

**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.

- 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

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

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

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.² 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.³

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.⁴ 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.⁵

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

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.⁶ 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.⁷ 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.⁸ 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,

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.¹⁰ 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.¹¹

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.¹² 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.¹³ 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

¹⁰ The Code of Good Practice in Electoral Matters of the Venice Commission (CDL-AD(2002)023rev, point I.2.2)

law.¹⁴ 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.¹⁵ The requirement to collect 400 notarized endorsements represented the biggest challenge, discouraging potential candidates and affecting the competitiveness in several constituencies.¹⁶

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,

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.²⁵ The in-country IRIEs oversee 151 districts, each of which supervise from three to nine districts.²⁶

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,

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.²⁸

law.³² 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.³³ 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.³⁴

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.³⁵ 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.

³² Article 35 of ISIE Decision 2017-6 of 11 April 2017 on the rules and procedures for voter registration amfinan28 nB(on 2024 -3(d)8

Before the start of the campaign, candidates affiliated with political parties who wanted to conduct

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

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

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.⁴⁴ International standards and agreements that Tunisia has signed also require that voters should be able to form opinion free of manipulative interference.⁴⁵

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.⁴⁶ Decree

sentences and fines, leading to self-censorship, in a staggering setback from 2011.

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.⁶⁴ Equality and non-discrimination are overarching international obligations and necessary to guarantee the enjoyment of these rights by individuals without distinction.⁶⁵ Temporary measures creating preferential treatment or quotas are recommended to achieve gender equality and women's integration in politics.⁶⁶

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.⁶⁷ 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.⁶⁸ Only 122 of the 212 women who applied to be candidates were accepted, representing 12% of the total candidates, the lowest

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.⁷¹ 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

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.⁸⁰ 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.⁸¹

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

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