of the electoral campaign was mostly calm, with few campaign activities. Candidates engaged in activities that were most efficient and cost-effective. The Center's LTOs observed small gatherings outside candidates' headquarters and in weekly markets. Candidates also engaged in door-to-door campaigning. Beginning in the second week, candidates organized talks in coffee shops that were interactive and allowed voters to share their concerns about local issues. LTOs observed volunteers wearing t-shirts with their candidate's photo. Candidate posters with names, photos, and campaign platforms were present but not as visible as in previous elections. The campaign intensified during the last week, but in general, it remained more low-key than in previous parliamentary elections.

A review of candidate platforms revealed a focus on issues specific to the candidate's region, such as tourism, agriculture, and healthcare. Other topics included industrial development, cultural issues, international investment, youth employment, and public transport. Many female candidates' platforms dealt with youth employment; women's rights were mentioned in very few cases, mostly by women candidates. Only isolated candidates talked about the rights of persons with disabilities.

There was a noticeable disparity between the regions in the number of campaign activities. For example, in Sfax 1, the average number of activities reported to IRIEs was 50 per day, while in Ariana, it never exceeded 11 per day. There is no common strategy among IRIEs in the publication of the daily number of activities. According to the long-term observer reports, 95% of candidates reported their activities to IRIEs; however, IRIE monitors were not present at 38% of these events.<sup>37</sup>

Observers noted that women were the most active candidates. Outside the capital, because of social norms, their campaigns sometimes lacked access to cafés, which prevented them from reaching out to male voters. Several women candidates reported that they were the target of smear campaigns online and faced insults and pressure to withdraw. The majority of women and young people were running for office for the first time and had limited resources. This put them at a disadvantage vis-à-vis male candidates, who were often wealthier, more experienced in elections,

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<sup>36</sup> A candidate running for the first time in Sfax-West told to the Center that running as independent candidate would give him a better chance to win.

<sup>37</sup> Some IRIEs (Tunis 2, Ben Arous, Manouba, Bizerte, Nabeul 1, Nabeul 2, Jendouba, Kef, Gabès, Medenine, Tataouine, Kébili, Tozeur, Gafsa) didn't report on activities. Others (like Sousse, Zaghuan, and Sfax 2) published this information regularly, while other IRIEs (like Sidi Bouzid, Mahdia, and Kasserine) reported regularly before stopping in the last days of the campaign.

or had held municipal positions. Center observers noted a low percentage of women attending campaign events and an even lower youth presence.<sup>38</sup>

Each candidate was given three minutes of free airtime on national television. The national television, Wataniya 2, started broadcasting nightly free time for each candidate beginning Nov. 25 from 6 p.m. to 8 p.m., starting with candidates from the Tunis governate, followed by each governate as listed in Decree Law 55.

Private television Attessia broadcasts a live show with candidates on weekdays. They randomly selected candidates to appear. On each show, four candidates from different constituencies answered questions in two-minute allotments without the opportunity to debate each other. Mosaïque FM, a radio station broadcasting from Tunis, also had a draw to pick candidates to be invited to the station's Midi show, which aired from 1 to 2 p.m. Female candidates enjoyed access to local and national radio, and media monitoring reports showed that 100 of the 122 female candidates were invited to appear.<sup>39</sup>

### **Campaign Financing**

International best practices strive to protect the principle of equal opportunities among candidates, as it is one of the main safeguards for democratic elections. According to international best practice, electoral legislation should specifically provide for the transparency of donations to candidates, standardized presentation of campaign accounts, reasonable limits on campaign expenditure, regular reporting mechanisms, and effective and dissuasive sanctions.<sup>40</sup>

The electoral law and the ISIE decision on campaign financing do not allow political parties to contribute financially directly or in kind to any candidate campaign.<sup>41</sup> Public financing of campaigns has also been eliminated in the latest amendment.

The electoral law provides only two possible ways of funding a candidate's campaign: self-financing (including in-kind contributions) and private financing (including in-kind contributions) from individuals limited to 20 times the official minimum monthly wage in the non-agricultural sectors.<sup>42</sup> The overall cap for private financing per candidate is four-fifths of the constituency's overall spending limit.<sup>43</sup> Foreign financing is expressly prohibited, with an exception for financing of candidates running in electoral districts abroad.

The overall spending limit for each district is based on a formula that considers its population. The highest ceiling is in the district of Ariana-Medina, which has an approximate population of 135,497 and a ceiling of 40,807 TND (about US\$12,955) and the lowest is in the district of Remade-Dhiba, which has an approximate population of 14,630 and a ceiling of 4,600 TND (about US\$1,460).

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<sup>38</sup> Many campaign activities observed by the Center did not include women or youth. Women represented 10% of the audience on average and youth 15% on average. Some events observed were attended by women only - all of these were held by women candidates.

<sup>39</sup> According to the HAICA's monitoring report published on Dec. 9, Mosaïque radio station interviewed during the period of campaign a total 28 women and 28 men drawn by lot.

<sup>40</sup> Council of Europe (Committee of Ministers) Recommendations (2003)4, Article 3(b).

<sup>41</sup> Decision 20-2014 as amended by Decision 30-2022 establishing the rules, procedures, and methods for financing the election campaign.

<sup>42</sup> Starting Oct. 1, 2022, the minimum monthly wage in non-agricultural sectors is set at 459.264 TND (\$US143.01). This means that private funding is capped at 9,185.280 TND (US\$2,860) per individual.

<sup>43</sup> Decree 806-2022, fixing the overall spending limit for the legislative election campaign of 2022.

The campaign-finance system suffers from a lack of transparency, as no interim reports are required. There is no real-time assessment of funding and expenditures, which deprives voters of important information. In addition, the legal process is not concluded in a timely manner. Another issue arose during the 2022 elections because of the elimination of public financing, which has a direct impact on equal opportunity among candidates, notably on candidates lacking the financial means to fund campaigns only through their own resources, disadvantaging especially women and young candidates who generally do not have sufficient private funds. Candidates with personal or family wealth were at an advantage.

### **Social Media Monitoring**

Freedom of expression and an independent media are vital to enable democratic debate, ensure accountability mechanisms, and provide voters with accurate information.<sup>44</sup> International standards and agreements that Tunisia has signed also require that voters should be able to form opinion free of manipulative interference.<sup>45</sup>

Online and offline content is subject to a legal framework that unduly restricts those freedoms, and selective lawsuits are increasingly used against voices critical of the government. In addition, the prevalence of negative campaigning, derogatory speech, and manipulative content on social media in Tunisia has heavily distorted the online space, in contradiction with this obligation.

Although the constitution guarantees freedom of expression and opinion, a combination of laws and decrees that criminalize peaceful speech and provide for prison terms are actively used against dissenting voices, contrary to international obligations.<sup>46</sup> Decree Law 54-2022 (DL 54) on disinformation further curtailed freedom of expression. It introduced disproportionate prison sentences of up to 10 years, depending on the person targeted by disinformation, for vaguely defined offences. This contradicts international standards.<sup>47</sup>

Authorities have repeatedly targeted critical voices, arresting and prosecuting bloggers, activists, internet users, and journalists because of their social media posts and news articles, using the legal framework as a tool to curtail criticism rather than seek redress.<sup>48</sup> Lawsuits have resulted in prison

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<sup>44</sup> International Covenant on Political and Civil Rights, Article 19; ICCPR, General Comment 34 on freedoms of opinion and expression; African Commission on Human and People's Rights Declaration of Principles on Freedom of Expression in Africa; U.N. Human Rights Committee Resolution 39/6 on Safety of Journalists.

<sup>45</sup> ICCPR, General Comment 25, para. 19: "Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind."

<sup>46</sup> It includes laws such as the Penal Code, the Telecommunications Code, the Military Justice Code, the 2015 Anti-Terrorism Law, the Decree Law 54-2022 on disinformation. Laws include provisions criminalizing offenses such as insults against the head of state; defamation; knowingly harming or disturbing others' comfort via public telecommunications networks; insulting the flag or the army; publication of false information. See U.N. General Comment. 34, articles 37 and 47; see also AU DPFEA, Principle 22.

<sup>47</sup> U.N. General Comment 34, articles 25 and 38; as well as the joint declaration on freedom of expression and "fake news," disinformation and propaganda by the U.N., OSCE, OAS and ACHPR, section 2.a.

<sup>48</sup> Many EOM interlocutors reported that the number of prosecutions and arrests over peaceful speech has increased since 2020. More than 10 cases have been filed against CSOs and media in 2021 and 2022; and a politician, a blogger, a lawyer, a journalist, and an activist were prosecuted under DL 54. On Nov. 29, the journalist Khelifa Guessmi was sentenced to a one-year jail term under the 2015 Law on Anti-terrorism.

sentences and fines, leading to self-censorship, in a staggering setback from 2011.<sup>49</sup> On Nov. 11, after the publication of an article critical of the prime minister, the minister of justice filed a complaint against a journalist of the online outlet Business News based on DL 54, contrary to international standards.<sup>50</sup> In the lead-up to the elections, following the publication of news and social media posts critical of the ISIE, the ISIE sent at least three warning letters to individuals and media outlets, threatening to sue them under DL 54 if they continued sharing such news.

Media outlets and journalists also face a host of other challenges, including lack of financial sustainability, reduced access to public information, and increased offline and online violence that undermines their ability to report effectively, including on electoral matters.<sup>51</sup> Limited access to official information has also impeded the work of fact-checking initiatives. Such trends tend to create a vacuum of verified information that enables the circulation of false, manipulative news.

Although Tunisia's election law includes provisions on online campaigning, it lacks precise definitions and does not fully encompass the nuances of social media. IRIEs and candidates have had different understandings and interpretations of legal provisions on the use of political ads online. Candidates were required to declare the social media accounts they intended to use for campaign purposes to the IRIEs, to be monitored by the ISIE. However, the ISIE did not release the list of accounts it monitored.<sup>52</sup> The ISIE did not publish information on the violations it captured online, nor on the warnings or sanctions consequently applied, undermining the transparency of the process.<sup>53</sup>

Eighty-six percent of the population over 13 years old had access to social media in 2022, although with access disparities throughout the country. With some 7.1 million users, Facebook was the preferred platform for sharing political information.<sup>54</sup> Digital literacy was limited, and voters were ill-equipped to assess the information they were exposed to.<sup>55</sup> Several quality fact-checking initiatives debunked false information, including on the electoral process. However, the reach of flagged debunked pieces was very small compared to that of viral manipulative posts.

Elections took place in a highly polarized political landscape online. More than half of the political posts monitored by the Carter Center's social media monitoring unit in Facebook pages and groups

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<sup>49</sup> Lawsuits have been filed charging defamation, publication of false information, false allegations or insults against a public official, incitement to civil disobedience, or suspicion of terrorism.

<sup>50</sup> See the U.N. Human Rights Committee noted in General Comment 34, articles 38 and 42; see also paragraph 12 of the UNHCR Resolution 39/6 on safety of journalists.

<sup>51</sup> According to the SNJT, 36 of the 232 assaults (15.5 percent) recorded against journalists between November 2021 and October 2022 were perpetrated by election officials, mostly by heads of polling centers.

<sup>52</sup> Several IRIEs reported to The Carter Center that they also monitored candidates' social media pages, while other mentioned that the ISIE was in charge of it.

<sup>53</sup> The ISIE social media monitoring unit (SMMU) monitored violations committed by candidates on their social media accounts, on online media, and online pages of TVs and radio stations. Violations were referred to the IRIEs' legal teams for review, warnings or sanctions. Legal provisions of the electoral law provide for jail term or cancellation of elections.

<sup>54</sup> We are Social report Digital 2022: Tunisia.

<sup>55</sup> Joint declaration on freedom of expression and "fake news," disinformation and propaganda by the U.N., OSCE, OAS and ACHPR, section 3.e. says that "states should take measures to promote media and digital literacy."



contained negative campaigning, derogatory speech, and manipulative content.<sup>56</sup> Several information manipulation pieces circulated widely.<sup>57</sup> Their circulation showed signs of more-or-less sophisticated coordination between networks of pages, including pages with administrators located abroad and pages sharing the same administrators, as well as the use of imposter pages posing as media to deceive users. Such practices compromise the ability of voters to form opinions free of manipulative interference.

Most candidates used social media to campaign, however, some chose not to rely on social media, especially in remote areas.<sup>58</sup> Facebook was the most-used platform. Many candidates had individual, unverified profiles on Facebook rather than public pages.<sup>59</sup> The online activity and professionalism of candidates varied greatly.<sup>60</sup> Most candidates avoided engagement with voters online. While some candidates shared campaign material in Facebook groups, members of local groups also took it upon themselves to create posts supporting candidates.<sup>61</sup>

Candidates monitored by the Carter Center's social media monitoring unit rarely resorted to negative campaigns, derogatory speech, or manipulative content.<sup>62</sup> More than 95 percent of the posts analyzed used a neutral tone. Candidates mostly shared posts about their campaign and media events (54 percent), or posters and slogans (26 percent). Only one in 10 posts mentioned their political platforms. Posts by individuals ridiculing the candidates and mocking their lack of political experience, and calls to boycott the elections by parties, politicians, and individuals gained momentum during the second week of the campaign.<sup>63</sup>

## **Gender and Participatory Rights**

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<sup>56</sup> Monitoring of Facebook's most engaging posts referring to the three major political actors: Kais Saied, Abir Moussi, Ennahdha. Most negative campaigns targeted politicians or parties, although the electoral process itself was also targeted. Derogatory speech mostly involved accusations without proof, strong criticism, and insults, including gender-based insults. The Center also identified several instances of hate speech. Most of the manipulative content was made up of conspiracy theories and use of emotional manipulation.

<sup>57</sup> Disinformation claiming that Abir Moussi received foreign funds during the 2019 elections; information and disinformation battle over the court appearance of Rached Ghannouchi on Nov. 10; discreditation and insults of Abir Moussi by pages with high number of followers ("Baaroura:" translation "little sheep shit," which sounds like the nickname "little Abir," "Abboura"); coordinated narratives shared by imposter media pages on the killing of a young contraband trader to discredit Kais Saied.

<sup>58</sup> Several candidates mentioned the absence of public funding as a reason to campaign online. Some candidates preferred relying on door-to-door campaign or small-scale events, at times because of the limited access to social media, the lack of digital culture, or because they were well-known and involved in their communities.

<sup>59</sup> The reach of individual profiles is not as great as the reach of pages. Pages work as micro-blogging spaces and are the place for public figures to easily communicate with their supporters. The Center only monitored public pages for ethical reasons.

<sup>60</sup> Some candidates did not use their social media accounts, while others actively posted campaign events. Some engaged in more sophisticated communication online via QR codes and online survey to answer voters' questions.

<sup>61</sup> At least one candidate in Kasserine received a warning by the IRIE after she was observed sharing campaign material in a group on Facebook that she did not declare to the IRIE.

<sup>62</sup> The Center monitored Facebook public pages of 10 candidates with large audience in various constituencies.

<sup>63</sup> On Dec. 5, the ISIE released a Facebook post denouncing the ongoing smear campaign that was not related to candidates but constituted a "systematic campaign aimed at distorting the electoral process and influencing participation in this election," according to the Authority.

International and regional treaties widely recognize the right of women, youth, and persons with disabilities to participate in political and public affairs, including the right to vote and be elected.<sup>64</sup> Equality and non-discrimination are overarching international obligations and necessary to guarantee the enjoyment of these rights by individuals without distinction.<sup>65</sup> Temporary measures creating preferential treatment or quotas are recommended to achieve gender equality and women's integration in politics.<sup>66</sup>

Women, youth, and persons with disabilities have been and remain underrepresented in Tunisian public and governance institutions. Unlike all the parliamentary and municipal polls held since 2011, the 2022 parliamentary elections did not include any provisions for ensuring the inclusion of women, youth, or persons with disabilities as candidates.<sup>67</sup> Most political parties and almost all the major women's rights and human rights CSOs listed the expected drop in the parliamentary representation of these groups as one of the main reasons to boycott the elections. It also led to harsh criticism of the new electoral law by political and CSO leaders supporting Kaïs Saïed.

## Women

As in the 2014 constitution, the 2022 constitutional text mandates that the state achieve parity between men and women in elected assemblies. Just over 26% of the members of the parliament elected in 2019 were women. However, the majoritarian system adopted in 2022 does not lend itself to the election of women candidates and is not counterbalanced by any mechanism to fulfill this commitment.<sup>68</sup> Only 122 of the 212 women who applied to be candidates were accepted, representing 12% of the total candidates, the lowest percentage since before the revolution.<sup>69</sup> There were no women candidates in 71 districts, tantamount to *de facto* reserved seats for men in nearly half of the parliament (47%).<sup>70</sup> The absence of gender parity measures, combined with the endorsement requirements, was highly detrimental to women's candidacies. Women's lower financial resources and an entrenched conservative mindset that ascribes male dominance in the political domain were additional barriers, particularly in rural areas.

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<sup>64</sup> ICCPR, Article 25, UDHR, Article 21, AU ACHPR, Article 13, CEDAW, Article 7, CRPD, Article 29, Youth African Charter, Article 11.

<sup>65</sup> UDHR, Article 2, ICCPR, Articles 2 and 26, CEDAW, Articles 2, 3, and 4; CRPD, Articles 3 and 4.

<sup>66</sup> CEDAW, Article 4, CEDAW General Recommendation No.5: Temporary Special Measures.

<sup>67</sup> 2011, 2014 and 2019 parliamentary elections foresaw vertical parity on lists and a financial incentive if the list included one candidate under 35 among the 4 top positions. 2018 municipal elections mandated vertical and horizontal parity on lists, a quota of 3 young candidates in the list, and a financial incentive for the inclusion of one person with disability among the 10 first candidates on the list.

<sup>68</sup> Reserved seats enable women or minorities' representation in majoritarian systems. Feminist organizations proposed to designate even numbers of seats in all the districts, with half of them assigned to each gender, as in the election of the High Council of the Judiciary in 2016. This gender parity mechanism was not taken into consideration by the president.

<sup>69</sup> In the 2019 elections, women accounted for 49% of the candidates on the lists thanks to the vertical parity obligation. They topped only 14.5% of lists, as there was no horizontal parity required.

<sup>70</sup> In the Medenine governorate, women are extremely underrepresented, making up less than 3% of the candidates. The highest representation of women candidates was 23% of women in Bizerte and Tunis. In 49 constituencies, there was only one female candidate.

The law that mandates gender parity in ISIE's leadership remains unheeded, and for the first time since its creation, there was no woman board member.<sup>71</sup> At lower levels, women were better represented, and they were remarkably overrepresented as ISIE campaign monitors and polling staff for these elections.

Although women represent more than half of registered voters (50.5%), their turnout has decreased since 2014 and dropped further in the July 25 referendum. According to Carter Center long-term observers, their presence was extremely limited in most campaign events, especially in rural areas, but they were often represented in candidates' campaign staff.

## **Youth**

The 2022 constitution removed the 2014 constitution's recognition of youth as "an active force in building the nation." The new electoral law's only youth-inclusion provision is the obligation for candidates to collect at least 25% of endorsement signatures from voters under 35. The minimum age to be a candidate for this parliament remains 23, but there are no measures facilitating the candidacy of young citizens in the new electoral system.

Endorsement requirements and the absence of public funding further restrained young candidates; only 4% of the contestants were aged 35 or younger, a record low level of youth candidacies. In the previous legislature, 29 MPs were under 35 (13 percent). Young Tunisians are largely involved in civil society activism but have steadily withdrawn from formal politics and elections since 2011, as evidenced by falling voter turnout in 2014 and 2019 parliamentary polls and in the 2022 referendum. They made up the bulk of citizen observers, campaign monitors, polling officers, campaign staff, and candidate's agents.

## **Persons with disabilities**

The 2022 constitution no longer mentions persons with disabilities as rights holders.<sup>72</sup> Only two candidates with disabilities managed to register, given the challenging endorsement requirements. Despite a pledge made by the ISIE, persons with disabilities were hardly recruited as polling staff.<sup>73</sup> Apart from including a sign language interpreter in ISIE's press conferences and producing one video spot with subtitles and sign language interpretation explaining the voting process, there was inadequate access to voter education material and information about candidates, which continued to discourage hearing and visually impaired voters from participating in the electoral process. By law, persons with disability cards may benefit from measures enabling their vote, including assistance for specific categories of disabilities; however, only a percentage of voters with disabilities hold this document.<sup>74</sup> Braille ballot devices made available in polling centers by the ISIE ensured the independent voting of visually impaired voters. There are no legal provisions

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<sup>71</sup> The Organic Law 2018-47 of Aug. 7, 2018, mandates gender parity in the board of the ISIE and in all independent constitutional bodies. For the 2019 elections, there was also a breach in the law, as there was only one woman among the nine board members of the ISIE.

<sup>72</sup> Article 48 of 2014 constitution stipulated that "every disabled citizen shall have the right to benefit, based on the nature of the disability, from all measures that will ensure their full integration into society, and the State shall take all necessary measures to achieve this."

<sup>73</sup> A cooperation convention signed by the OTDDPH with the ISIE on Nov. 1. The ISIE pledged to comply with the legal obligation for public administrations to employ 2% of persons with disabilities.

<sup>74</sup> There were 438,000 disability card holders in 2018 according to the data of the Ministry of Social Affairs, while the World Health Organization estimates there are a million people with disabilities in Tunisia.

regarding assistance for illiterate voters, who are estimated to make up a significant percentage of the population, particularly among women from rural areas. Citizen observer groups deployed persons with disabilities and monitored the accessibility of the process and the assistance provided to voters with disabilities.<sup>75</sup>

The electoral system, which eliminated gender parity provisions, failed to ensure any meaningful women representation in parliament, in contradiction with the state's constitutional obligation and reversing the past decade's achievements in terms of women's equal rights to participation in political affairs. The absence of facilitating measures also led to extremely low numbers of youth and people with disabilities among the contestants. Women and young citizens made up the majority of election workers and observers. The lack of accessible polling stations and deficient access to information continued to impair the participation of voters with disabilities.

### **Domestic Observers**

The election legislation specifies the prerequisites for both local and international election observation, and it generally is in line with international standards of observation. Domestic observers reported no major difficulties with accreditation. The ISIE announced that the number of international accredited observers was 460, and domestic observers numbered 4,000.

Civil society organizations observed all aspects of the electoral process. Several observation groups joined a collaborative group to share observation tasks and information. They include the Tunisian Mediterranean Center (TU-MED), whose 104 observers focused on gender-based observation in rural and border areas in eight constituencies (Jendouba, Siliana, Gafsa, Kasserine, Kebili, Touzeur, Medenine, and Tataouine).

The Mourakiboun network conducted a sample-based observation, deploying 500 stationary observers fixed in the sample, as well as 342 mobile observers and 100 long-term observers to coordinate their work. ATIDE deployed 300 observers all over the country to observe the electoral campaign. They deployed 650 observers nationwide on election day, covering mainly the polling stations with the biggest number of voters.

Youth Without Borders (JSF) deployed around 392 mobile observers on election day to cover 12 governorates: Ariana, Ben Arous, Manouba, Bizerte, Jendouba, Beja, Nabeul, Sfax, Gabes, Sousse, and Medenine. CHAHED had a regional coordinator in each governorate and deployed 1050 observers to observe both the electoral campaign and the public administration to ensure that it was not biased in favor of any candidate.

The Tunisian Organization for the Defense of the Rights of Persons with Disabilities (OTDDPH) deployed 120 mobile observers and 24 coordinators throughout the country to assess the accessibility of the voting process to people with disabilities (PWD).

Following election day, Chahed, JSF, Mourakiboun, and TUMED reiterated their criticism of the unilateral way in which the electoral law was amended. They also criticized the new electoral

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<sup>75</sup> As during the 2022 referendum, IBSAR Association for the culture and leisure of the blind and visually impaired and the Organization for the Defense of the Rights of Persons with Disabilities (OTDDPH) deployed observers with disabilities to monitor the campaign and polling day.

system for resulting in the exclusion of women and young candidates, a problem exacerbated by the absence of public funding. Mourakiboun criticized the legal framework for ignoring crucial principles of electoral standards. All mentioned the low-key nature of the campaign.

Chahed reported insufficient training of polling station workers and said that observers were denied access to the counting operation. Mourakiboun announced that according to its data, the turnout was 11.1% and asked the ISIE to publish the minutes of each polling station.

### **Election Dispute Resolution**

Appeal procedures, and especially the powers and responsibilities of the various bodies involved in them, should be clearly regulated by law to avoid any positive or negative conflicts of jurisdiction. In addition, the right to file such appeals must be granted as widely as possible, open to every elector in the constituency and every candidate running in the election.<sup>76</sup> The guarantee of a timely remedy is integral to the principle of effective means of redress.<sup>77</sup>

The electoral law gives candidates two days from the date of notification of the ISIE decision on candidacy to file a challenge. Challenges are filed with the competent regional circuits of the First Instance of the Administrative Court for in-country districts and the Circuits of First Instance of the Administrative Court in Tunis for districts abroad.<sup>78</sup> The regional courts received 54 challenges and accepted four.

First instance decisions can be appealed in front of the appeal circuits of the Administrative Court in Tunis within two days of notification of the first-instance decision. The appeal circuits received 15 appeals and dismissed nine on the substance, four on form, and reinstated two rejected candidates.<sup>79</sup>

The Center followed the submission of challenges and attended most of the hearings, many of which were held on the weekends because of the short deadlines. The courts received challenges in an orderly and timely manner. Applicants were given the time to present their cases and arguments against the IRIEs' decisions. Most cases were related to issues with endorsements.

Overall, considering the shortened deadlines, the court handled the cases in an orderly manner while still giving complainants the opportunity to be heard. However, the deadlines proved challenging for appellants to gather the necessary evidence to present in court. Such a reduction in the timeframe also put pressure on candidates to follow court procedures for submitting applications and notifying the opposing party. It also increased the pressure on administrative court staff.

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<sup>76</sup> European Commission for Democracy through Law (Venice Commission), Code of Good Practice in Electoral Matters, CDL-AD (2002) 23.

<sup>77</sup> AU, AFCHPR, Article 7: "Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defense, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal."

<sup>78</sup> Article 27, electoral law as amended by Decree 55/2022.

<sup>79</sup> Mohamed Hatem Hassine, Majel Bel Abbes - Feriana, IRIE Kasserine; and Mansour Essid, Jebiniana - El Aamra, IRIE Sfax 1.

## **Election Day**

The voting process is the cornerstone of the obligation to provide the free expression of the will of the people through genuine, periodic elections.<sup>80</sup> The quality of voting operations on election day is crucial to determining whether an election was held according to democratic obligations. Holding elections by secret ballot is a core obligation under international law, and a recognized means of ensuring that the will of the people is expressed freely.<sup>81</sup>

Election day proceeded in a calm manner with no major irregularities observed or reported. Polling staff followed regulations, and voters were able to vote in secret. All observed polling stations closed on time, and given the low turnout, there were no voters queuing to vote. In a few polling stations, observers were not allowed to move from assigned seats, and some staff were reluctant to provide requested information.

## **Opening and Polling**

Although Carter Center observers reported that 57 percent of the 26 observed polling stations did not open exactly at 8 a.m., all were open within 15 minutes of opening time. The Center observed 308 stations during polling and did not observe any major irregularities. In several polling stations, observers reported that they were obstructed in their observation and not allowed to move around the station to observe all aspects of the process. Some staff were reluctant to provide requested information to Center observers.

The presiding officer in 78% of polling centers was male, and in 65.5% of polling stations the presiding officers were female. No incidents were reported inside or outside polling stations, and 75% were assessed as accessible to the physically disabled. International and domestic observers were present in 34.6 percent of observed stations. All procedures were implemented in 100% of polling stations, and the environment was assessed as very good or reasonable in 100% of cases.

## **Closing and Counting**

Implementation of procedures during the closing and counting was assessed as very good or reasonable in 96 percent of the 27 observed stations. The overall environment was assessed as very good or reasonable in 100% of observations. Only 18.52% of polling stations had domestic observers present during the closing and counting. Candidate agents were present in 55.56% of stations.

## **Tabulation**

Center observers were present in all 27 tabulation centers. Observers in some centers were not able to make an accurate assessment of tabulation procedures as the distance between the workspace and the place for observers was too great to see what was happening. Also, in some centers observers were not allowed to approach the staff to ask questions. However, observers did not report any incidents or other irregularities and assessed the overall environment as very good or reasonable.

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<sup>80</sup> ICCPR, articles 2, 25(a) and 9.

<sup>81</sup> U.N., ICCPR, Article 25; Universal Declaration of Human Rights, Article 23. EISA and Electoral Commission Forum of SADC Countries, Principles for Election Management, Monitoring, and Observation in the SADC Region, p. 24.

**Background**

The Carter Center was accredited by the ISIE to observe the elections and deployed more than 60 observers from 26 countries who visited 308 unique polling stations as well as the 27 tabulation centers.

The Center deployed a core team to observe the 2022 elections in June 2022 and 14 long term observers in mid-October.

The objectives of the Center's observation in Tunisia are to provide an impartial assessment of the overall quality of the electoral process, promote and inclusive process for all Tunisians, and demonstrate support for the country's democratic transition.

The Center assesses Tunisia's electoral process against the Tunisian constitution, its domestic electoral framework, and obligations and standards derived from international treaties, interpretive bodies, and state practice. Its mission is conducted in accordance with the Declaration of Principles for International Election Observers.

The Carter Center has had a presence in Tunisia since 2011. It observed the 2011 National Constituent Assembly elections, the 2014 and 2019 presidential and parliamentary elections, and the constitution-making process which resulted in the adoption of the 2014 constitution.

The Center wishes to thank the Tunisian officials, civil society members, political parties, individuals and representatives of the international community who have generously offered their time and energy to facilitate the Center's efforts to observe the electoral process.