



PRELIMINARY STATEMENT OF THE NDI OBSERVER DELEGATION TO TUNISIA'S 2014 LEGISLATIVE ELECTIONS

Tunis, October 27, 2014

I. EXECUTIVE SUMMARY

Tunisia's October 26, 2014 legislative elections constitute a major step forward in the country's democratic transition. The electoral process was distinguished by the active participation of candidates, observers, and voters. The election authorities at the national and local levels carried out their roles in a professional manner during balloting and counting, and security forces contributed to a calm and peaceful atmosphere. There were isolated irregularities and incidents, none of which, however, appeared significant enough to materially affect the outcome of the elections in the districts where they occurred.

Preliminary estimates for voter turnout by the election authorities and citizen observers have ranged from 62 to 70 percent for the 27 constituencies within Tunisia. These figures show that earlier concerns about a low voter turnout were not realized. Voters waited in line to cast ballots with patience and expressed their determination to participate in the process.

The 51 members of the National Democratic Institute (NDI) international observer delegation visited more than 150 polling stations across 18 districts. The delegation found that thus far the elections were conducted in a peaceful, orderly, and professional manner. The delegation stresses that at this time it is not possible to render final conclusions on the entire electoral process. The official tabulation of results is not complete and any complaints that may be lodged have yet to be adjudicated. The statement offered below is therefore preliminary in nature; the Institute will continue to monitor the electoral process and issue reports as appropriate.

A national dialogue process led to the adoption of a new, democratic constitution and election law. The conduct of these polls thus far has enabled the electorate to freely express its will. The outcome of these elections will shape Tunisia's trajectory over the next five years. The party winning the most seats in the legislature will name a prime minister with wide-ranging responsibility for domestic affairs. The first round of a presidential election will follow on November 23. The next step for Tunisian leaders will be to demonstrate how democratic governance can deliver a better future for the citizens of the country. This series of elections can create a foundation for the country to meet this challenge.

A hallmark of the electoral framework is its attention to inclusion and participation. Its adoption not only fully empowered an independent election authority, but also enabled the active participation of civil society organizations, political parties, candidates, the media, and election

administrators. The framework sought to include women, youth, and residents abroad, and shaped a parliamentary system that provided space for the representation of smaller parties and independents.

Election day was not without problems. Polling station officials had different interpretations of procedures, in particular concerning assistance for disabled voters and handling of voters' phones and identification cards. A number of observed polling stations were not accessible to persons with disabilities, sometimes preventing these citizens from voting. In some areas near the border with Algeria, concerns over security led authorities to adopt special procedures that delayed the opening of some polling stations. There were reports that some parties tried to inappropriately influence voters and some altercations took place outside polling sites. However, the delegation found these problems to be isolated and not indicative of broader, nationwide trends.

Taking lessons from this experience, election authorities, political contestants, and civil society groups may consider measures to further build public confidence in the November 23 presidential vote. These include: consistent communication by the election commission; the organization of candidate debates; and, a comprehensive voter education campaign.

II. BACKGROUND

NDI's delegation included observers from 22 countries and was led by Darrell Dexter, former premier of the Canadian province of Nova Scotia; Zakia Khattabi, member of the Belgian parliament; and Kenneth Wollack, president of NDI. A full list of the observers is included at the end of this document. The mission's objectives were to observe impartially every aspect of the election process—including the campaign, the casting and counting of ballots on election day, and the post-election period—and to demonstrate the interest of the international community in the development of a democratic political process in Tunisia.

The delegation visited Tunisia from October 22 to 28. The mission follows a pre-election assessment conducted by NDI in collaboration with the International Republican Institute (IRI) in early September. The delegation was also informed by the analysis conducted by NDI's seven long-term election observers, who have been deployed across Tunisia since June, and have followed the run-up to the legislative elections throughout the country. These long-term observers held more than 850 meetings with representatives of political parties, the media, civil society, and election authorities in all of Tunisia's 27 in-country districts. NDI's observation mission was conducted in accordance with Tunisian law and the Declaration of Principles for International Election Observation, which has been endorsed by 47 intergovernmental and international nongovernmental organizations worldwide. In addition, NDI cooperated with other international observer missions and Tunisian non-partisan citizen observation groups, particularly with the Institute's local partner, Mourakiboun, which trained and deployed more than 4,000 monitors.

The delegation expresses its appreciation to the United States Agency for International Development (USAID) and the Canadian Department of Foreign Affairs, Trade, and Development (DFATD), which have funded the work of this delegation and, along with the U.S.

Department of State Middle East Partnership Initiative (MEPI), have supported NDI's democracy assistance programs in Tunisia. Beyond its international mission, NDI has assisted Tunisia's democratic transition and electoral process by supporting the election monitoring efforts of several local organizations and the long-term development of political parties.

III. ELECTORAL CONTEXT

Tunisia's legislative elections mark a milestone in the country's political transition. Over the past three years, Tunisia has made significant progress toward establishing democratic institutions and practices, from the successful administration of the country's first democratic election in October 2011 to the adoption this past January of a new constitution after more than two years of deliberation and compromise. Despite several significant challenges, notably a deteriorating economic and security situation and growing political polarization, Tunisia's leaders have repeatedly shown their commitment to negotiation, compromise, and consensus. Through a national dialogue process brokered by prominent civil society organizations, political parties reached agreement on a roadmap for concluding this transitional period through the adoption of a progressive constitution and the election of a new legislature and president.

The outcome of the legislative elections will have far-reaching implications for the direction of Tunisia over the next five years. Article 89 of the constitution affirms that the political party or coalition that wins the most seats in the legislature will have the right to form a cabinet. The constitution empowers the prime minister and his or her cabinet to determine the agenda on a range of domestic issues. Working with the legislature, business, and labor, the head of government will lead the effort to invigorate Tunisia's economy, a primary concern among most Tunisian citizens that is interwoven with the success of the political transition. The newly elected legislature must establish a body of laws in accordance with the new constitution. The spirit of cooperation among political forces that led to the adoption of the constitution should carry over to the approach to governance during this critical period.

Tunisia has transformed from a state with de facto one-party rule to one with over 90 legalized political parties and a range of independents competing to represent their constituents in an elected legislature. The 2011 National Constituent Assembly (NCA) elections offered politicians a first opportunity to compete for citizens' support based on their visions for a new Tunisia. Since the elections, a dynamic—and sometimes contentious—political party landscape has emerged. A governing coalition headed by the Ennahda party led the country through the transition under the close scrutiny of opposition parties. The assassination of two leading opposition figures in 2013 led to a negotiation process that resulted in the coalition government ceding power to a caretaker government in January 2014.

Although the political scene is less volatile than it was in 2013, the legislative elections take place in an environment marked by reduced trust among political contestants. The elections were highly competitive; in advance of the polls, no one could predict with confidence which party would win a plurality of the votes—not a common trait of elections in countries undergoing transitions. The installation of a permanent independent election commission was a positive and necessary step to build confidence in the electoral process; yet some political contestants

continued to question the capacity and impartiality of the institution, particularly its local branches and polling station officials.

The 2011 uprising that toppled Tunisia's authoritarian regime was propelled by citizens who shared aspirations for the political and economic development of their country. Tunisia's new leaders have faced many challenges addressing citizens' core demands for accountability, economic opportunity, and improved security. Many Tunisians want to believe that the renewal of political leadership through elections can translate into positive changes in their daily lives. The legislative elections constitute an opportunity to endow Tunisia's new leaders with a mandate to make the bold and sometimes difficult decisions that will be required to meet the hopes and expectations of the people.

IV. OBSERVATIONS

Pre-Election and Campaign Period

Electoral Framework. The NCA debated but ultimately did not adopt several potential modifications to the 2011 electoral system, retaining a proportional representation system with elections in each of 33 districts, of which six represent citizens living abroad. The 2014 electoral law does promote more inclusivity through provisions for the representation of women and youth on candidate lists, for citizens living abroad to participate in out-of-country voting, and for former officials from the Ben Ali era to now stand as candidates. The absence of a threshold for candidate lists to win seats risks a fragmented legislature—as it did in 2011—but does encourage inclusion by benefiting smaller parties, including some running in only a few districts, and independent lists. Lack of clarity in some areas of the law, however, has led to varying interpretations by electoral authorities, political contestants, and civil society alike. In particular, the law does not explicitly forbid campaign activities in the pre-campaign period and does not clearly delineate which campaign activities are authorized.

Election Administration. The election commission, known by its French acronym, ISIE, has faced the enormous task of establishing its permanent structure and organizing up to three elections in a limited timeframe. While there have been charges of political partiality within the election administration, the delegation did not observe such bias. The ISIE has shown a commitment to organize the elections with integrity and transparency. Concerns over the ISIE's shortcomings in terms of organizational capacity and communications structures, raised by political contestants and civil society groups alike, warrant immediate attention for future rounds of elections. In particular, insufficient communication to regional election authorities has led to inconsistent decision-making across districts and confusion among political contestants regarding regulations such as candidate registration and campaign financing. The ISIE would benefit from enhancing public access to its work and, over the long term, can use its status as a permanent and independent institution to improve its internal organization.

Voter Registration. The 4.1 million Tunisians who registered as voters in advance of the 2011 elections were automatically registered for the 2014 vote. The process for new registrants, held in June and July, though marked by minor administrative shortcomings, was generally considered transparent and impartial. The process succeeded in providing sufficient opportunities

to Tunisians to register, in part due to the addition of a second registration period in August, as well as various mechanisms to register either in-person, online, or via SMS. Nearly one million Tunisian citizens ultimately registered as voters in 2014, bringing the total number of registered voters to 5.3 million, approximately two-thirds of the eligible electorate. Political contestants did not have significant objections to the accuracy of the voter register, instead focusing on the relatively low rate of participation by citizens and, in some cases, criticizing the ISIE for not undertaking sufficient efforts to raise citizen awareness. The lack of a same-day registration process for these elections, in contrast to 2011, elevated the importance of informing citizens of the need to actively register during the designated time periods. While preliminary voter lists were made available for consultation at the district level in regional election offices (known as IRIEs) and a minimal number of appeals were lodged by voters, the ISIE failed to publish a final list. Although voters could confirm registration online, the lack of a list prevents elected officials, political contestants, and citizens from having an important tool to ensure proper enfranchisement and efficient administration.

Candidate Registration. Political parties, coalitions, and groups of independents registered their candidate lists with IRIEs from August 22 to 29. The volume of lists submitted—1,508 in total in 33 districts—reflects the vibrancy and diversity of the political landscape. Approximately 13 percent of submitted lists were rejected for failing to fulfill the necessary criteria, suggesting that political contestants may have benefited from more explanation of candidacy requirements. Discrepancies in how IRIEs interpreted candidate requirements—particularly an ISIE decision that citizens who registered as voters during the second period of voter registration were ineligible to stand as candidates—led to unequal review of lists across districts. For most political contestants, however, the appeals process for rejected candidate lists was carried out in an impartial and thorough manner.

Article 46 of Tunisia’s constitution calls on the state to work “to achieve equal representation for women and men in elected institutions based on the principle of parity.” The continuation of the requirement that names on candidate lists alternate by gender resulted in women comprising 47 percent of total candidates. Political contestants often struggled to recruit women candidates, particularly in conservative, rural districts. Despite the commitments to parity, this goal will not be achieved because women lead only 12 percent of candidate lists nationwide. In addition to the gender requirement, the 2014 electoral law contains a provision requiring parties to include a candidate less than 35 years of age in each electoral district that has four or more seats. This constitutes a positive and symbolic step toward creating more pathways for youth involvement.

Election Campaign. The official campaign period lasted from October 4 to 24, with a one-day campaign silence period on the day before voting. As in 2011, the current legal framework strives to create equal opportunities for candidate lists to compete. Candidate lists expressed frustration with regulations to limit permitted campaign activities, restrict the posting of campaign paraphernalia to selected sites, and require notification of election administration two days in advance of events. Along with a relatively brief official campaign period, parties argued that these regulations constrain their ability to lead visible campaigns and limit voters’ opportunities to learn about their choices. The electoral law did not clearly delineate between permitted and banned campaign activities, which also produced varied interpretations by political contestants and electoral authorities across districts. Some parties’ legislative campaigns were

used as springboards for candidates in November's presidential election, which contributed to voter confusion.

Most leading political parties signed codes of conduct to commit to follow the law and renounce violence. Allegations of misconduct during the campaign, however, were issued by and against contestants from all political tendencies. The most common infractions included: vandalism of campaign posters; hanging political banners and posting other publicity in unauthorized locations; and holding campaign events without required notification. Several cases of political violence and intimidation were reported to long-term observers and covered by the media. As a positive step, campaign monitors were trained and deployed by the election administration, but they struggled to understand the nuances of the law and to ensure adequate coverage. The willingness of the election administration and judicial system to take appropriate action in response to campaign monitors' findings will be important to deter future misconduct.

Political Finance. The election administration and civil society prioritized measures to tighten campaign finance regulations in light of the 2011 vote where alleged violations were not thoroughly investigated or litigated. The 2014 electoral law established clearer and harsher penalties for campaign finance violations, conditions for candidate lists to benefit from public campaign financing, and clearer limits on public and private spending. It does not, however, provide requirements for campaigns to disclose sources of funds. During the campaign period, the delegation heard accusations and conjecture about massive campaign finance infractions, but did not see first-hand evidence of vote-buying. Political contestants commonly complained that their competitors exceeded the campaign spending limits. The success of the more stringent campaign finance framework will depend on the capacity of the ISIE and the Court of Accounts to document infractions and adjudicate them in the post-election period through appropriate scrutiny of candidate lists' spending records.

Voter Education. The ISIE conducted limited voter education through television and web-based spots, billboards, and distribution of leaflets and other promotional materials; some civil society organizations also led localized initiatives. Given only one prior experience participating in competitive elections, Tunisian voters could have benefited from more widespread voter education and awareness initiatives. Combined with the restrictions on campaigning by political contestants, the lack of a wider voter education initiative in effect denied Tunisians access to information, especially in rural areas. The ISIE's decision to freeze its official voter education campaign between the conclusion of voter registration on August 26 and the opening of the campaign period on October 4 represented a missed opportunity. Moreover, there was a lack of partnerships between the ISIE and civil society organizations on voter education campaigns, which could have amplified the reach of such efforts.

Media. During Tunisia's transition, the media has become more diverse and pluralistic, providing citizens with access to a range of voices and sources of information. In 2013, the NCA established the High Independent Authority for Audiovisual Communication (HAICA) as an independent regulatory body whose mandate includes monitoring media during elections and enforcing the electoral law, which bans political advertising throughout the electoral period. Media outlets are required to provide balanced coverage, and the HAICA issued a report during the campaign period which showed that larger, national political parties were receiving

disproportionate broadcast time. While smaller political parties and independent lists criticized media outlets for concentrating on larger political actors, the major political parties expressed satisfaction with the fairness of the media coverage, particularly in comparison to the 2011 elections. In the run-up to the elections, the HAICA suspended several media outlets for broadcasting what it deemed as hate speech and sanctioned some television channels for airing shows that featured political advertising.

Election Day

The delegates extend their deepest condolences to the family, colleagues, and friends of a member of the Mourakiboun network who was killed in an automobile accident on the morning of election day while traveling to a polling station.

General Environment. In most polling stations observed by NDI, the atmosphere was calm and orderly. The delegation observed some discrepancies in how procedures were interpreted, but these issues were not perceived by observers to have called into question the credibility or transparency of the polls. There were only limited reports of altercations among political contestants and citizens during voting; these were isolated incidents that did not constitute a broader trend.

Participation. Long lines of voters queued in the morning in many districts. The election administration's decision to expand the number of polling stations from 8,692 to 10,972 represents a positive step that reduced the overcrowding witnessed in 2011. Preliminary estimates for voter turnout by the election authorities and citizen observers have ranged from 62 to 70 percent for the 27 constituencies within Tunisia. Many observer teams found that youth voters seemed to be underrepresented in the polling stations they visited.

Voting Procedures. Most polling stations visited by the delegation opened on time and voting proceeded smoothly in most cases. Polling staff were professional and demonstrated a genuine will to carry out procedures correctly. Across districts, polling staff applied some rules and procedures differently, but NDI observers judged that differing interpretations did not ultimately affect results or compromise the integrity of the vote. The delegation observed or heard about isolated cases of irregularities, misconduct, administrative problems, and delays.

The most common challenge facing polling station workers that observers reported was the handling of illiterate and elderly voters, who are ineligible to receive outside assistance and in some cases asked officials for whom they should vote. Delegation members noted that officials went to great lengths, when addressing these situations, to avoid appearing to influence voters by strictly adhering to the rules. Observers also witnessed cases of citizens falsely believing they could vote because they had done same-day registration in 2011. In general, most NDI observers noted that voters who did not find their names on the voter registry were able to confirm with polling staff that they were at the incorrect polling location and were directed to the appropriate station.

Overseas voting commenced two days prior to the opening of the polls in Tunisia and citizen observer groups raised issues related to the accuracy of the voter registration lists in some overseas districts.

Campaigning. Observers in several districts heard allegations from voters, party representatives, and civil society about campaigning activities and vote-buying, but the delegation did not receive any evidence to substantiate these reports. The delegation did witness limited instances of campaigning during the day of silence before the elections.

Counting Procedures. Observers described counting processes as professional and transparent. There was an emphasis on accuracy that in some cases led to drawn-out counts. Some observers also reported that polling station officials lacked a sufficient understanding of counting procedures. When discussing whether ballots should be considered invalid, polling station officials often worked to reach consensus.

Observation. There was a robust effort to observe the elections, and authorities welcomed international delegations as well as national observers. Nonpartisan citizen observers were strongly represented in polling stations observed by NDI, and candidate agents were present in an overwhelming majority of the polling stations visited; Ennahda and Nidaa Tounes were particularly well-represented by pollwatchers across the country. Both citizen observers and candidate agents had difficulty receiving accreditation badges from the election administration in a timely manner, producing frustration on the eve of election day. These issues were largely addressed by the time polls opened, with local election authorities in some districts issuing letters in the place of badges to facilitate observers' access.

Access for persons with disabilities. Observers noted many cases where, because of their location in older buildings, polling stations were not accessible to persons with disabilities. Limited accommodations were made, such as the designation of two polling stations per district for disabled voters. In some cases, disabled voters who were unable to enter the polling station did not ultimately vote.

Security. The elections were secured through the deployment of 80,000 members of the security forces, part of a plan developed by a joint coordinating committee between the government and the ISIE. Security forces contributed to a peaceful atmosphere and concerns about security did not interfere with election day proceedings. Observers did not witness inappropriate interventions into the voting process by either the police or the military. Due to heightened security measures in Kasserine, a district on the border with Algeria, some polling stations received materials on the morning of election day, leading to delayed openings. One polling center visited by NDI observers did not open until 11 AM due to missing materials, creating significant frustration among voters, some of whom left without voting.

V. RECOMMENDATIONS

In the spirit of international cooperation and on the basis of these pre-election and election-day observations, NDI's delegation respectfully offers the following recommendations:

In advance of the presidential election:

- The ISIE should pursue more rigorous and frequent communication with regional election authorities, political contestants, civil society, and the public, each of which would benefit from more consistent and clear information on the electoral process. The commission may consider publishing minutes from its proceedings, holding press conferences earlier in the electoral period, and sharing information more regularly with IRIEs. Such actions could help reduce confusion and minimize differing interpretations of election regulations.
- Debates among legislative candidates broadcast on radio during the campaign period were a positive feature of the pre-election period and confirmed the value of candidate debates in future elections. Actors involved in the upcoming presidential elections—including candidates, political parties, the media, and civil society—should consider organizing candidate debates, particularly in the event of a run-off vote. Debates would contribute significantly to civic education while encouraging civil political discourse.
- The ISIE should consistently organize voter education campaigns throughout the remainder of the electoral period to expand voter understanding of election day procedures. The election commission should reconsider partnerships with civil society organizations to expand the impact of these initiatives.

For future elections:

- The decision by the NCA not to adopt a threshold for candidate list representation in the legislature demonstrated a commitment to broader inclusion. The result, however, can produce a fragmented legislature that disproportionately favors smaller parties and independent lists. When reviewing the framework for future elections, lawmakers may want to consider adopting a minimal threshold for representation that will help to find a balance between a representative body and the ability of the legislature to function effectively.
- As noted, approximately two-thirds of eligible voters have been registered. Once the presidential election process is complete, the ISIE should conduct a deliberate review of the voter register and consider expanding the period for registration. Election authorities may want to explore the value of a passive registration system, based on an updated national identification database. If an active registration system is again utilized, citizens would benefit from more thorough outreach initiatives—during the registration period itself—which emphasize that only citizens who register will be able to vote. Decision-makers may also consider extending the right to vote to members of the security forces to maximize enfranchisement. The final voter registry should be made readily available for political parties and civil society.
- Lawmakers and election authorities should consider measures to loosen restrictions on the types of activities permitted during campaigns, in particular the publicity used by candidate lists, to foster greater opportunities for citizens to learn about political

contestants and their programs. There is room for these regulations to be relaxed without resulting in a system that is unfair or driven by financial resources. Vague articles in the electoral law concerning campaigns could also be clarified to close loopholes.

- The ISIE was under considerable pressure to conduct the 2014 elections by the end of the calendar year. The timing and sequencing of future elections should be closely examined by lawmakers to avoid potential voter fatigue and reduce undue strain on the election administration, which can impact the quality of the electoral process and the confidence of participants. Future legislative and presidential elections could be held concurrently or with sufficient space to allow for a more reasonably paced process.
- The out-of-country constituency system, though admirable for including Tunisians residing abroad as voters in two rounds of elections, merits examination. The process created an added logistical and financial burden on the election commission. Decision-makers could consider, for example, removing overseas constituencies in favor of an absentee balloting system.

VI. THE DELEGATION AND INTERNATIONAL OBSERVATION

An accurate and complete assessment of any election must take into account all aspects of the process, and no election can be viewed in isolation from the political context in which it takes place. Among the factors that must be considered are: the legal framework for the election, including electoral and related laws; the ability of citizens to seek and receive sufficient and accurate information upon which to make political choices; the ability of political competitors to organize and reach out to citizens in order to win their support; the conduct of the mass media in providing coverage of parties, candidates and issues; the freedom that citizens and political competitors have to engage in the political and electoral process without fear of intimidation, violence or retribution for their choices; the conduct of the voter registration process and integrity of the final voters' register; the right to stand for election; the conduct of the voting, counting, results tabulation, transmission and announcement of results; the handling of election complaints; and the installation to office of those duly elected. It should also be noted that no electoral framework is perfect, and all electoral and political processes experience challenges. Ultimately, in a democratic election the electorate is able to freely express its will, and the final results reflect how voters cast their ballots.

International election observation has become widely accepted by countries around the world and it now plays an important role in informing citizens and the international community about the nature of each country's electoral process. International election observation, when done in accordance with accepted principles for impartial assessments, seeks to enhance the integrity of election processes by encouraging best electoral practices and deterring misconduct, as well as by identifying problems and irregularities, which can lead to effective redress.

International election observers are welcomed by countries in all stages of democratic development. The mission builds on NDI's 30 years of experience observing more than 200 elections around the world including delegations in Jordan, Morocco, Egypt, Lebanon, Mauritania, Algeria, the West Bank and Gaza, and Yemen.

The delegation is grateful for the welcome and cooperation it received from voters, election officials, candidates, political party leaders, government officials, and representatives of media and civil society. NDI was officially accredited to conduct an international election observation mission by the ISIE. The delegation offers this election statement in the spirit of supporting and strengthening democratic institutions and processes in Tunisia.

NDI Observer Delegation to Tunisia's 2014 Legislative Elections

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