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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by the International
Organization for the Elimination of All Forms of Racial
Discrimination (EAFORD), International-Lawyers.Org,
United Towns Agency for North-South Cooperation, non-
governmental organizations in special consultative status,
International Educational Development, Inc., World Peace
Council, non-governmental organizations on the roster**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2019]

* Issued as received, in the language(s) of submission only.



Democratic Transition in Tunisia: Progress and Challenges

Introduction

This statement describes some human rights developments in Tunisia and efforts deployed by the Tunisian government towards enhancing democracy and respect for human rights, while underlying the challenges facing the country mainly posed by terrorism and foreign terrorist fighters, transitional justice, corruption, high unemployment rates and social grievances, freedom of expression and association.

Progress and Challenges

The adoption of the anti-racism law, the abolition of certain discriminatory provisions against women, and the creation of the national commission for the prevention of torture and the national efforts against human trafficking, providing training to involved actors and delivering assistance to the victims, are commendable.

We welcome the creation of the Truth and Dignity Commission entrusted with the investigation into complaints of past violations of human rights, holding those responsible accountable and compensating the victims. According to the Committee against torture, in June 2016 the Truth and Dignity commission had received 28,087 complaints, including some 20,000 relating to torture and ill-treatment, and expressed concern about its limited resources and mandate. In this respect, we encourage Tunisia to provide this Commission with adequate resources and an extended mandate as its mission is fundamental to preserve the memory and facilitate national reconciliation.

While fully recognizing security challenges posed by terrorism, we express some concerns about restrictions to peaceful demonstrations and, in order to prevent legal abuses and safeguard the principle of legal certainty, we underline the need to review the legal definition of the notions of public order and terrorism. As an overly broad definition of terrorism may result in unjustified restrictions to freedom of expression and association, the definition of terrorism under Tunisian law must be brought in line with Security Council resolution 1566 (2004) and strictly observe the principles of legality, necessity and proportionality. While being fully cognizant of the threat posed by terrorism, we recommend providing the counter-terrorism judicial authority with more investigating magistrates to deal with over 3,000 cases pending.

Regarding foreign terrorist fighters, we recognize the concern of the Tunisian government as of utmost importance. However, it is regrettable that, once identified, no strategic plan to deal with deradicalization was envisaged and that prison overcrowding may constitute a fertile ground for further radicalization.

Both the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Committee against torture expressed concern about the prolonged period of detention before trial, the lack of immediate access to legal counsel and poor conditions of detention, reports that torture and ill-treatment continue to be practised in the security sector, and lack of due diligence by competent authorities when investigating such reports.

As the Special Rapporteur on freedom of assembly expressed concerns about disproportionate use of force and arbitrary arrests during January 2018 social protests, we would recommend training on human rights and crowd management specifically addressed to police and law enforcement agents. With respect to the law 1969-4 regulating public meetings, parades, marches, manifestations and gatherings, amendments to bring it in line with the 2014 constitution and with international human rights standards are urgently required.

In terms of economic and social rights, some Tunisians expressed their frustration over unemployment and economic stagnation, and a sense of abandonment especially among young people and in disadvantaged areas. In this context, Tunisians protested against the adoption of the new finance law in January 2018. In this respect, we would like to underline

the importance of establishing a permanent, genuine and open dialogue with civil society and social movements. A social dialogue is crucial to maintaining trust in the government and supporting legislative reforms. Special economic and social policies must be conceived in favour of those regions of Tunisia affected by high unemployment rate, especially among young people, as they may become fertile ground for recruitment by radical groups, as underlined by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

The national fight against corruption that came to life with law-decree 210-2011 is a very important step against impunity and towards democracy. As its role is so important to build trust in institutions among the population, and combat crime and injustice in all their forms, we strongly recommend providing it with the necessary resources for the effective accomplishing of its mandate.

Turning to the association law 30-2018, while fully understanding the rationale of this legal instrument, some concerns must be raised about the obligation for non-profit organizations to enrol in the national registry of enterprises. This requirement may have a negative impact on freedom of association, especially for small associations, as they may not be able to satisfy financial and material requirements necessary for the registration. In this respect, amendments to this law should be adopted with respect to association and less invasive control mechanisms should be envisaged to fight against money laundering and terrorism in the associative environment.

The anti-racism law 11-2018 adopted by the Tunisian parliament in October 2018 constitutes a historical milestone for the criminalisation of racist comments, racial and discriminatory hatred, and the protection of minorities in Tunisia. The new anti-racism law must be implemented without delays to ensure that any complaints by black Tunisians – representing 10% of the country's population – and sub-Saharan Africans will be thoroughly investigated, perpetrators will receive commensurate sanctions and victims will receive compensation.

In conclusion, we welcome the creation of new institutions to guarantee respect for fundamental rights and freedoms, while underlying several challenges for the Tunisian government. In the fight against terrorism, the guarantees of a due process must be respected, and the freedom of association must not be restricted though financial and material requirements. The fragile economic conjuncture poses two challenges, on one side in terms of social grievances and protests, and on the other, poverty and marginalization may become fertile ground for recruitment by radical groups. Social dialogue to avoid marginalization and exclusion, coupled with social and economic policies to eradicate poverty are of vital importance. Finally, we encourage Tunisia to pursue the implementation of the institutional reforms and new legislation in full compliance with international human rights standards.

Recommendations

In light of the above, we, NGOs Signatories to this statement recommend to:

- Adopt a new definition of terrorism in full compliance with SC resolution 1566 (2004) and other international standards to avoid unjustified restrictions to freedom of expression
- Provide the counter-terrorism judicial authority with adequate resources to expedite investigations into 3,000 cases pending
- Respect international pre-trial detention standards and other fundamental legal safeguards, investigate into all complaints of torture and ill-treatment to put an end to this practice and an end to impunity
- Expedite the entry in function of the Constitutional Court, the national commission for the prevention of torture and the national human rights institution in full compliance with the Paris principles
- Amend the Association Law so as not to restrict freedom of association in an unjustifiable manner

- Extend the mandate of the Truth and Dignity Commission, provide it with sufficient resources to thoroughly investigate all the complaints received
- Elaborate a strategic plan to deal with the deradicalization of foreign fighters and take measures to fight against radicalization in overcrowded prisons
- Initiate and maintain a social dialogue with civil society on social grievances and economic concerns, develop social and economic policies in favour of the most disadvantaged areas of the country. On this point, we appeal to the international community to support the Tunisian democratic transition by providing assistance to overcome its economic and social challenges.

Geneva International Centre for Justice (GICJ), Association Maonah for Human Rights and Immigration, The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Iraq Solidarity Association in Stockholm, NGO(s) without consultative status, also share the views expressed in this statement.