



A QUESTIONNAIRE FOR CANDIDATES IN TUNISIA’S 2011 ELECTIONS

A HUMAN RIGHTS WATCH BRIEFING PAPER

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Introduction

On March 4, 2011, the interim government of Tunisia announced elections for a Constituent Assembly. The vote was initially scheduled to take place on July 24 but was subsequently postponed to October 23. This decision followed demands for a new constitution setting the basis for a second Tunisian Republic. A new constitution was seen as necessary to break with the abusive practices of the old regime and its systematic violation of human rights, made possible by a repressive legal arsenal, a judiciary that lacked independence, and security forces that flouted the law with impunity.

During the presidency of Zine el Abidine Ben Ali, the ruling party dominated the political landscape, and the handful of genuine opposition parties that existed were either outlawed or marginalized and largely prevented from making themselves known to the voting public. In the nine months since Ben Ali's ouster, the interim government has legalized over 100 political parties. Parties have enjoyed considerable freedom to organize and set out their positions during 2011, but it is uncertain how successful they have been in this short time frame in making their positions known to voters.

In addition, the fact that this vote is to elect a Constituent Assembly, and not an ordinary legislature or president, adds to the confusion. Voters are being asked to choose representatives to write a new constitution that will redefine Tunisia's system of government, its governing institutions and their respective powers, and lay down the bedrock principles that define the polity. The new constitution is likely to include articles affirming certain human rights, as well as others that affect the standing of human rights in Tunisian law and practice.

In addition to drafting a constitution, the assembly is expected to appoint an interim government and will exercise oversight over that government until legislative elections lead to the formation of a new government.

Human Rights Watch urges the Constituent Assembly to ensure that the constitution it drafts will guarantee the effective protection of human rights, understood at a minimum as they are recognized internationally, including those of equality and non-discrimination. The assembly should also ensure that these principles protect individuals in their relations with public powers, public agents, and other persons; that they are enforceable in court, give judges the power to both enforce the rights directly and ensure Tunisian legislation complies with them; and that they provide a basis, when legislators set about reforming

domestic legislation, for harmonizing that legislation with international norms of human rights.

During the campaign for the Constituent Assembly – expected to be the first genuinely free and pluralist elections since independence in 1956 – many political parties and independent candidates have taken positions on a range of human rights-related issues.

In an effort to encourage parties and candidates to be explicit about their human rights agendas, and to make their answers available to the electorate, Human Rights Watch submitted a [questionnaire](#) to them beginning on August 9. The questionnaire covers civil and political rights such as freedom of expression and of association, personal status rights such as equality between the sexes in terms of inheritance and the right to marry a non-Muslim, measures to protect judicial independence, ensure fair trials, and combat torture, restrictions on wearing the headscarf and the *niqab*, the right of non-Muslims to proselytize, and the right of privacy as it pertains to maintaining or abolishing the law that penalizes consensual sex between same-sex adults. It is of course equally important that the new constitution ensures an effective protection of economic, social, and cultural rights.

Recommendations

Human Rights Watch calls upon parties and candidates running in the Constituent Assembly elections to commit publicly to:

- support strong constitutional protections of human rights as defined by international treaties such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Social, Economic and Cultural Rights, and the African Charter on Human and Peoples' Rights;
- stipulate that both international human rights treaties and customary international human rights law shall be superior to domestic law;
- bar all forms of discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status as enshrined in article 26 of the ICCPR;
- support gender equality in all domains of personal status law without exception;
- support freedom of expression as recognized in international treaties; decriminalize defamation and make it a matter for civil litigation only; and oppose laws that would criminalize the defamation or insulting of religions or religious groups;
- support a strong constitutional affirmation of judicial independence and revise laws to shield judges from pressure from the executive branch, including with regard to the appointment, discipline, and assignment of judges to cases and courts;
- support measures to protect persons in custody from torture by, for example, granting them the right to see a lawyer early during garde à vue (pre-arraignment detention) and by granting detainees the right to receive a medical examination upon request by them, their lawyer, or their family; and
- support a comprehensive framework for accountability for serious human rights violations committed during the Ben Ali presidency.

Methodology

Human Rights Watch sent its [questionnaire](#) to 49 parties and independent candidate lists starting on August 9, 2011. We received 13 replies to the questionnaire, either in a written form or during face-to-face interviews with representatives of the parties. A wide spectrum of parties responded, ranging from the radical leftist Tunisian Communist Workers Party (*Parti communiste des ouvriers de Tunisie*), to leftist parties such as [Ettajdid](#) (the Renewal Party) and the [Left Socialist Party](#) (*Parti Socialiste de Gauche*), to centrist parties such as the [Progressive Democratic Party](#) (*Parti Démocratique Progressiste*), [Ettakatol](#) (also known as the Democratic Forum for Work and Liberties, *Forum Démocratique pour le Travail et les Libertés*, FDTL), and [Afek Tounes](#) (Tunisian Horizons), nationalist parties such as the [Baâth Party](#), to more conservative parties with religious underpinnings like the [Liberal Maghreb Party](#) (*Parti Libéral Maghrébin*) and the [Party of Dignity for Equality and Development](#) (*Parti de la Dignité pour l'Égalité et le Développement*).

Human Rights Watch also compared the results of its questionnaire with the parties' public programs. Major parties have issued manifestos ahead of the elections for the Constituent Assembly that reveal, to varying degrees, their positions relating to human rights issues.¹ In addition, some of their leaders and spokespersons have made public statements on specific human rights questions.

The parties that completed Human Rights Watch's questionnaire or that made their human rights agenda known through other means seem likely, according to polls of potential voters, to win a significant portion of the seats in the assembly.²

¹ See programs of *Al-Nahdha*: <http://www.365p.info/livre/index.html> (accessed October 19, 2011); *Afek Tounes*: <http://www.slideshare.net/Blog2Com/le-projet-afek-tounes-pour-la-tunisie> (accessed October 19, 2011); *Le Pôle démocratique moderniste*: <http://www.scribd.com/doc/66856901/Programme-Constitutionnel-Et-Societal-FR> (accessed October 19, 2011); Ettakattol (the Democratic Forum for Work and Liberties): http://www.ebnim3atktl.org/notes/%D8%A8%D8%B1%D9%86%D8%A7%D9%85%D8%AC_%D8%A7%D9%84%D8%AA%D9%83%D8%AA%D9%84 (accessed October 19, 2011); Ettajdid (Renewal) party: <http://ettajdid.org/faq.php> (accessed October 19, 2011); Progressive Democratic Party http://www.pdp.tn/userfiles/files/programme_pdp.pdf (accessed October 19, 2011).

² According to a poll dated September 24, 2011, commissioned by the German Foundation Hanns-Seidel, in partnership with Nessma TV and the newspaper El Maghreb, 25 percent of voters sampled indicated they would vote for Al-Nahdha, 16 percent for the PDP, and 14 for the Democratic Forum for Work and Liberties. See: <http://batizen.blogspot.com/2011/10/tunisie-dernier-sondage-sur-les.html> (accessed October 19, 2011). Another poll conducted by Sigma in early September highlighted the proportion of voters who remained undecided (more than 40 percent).

Human Rights Watch's questionnaire covers many but not all important civil and political rights questions. It omitted some important issues that divide the parties, such as whether Tunisia should abolish the death penalty, and issues pertaining to the realization of social, economic and cultural rights.

Overall Conclusions

The Convergence in the Orientation of the Stated Positions of the Major Political Parties Regarding Political Rights and Freedoms and Accountability

The responses to the questionnaire revealed agreement between most of the political parties that public freedoms should be protected in the constitution, including freedom of expression, freedom of the press, and the freedom to form political parties. The recent adoption by the interim government of decree-laws on political parties, associations, and the press confirms this consensus on principles. However, the responses to some specific questions also denote disagreement on limits to freedom of expression when balancing this freedom against the protection of the privacy of persons, the protection of minorities against hate speech, and the protection of religions from perceived “insult” and “defamation.”

Freedom of Expression

Tunisia’s press code, which was replaced by a vastly more permissive version in October 2011, and its penal code contain numerous provisions imposing prison terms as punishment for nonviolent expression, based on the content of that expression. These include provisions that impose prison terms for “defamatory” speech. There are general provisions covering defamation in articles 245 and 247 of the penal code, still in effect, and in article 53 of the former press code. The former press code contained articles specific to the defamation or insulting of public officials (former press code article 52); the president (article 48); state institutions, such as the judiciary and the armed forces (article 51); foreign heads of state and foreign diplomats (articles 59 and 60); and religions or members of religious groups (articles 48, 52, and 53). Under President Ben Ali, the government used the defamation laws to preempt public criticism and to jail dissidents and human rights activists who spoke out, particularly when they criticized the government, the judiciary, or public officials.

Many of the leading parties said they favor more robustly protecting freedom of expression. They said they would support legislation to decriminalize defamation and to eliminate prison terms in the penal and press codes as a punishment for non-violent speech offenses. The parties that answered agreed, without exception, that defamation should be subject to civil rather than criminal law.

On the issue of “hate speech” the responses were more nuanced. Many parties assert that freedom of expression should be balanced by the protection of privacy and the continued criminalization of incitement to racial, religious, or ethnic hatred. This sentiment is reflected in the draft press code, as it was adopted by the High Commission for the Protection of the Objectives of the Revolution on September 23. The draft code penalizes “calling for hatred between the races, religions, or members of the population by inciting to discrimination, using hostile means or violence, or publishing ideas based on racial discrimination, religious extremism, or on regional or tribal chauvinism” (article 51).

The Right to Form Associations

During the Ben Ali presidency, independent associations progressively became the targets of repression through the application of existing and new laws as well as extra-legal measures to deny these associations the ability to operate legally. In addition, the penalization of “membership in” or “providing services to” an “unrecognized” association resulted in thousands of Tunisians being imprisoned on these charges, most of them as suspected members of the Islamist *Al-Nahdha* movement and, to a lesser degree, of the Marxist Tunisian Communist Workers Party.

The interim government, on September 24, promulgated a new decree-law on associations that is far more liberal than the old one and eliminates all penal provisions, including for membership in an illegal association.

The replies of the parties show that they agree, without exception, with the more liberal approach to associations taken by the new decree-law, in particular the way it makes it possible for associations to be legally recognized upon their making a good-faith effort to notify the authorities of their existence; its decriminalizing of mere membership in unrecognized associations; and its elimination of the provision in article 1 of the former Law on Associations that deprives certain associations of the freedom to determine who may become members.

Protection Against Torture

Torture by the police was commonplace in the interrogation of suspects during the Ben Ali presidency, even though Tunisia ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and adopted an amendment to the penal code criminalizing torture. The interim government ratified the optional protocol to the CAT.

One safeguard that could help protect against torture is to grant suspects in *garde à vue* (pre-arraignment) detention the legal right to see a lawyer promptly. Defendants currently have the right to counsel only upon their first appearance before the investigating judge, which, according to the law, can be as long as six days after being detained.

Another safeguard would be to guarantee the right of any individual who makes an allegation of having been subjected to torture to complain to, and to have the case promptly and impartially examined by, the competent authorities. Tunisia's Code of Penal Procedure allows detainees or their relatives to request a medical examination during or after *garde à vue* detention. However the judge still has discretion on whether to grant the request.

The results of the questionnaire show a broad agreement among the parties that the protection against torture should include protection of the rights of the defendant at the early stages of the arrest. They voiced support for the right of detainees to have access to lawyers at the *garde à vue* stage and for removing the discretionary power of the judge to accept or reject the request by the detainee or his family to receive a medical examination.

The Independence of the Judiciary

The judiciary was a pillar of the repressive system maintained by the former regime. One of the means by which the executive branch exercised influence over the judiciary was its controlling vote within the High Council of Magistrates, the body that appoints, reassigns, disciplines, and removes judges. Parties seem to agree that there should be a comprehensive overhaul of the judicial system that will secure its independence from the executive branch. However, few have spelled out the concrete steps they would take to ensure independence of the judiciary.

The Law on Terrorism

In 2003 Tunisia passed a counterterrorism law (Law no. 2003-75 of December 10, 2003). Well over a thousand Tunisians have been tried under this law since 2003, not for their role in any terrorist plots or acts that materialized, but mostly for allegedly expressing sympathy for or an interest in, or exchanging views or information about, jihadist movements in other countries. Many parties support eliminating the counterterrorism law altogether, while others favor reformulating it to provide a more restrictive and specific definition of the crime of terrorism and to uphold fair-trial guarantees, including the removal of the rules that allow key witnesses to testify outside the presence of, and

without disclosing their names to, the defendant. Further, they support restoring the right to confidentiality in the defendant's relationship with lawyers and medical care providers.

Accountability for Past Crimes and Redress for Victims

Parties seem to be in broad agreement on the right to reparation for all victims of serious human rights abuses and their close relatives, as well as investigations and prosecutions of those responsible for serious human rights abuses and financial compensation where appropriate. The questionnaire did not ask the parties more probing questions on the forms that these processes should take and the period of time they should cover.

Fault Lines on Personal Status Rights and Personal Orientation Freedoms

Parties diverge widely when it comes to personal status rights, freedom of religion, and the right to privacy as it pertains to decriminalization of same-sex sexual activity.

Gender Equality

Although the law on personal status, promulgated in 1956 by then-President Habib Bourguiba, greatly reduced gender inequality in many facets of family life, including marriage and divorce, Tunisian law continues to discriminate against women in matters of inheritance. Nearly all the parties that responded said they embraced the principles of gender equality and non-discrimination. However, on the specific issue of equality in inheritance, the responses received showed that some parties that say they support gender equality oppose equality in inheritance. For example, in its responses to the questionnaire of Ikhtiartounes,³ *Al-Nahdha* stated it supports “without reservations” international human rights conventions, but then went on to say it opposes equal rights for women and men in matters of inheritance. Few parties that responded to the Human Rights Watch questionnaire openly advocated ending discrimination in inheritance.

Some parties, such as Ettakatol and Afek Tounes, stated that this question should be submitted to a political and social dialogue and that a more direct approach to advocating change would be counterproductive. Both parties said other aspects of the personal status code could be revised to reduce discrimination. However, some parties, including Ettajdid, the Left Socialist Party, Green Tunisia, and the Labor Party, all declared themselves ready to support legal amendments that would give men and women equality in inheritance.

Almost without exception, the parties that answered Human Rights Watch’s questionnaire, even those that proclaim their religious underpinnings, said they favored a law that would guarantee Tunisian women the same right as men to marry a non-Muslim, a right they did not enjoy in practice under President Ben Ali. Only the Republican Party said it did not recognize this right, while the *Baath* Party said it considered choice of spouse to be a

³ This questionnaire was formulated by the Tunisian group Young Independent Democrats (*Jeunes Indépendants Démocrates*, JID), launched on September 15, 2011.³ JID created a website, www.ikhtiartounes.org, that allows users to answer questions about their views on the political issues that are expected to preoccupy the Constituent Assembly, such as the nature of the future political system, human rights, institutional reforms, economic policies, transitional justice, and the environment, and then compares their results with the positions on these issues of the political parties as they conveyed them to the JID.

personal matter but favored caution on this issue because, it said, Tunisian society is not yet ready to accept the equal exercise by Tunisian women of the right to marry non-Muslims.

Freedom to Practice Religion or no Religion

Many parties have incorporated freedom of religion as a general principle in their published platforms. For instance, the program of *Al-Nahdha* affirms “the freedom of belief, thought, and the protection of minorities.” Ettajdid, the Modern Democratic Pole – an alliance of secular-leaning parties and forces – and Afek Tounes propose granting the freedom of belief supra-Constitutional status together with other fundamental rights. However, some parties that replied to the questionnaire showed reluctance to accept the logical corollaries of such a right, such as the right of non-Muslims to proselytize and the removal of the constitutional article requiring that the president of the republic be a Muslim.

On the latter issue the parties diverged, sometimes in unexpected ways. For example, the Party of Dignity for Equality and Development, which affirms its religious-based leanings, noted a contradiction between the requirement that the president be Muslim and the right of all Tunisians to exercise their political rights. Conversely, the Republican Party, a member of the secular-leaning Modern Democratic Pole, responded that this issue is not relevant in a country where the overwhelming majority is Muslim, thus declining to address the principle of non-discrimination. Other parties affirmed that citizenship rather than religion should constitute a criterion for becoming the president of Tunisia. Others commented that there are more pressing issues, or said they endorsed the principle but warned that promoting such a constitutional revision might be shocking for Tunisian society.

Parties also diverged in their responses to the question about recognizing a right to proselytize that applies equally to Muslims and non-Muslims. The answers ranged from parties that declare they support such a right without reservations (see for example the answers of Ettakatol and Green Tunisia), to those that favor minimal regulation of proselytizing to prevent “manipulation” (see positions of Ettajdid, the Party of Dignity for Equality and Development, and the *Baath* Party), to parties that oppose recognition of this right (the Republican Party and the Left Socialist Party).

As for the freedom to wear religious clothing, there seems to be a consensus among the parties that responded to the questionnaire that while the choice to wear a headscarf is a matter of individual freedom and should not be restricted by the state, the *niqab* poses

different issues and could be regulated where it poses problems of security or identification.

The Right to Privacy for Consenting Adults

The questionnaire asked whether parties supported the abrogation of the penal code's article 230, which criminalizes and provides prison terms for consensual adult same-sex sexual activity, and whether they favored the adoption of new laws to forbid discrimination based on sexual orientation and gender identity. Two main tendencies emerged: some parties endorsed the right to privacy, including the choice of partner, while other parties opposed such rights, even though they maintained their adherence to the principle of non-discrimination. The responses to this question show the reluctance of many parties to venture into a debate over decriminalizing same-sex sexual activity, and over legislation to bar discrimination based on sexual orientation. Some parties reject revisiting article 230, while others said it should first be the subject of a national debate.

Programs of Some Tunisian Parties Relating to Human Rights

Below is a summary of the positions on human rights of a sample of five parties. The responses of all the parties that responded to the Human Rights Watch questionnaire can be found in [the chart](#) attached to this briefing paper.

Afek Tounes (Tunisian Horizons), a party created in the wake of the uprising, published its political program for the Constituent Assembly on September 16. It adopts the idea of supra-constitutional rights that cannot be subsequently modified except by another Constituent Assembly. These will include “total freedom of expression; the protection of personal data; the presumption of innocence; the protection of physical integrity; the prohibition of corporal punishment and torture; the separation of powers; equality and non-discrimination, especially total equality between men and women; freedom of conscience and respect for the rule of law” (point 71 of the party’s program). Other fundamental freedoms that will be enshrined in the constitution but will not have supra-constitutional status include protecting human dignity against “arbitrariness”; freedom of information and media; freedom of assembly and association; freedom of movement; the right to private property; the right to form unions and the right to strike; the right to a healthy environment; and the prohibition of loss of nationality.

Afek Tounes spells out mechanisms to ensure judicial independence. The High Council of Magistrates should be composed of 12 members of the judiciary, including nine members elected by their peers, three automatic members (the general prosecutor; the first president of the Supreme Court and the first president of the administrative court), and 12 members selected from among the leading specialists in law and social sciences and who are appointed by the legislature and the executive branch. The independence of the judiciary should also be ensured through the principle of tenure of judges in their posts and through a system of payment independent from the public service budget.

Al-Nahdha, the Islamist party officially legalized on March 1 after more than 20 years of harsh repression, issued its general program for the elections on September 13. The party did not respond to Human Rights Watch’s questionnaire despite numerous invitations to do so. *Al-Nahdha*’s program generally upholds civil and political rights while rooting them in references to Islamic values and history. *Al-Nahdha* reaffirms its fidelity to article 1 of the Tunisian Constitution, which states “Tunisia is a free, independent, and sovereign state. Its religion is Islam; its language is Arabic and its type of Government is the

Republic.” According to *Al-Nahdha*, “Islamic thought needs to be renewed in order to meet the challenges of modernity and to be interpreted in conformity with the international conventions of human rights that are, in general, compatible with the values and objectives of Islam.”

While *Al-Nahdha*’s program reaffirms the rights of women to equality, education, work, and participation in the public life, it does not address the issue of equality in inheritance. *Al-Nahdha* claims to adhere to the model of the civil state as opposed to an Islamic State. For its general principles, the party declares its adherence to “freedom of expression, association and protection against torture” (principle 5), the freedom of belief and thought, and the protection of the rights of religious minorities (principle 6). It affirms its commitment to “removing the repressive laws used to hinder freedoms and rights” and its conviction that the protection against torture needs robust legislation to prosecute and punish perpetrators of torture. The program refers in its principle 19 to the independence of the judiciary through the High Council of Magistrates whose members will be elected, without further elaboration of the election mechanism or authority. As for the guarantees of rights during arrest, they make a specific reference to the right to have a lawyer at the initial stages, including during pre-arraignment detention.

In an article published by a Tunisian magazine, *Al-Nahdha* Secretary General Hamadi Jebali highlighted the evolution of the party’s positions, as well as the need to uphold democratic principles and human rights.⁴ He played down any possible divergences between the Shari’a and international principles of human rights, such as *hudoud* (Islamic sanctions for the punishment of certain crimes, including corporal punishments). However, Jebali said: “Let’s be clear. *Al-Nahdha* will not authorize what is clearly promulgated as illicit by God and will not forbid what is clearly authorized by God. Otherwise we wouldn’t be an Islamist movement anymore.” When asked whether *Al-Nahdha* will call for the application of Shari’a provisions regarding corporal punishment, Jebali answered that in a just society, nobody will be pushed to steal, thus not excluding on principle the recourse to corporal punishment, but rather focusing on the social evolution that will render it unnecessary.

Although *Al-Nahdha* includes “freedom of expression” in its general program, its leaders have qualified that right in their public utterances. On October 9 [protests erupted](#) against the channel Nessma TV after it aired the film *Persepolis*, which includes a scene in which a

⁴ See interview with Nahdha Secretary General Hamadi Jebali in the magazine *Realités*, February 17, 2011, http://www.realites.com.tn/details_article.php?t=534&a=22384&temp=1&lang=&w= (accessed October 18, 2011).

child's vision of God is depicted anthropomorphically. *Al-Nahdha* issued a communiqué that condemned violent protest in general terms but that also condemned attacks on people's religious beliefs and considered that a distinction must be made between the right to expression, thought and creativity and attacks on beliefs and sacred symbols. Sadok Chourou, one of *Al-Nahdha*'s most prominent members and historical figures, made a public speech on October 9 during which he declared that the party will promote the adoption of an article in the new constitution that will criminalize any defamation, insult, or aggression against the beliefs of Muslims and religious sanctity.⁵

Congress for the Republic (Congrès pour la République, CPR) was refused legalization under Ben Ali, but finally obtained recognition July 24. The president of the party, Moncef Marzouki, headed the Tunisian Human Rights League until the early 1990s. He later went into exile, returning to Tunisia immediately after Ben Ali's departure. Part of CPR's platform revolves around civil liberties.⁶ It emphasizes liberalizing the procedures for legalizing associations, pointing out that an independent civil society is key to protecting human rights. The CPR recommends characterizing torture in the Constitution as a crime against humanity with no statute of limitations. As for the independence of the judiciary, it maintains that urgent reforms are needed toward diversifying the composition of the High Council of Magistrates and ensuring that it includes experts in law and representatives of associations defending human rights.

The Progressive Democratic Party (PDP) was founded as the Progressive Socialist Rally in 1983, and received its official legalization on September 12, 1988. In its published program, the party pledges a "declaration of rights" separate from the constitution and with a supra-constitutional status, meaning that it cannot be subsequently revised. The declaration will protect "all forms of freedoms," including expression, association, assembly, belief, trade union rights, internet freedom, the right not to be prosecuted for opinion or belief, as well as a ban on torture and the death penalty. The party advocates the general principle of equality between men and women, but does not pledge to support revising the law to grant women equal rights in inheritance. The PDP states that the president of the republic should not be entitled to immunity from prosecution once he or she is no longer in office.⁷

⁵ A speech made by Sadok Chourou, October 9, 2011, theater in Ben Arous, <https://www.facebook.com/photo.php?v=2397517334027> (accessed October 18, 2011).

⁶ See CPR website, http://www.cpr.tn/index.php?option=com_content&view=article&id=112&Itemid=115&lang=ar (accessed October 18, 2011).

⁷ See PDP website, http://www.pdp.tn/userfiles/files/programme_pdp_fr.pdf (accessed October 18, 2011).

The party states that it will support the revision of the law governing the organization of the High Council of Magistrates to ensure its independence from the executive power. The Council will be composed of 13 members, four appointed by the Parliament, seven magistrates elected by their peers, as well as the president of the administrative tribunal and the first president of the Supreme Court.

The Modern Democratic Pole (Pôle Démocratique Moderniste, PDM) is a coalition of four parties and five independent movements united around preserving a modernist model for Tunisia. It refers extensively to human rights issues in its common platform published in September.⁸ The coalition says both individual freedoms and political, social, and economic rights, should be enshrined in the constitution. Its platform endorses freedom of belief, the principle of non-discrimination based on race, opinion, belief, sex, and color, and freedom of expression and artistic creation.

The PDM pledges to abolish the death penalty, which remains applicable for certain crimes, even though Tunisia has observed a moratorium on carrying it out since the early 1990s. In a paragraph on the code of personal status, the PDM's platform refers to the need to ensure equality and non-discrimination, without specifically addressing the issue of equality in inheritance. The PDM affirms its opposition to all of the reservations that Tunisia attached to its ratification of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), including its "general declaration." Tunisia's "general declaration" remains in place even though the interim government has lifted all of its reservations.

The PDM proposes granting supra-constitutional status to the provisions of the constitution relating to the general principles of human rights to make it more difficult to legislate modifications to them. International conventions ratified by the state should have a status above that of domestic law (point 27). The laws that relate to individual and public freedoms should be organic laws that occupy a hierarchically superior level in the pyramid of laws (point 15). An independent high authority should monitor compliance of the state with its human rights obligations. Independence of the judiciary should be ensured through the election of members of the High Council of Magistrates and through guarantees of tenure for judges in their posts.

⁸ See the French version on PDM's website, http://www.pole.tn//medias/pdf/Programme_constitutionnel_et_societal_Fr.pdf (accessed October 18, 2011).

Appendix: Summary Chart of Party Responses

The Complete Responses from the Parties in Arabic or French Can be Viewed At the Following Links:

[ETTAJDID](#) – [ETTAKATTOL](#) – [REPUBLICAN PARTY](#) – [LEFT SOCIALIST PARTY](#) – [GREEN TUNISIA](#) – [LABOR PARTY](#) – [PROGRESSIVE DEMOCRATIC PARTY](#) – [AFEK TOUNES](#) – [PARTY OF DIGNITY](#) – [AL BAATH](#) – [TUNISIAN WORKERS COMMUNIST PARTY](#) – [LIBERAL MAGHREB PARTY](#) – [CONGRESS FOR THE REPUBLIC](#)

A summary chart of their responses is attached below.

1. Will you support legislation to decriminalize defamation in Tunisian law?

Ettajdid	Yes
Ettakattol	Yes
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	We will protect freedom of expression and press while protecting the privacy of individuals.
Afek Tounes	Non-public defamation should be decriminalized. Public defamation should be regulated by civil law. By contrast, racist defamation should be considered a crime and thus subject to imprisonment and/or fines.
Party of Dignity	We should give a restrictive interpretation to defamation in order to avoid sweeping applications. Freedom of expression is not absolute and should be subject to the limitations imposed by international law.
Al Baath	We are in principle in favor of freedom of expression but we believe that it should be subject to limitations when it violates the rights of others. We are thus in favor of criminalizing defamation but with strong guarantees such as an independent judiciary.
Tunisian Workers Communist Party	We believe the legal arsenal that was used in order to limit freedom of expression should be eliminated and even defamation should be subject to civil rather than penal sanctions.
Liberal Maghreb Party	There should be a strict definition of defamation. We believe that racial and religious insults should be sanctioned, but not under criminal law.
Congress for the Republic	Yes, without reservations.

2. Will you support legislation to eliminate prison terms in the penal and press codes as a punishment for all nonviolent speech “offenses”?

Ettajdid	Yes
Ettakattol	Yes
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	We will eliminate prison terms except when it involves insults directed at individuals.
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

3. Will you support legislation to eliminate the offense of defaming public institutions?	
Ettajdid	Yes
Ettakattol	Yes
Republican Party	Yes, with some reservations for some sensitive institutions such as the armed forces and security.
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes, they should be replaced by civil law reparations.
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

4. Will you support adding provisions to the law that recognize the need to tolerate criticism of public officials?	
Ettajdid	There should not be any special protection for public officials, but they should be subject to the same general protection.
Ettakattol	Public officials to be treated like all other citizens.
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	There shouldn't be a differentiation between the treatment of the public servants and other citizens.
Party of Dignity	All citizens are equal before the law.
Al Baath	All citizens are equal before the law.
Tunisian Workers Communist Party	All citizens should be equal before the law.
Liberal Maghreb Party	All citizens should be equal before the law.
Congress for the Republic	Yes, without reservations.

5. Will you support revising the law on associations to ensure the basic principle that organizations will be legally recognized when they make a good faith effort to notify the authorities of their existence, unless the authorities prove that an association meets strictly limited and narrowly tailored grounds for refusing recognition (such as direct implication in violence)?

Ettajdid	Yes
Ettakattol	Yes
Republican Party	Yes, we are in favor of relaxing conditions for the creation of associations while maintaining the obligation to inform the authorities immediately.
Left Socialist Party	Yes. However associations that call for violence and racial or religious discrimination should be banned.
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes, and without conditions.
Liberal Maghreb Party	Yes, the creation of associations should be subject to notification.
Congress for the Republic	Yes, without reservations.

6. Will you support decriminalizing mere membership in “unrecognized” associations, currently punishable by prison terms under article 30 of the Law on Associations?

Ettajdid	Yes
Ettakattol	Yes
Republican Party	No
Left Socialist Party	Yes, unless there is proof of direct or indirect involvement in violation of the law.
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

7. Will you support eliminating the provision in Article 1 of the Law on Associations that deprives certain types of associations of the freedom to decide who may join?	
Ettajdid	Yes
Ettakattol	Yes
Republican Party	Yes
Left Socialist Party	No
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

8. Do you support changing Tunisia's law on personal status? If so, what types of changes do you support?	
Ettajdid	We support total equality between men and women. We believe that equality should be a supra-constitutional principle that cannot be modified (a set of principles that benefits from a special protection in the constitution).
Ettakattol	This issue should be the outcome of a political and social dialogue. It would be more efficient at this stage to foster equality between men and women in inheritance not by removing the discriminatory provisions in the Personal Status Code as they are a matter of contention between parties and in the society but by offering fiscal and tax advantages for those who choose equality for their children in inheritance.
Republican Party	We favor more rights for women in marriage, residence and the right to give their nationality to their children.
Left Socialist Party	Yes, we will support legislation eliminating all forms of discrimination against women in accordance with international conventions such as CEDAW.
Green Tunisia	Yes
Labor Party	Yes, especially the question of child custody.
Progressive Democratic Party	Yes, for more equality.
Afek Tounes	We will support all changes implied by lifting of the reservations on CEDAW within the limits warranted by the evolution of the society.
Party of Dignity	Yes, we are in favor of equality between men and women.
Al Baath	-----
Tunisian Workers Communist Party	We are in favor of equality, and we voted in favor of parity in the electoral lists of the Constituent Assembly.
Liberal Maghreb Party	We will support more equality in economic and social rights.
Congress for the Republic	We support total equality between men and women. We believe that equality should be a supra-constitutional principle that cannot be modified (a set of principles that benefits from a special protection in the constitution).

9. Will you support modifying provisions of the personal status law to provide men and women equal inheritance rights?	
Ettajdid	Yes
Ettakattol	Yes
Republican Party	We have reservations given the religious prescriptions and the overall system where men are still under the obligation to provide alimony.
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	We propose a revision of the overall system for more equality.
Afek Tounes	We favor equality in inheritance. However it seems the Tunisian society is predominantly resistant to it. That's why we think we shouldn't force the change of the law but foster first a change of mentalities. In the meantime, there are mechanisms in the law that allow a better balance in inheritance.
Party of Dignity	No, we will not support equality in inheritance. Our party has religious underpinnings and we believe this issue is not subject to change.
Al Baath	Theoretically speaking we are favor equality. However as a party we won't give the issue of equality in inheritance priority as the Tunisian society is still reluctant to accept it.
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	No, because there is a clear prescriptive Quranic source.
Congress for the Republic	It is a contentious question that will need decisions from the party's general congress.

10. Do you favor laws that guarantee to Muslim women the same rights to choose a spouse that Muslim men have?	
Ettajdid	Yes
Ettakattol	Yes
Republican Party	No
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	We are against the limitations on the freedom of the woman to choose her husband.
Al Baath	We believe this is a personal matter. However as a party we will deal with this issue with caution as there is not yet the maturity within Tunisian society to accept it.
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	This issue is strictly personal and the state should not interfere.
Congress for the Republic	Yes

11. Do you favor removing these formal reservations that Tunisia registered to its ratification of Convention for the Elimination of All Forms of Discrimination against Women? Will you oppose removing any or all of these reservations, and if so, which ones and why?

Ettajdid	Yes, including the general declaration.
Ettakattol	Yes
Republican Party	Yes, but we have reservations on inheritance law and the right for women to give their nationality to their husbands.
Left Socialist Party	Yes, we favor removing all reservations.
Green Tunisia	Yes, and we favor right of women to marry a non-Muslim... and to give nationality to her children.
Labor Party	Yes
Progressive Democratic Party	Yes, for the removal of some reservations.
Afek Tounes	Yes, but with different temporal effects.
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes, but we favor maintaining the general declaration.
Congress for the Republic	It is a contentious question that will need decisions from the party's general congress.

12. Will you support removing all religious qualifications for the president and for elected public officials?

Ettajdid	There are more pressing issues that we will focus on.
Ettakattol
Republican Party	This issue is not relevant in a country where the overwhelming majority is Muslim.
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	This issue requires a long-term social change.
Progressive Democratic Party	Yes, because there is no authority in Tunisia delivering religious certificates.
Afek Tounes	Absolutely. In accordance with International Covenant on Civil and Political rights and the African Charter of Human Rights, all religious qualifications for the president and other civil servants should be removed.
Party of Dignity	Citizenship should be the criteria. There is a contradiction between the right for all Tunisians to exercise their political rights and the limitations imposed by article 40.
Al Baath	In theory we are against such limitations. However we respect the feelings of Tunisians and we don't want to undertake shocking measures that might lead to opposite results
Tunisian Workers Communist Party	Citizenship should be the criteria.
Liberal Maghreb Party	We are in favor of keeping the condition since the religion of the state is Islam.
Congress for the Republic	It is a contentious question that will need decisions from the party's general congress.

13. Will you support a shift in government policy toward recognizing the right to proselytize, and ensure that the right is granted equally to Muslims and non-Muslims? Would you place any limitations on this right?

Ettajdid	We are in favor of religious freedom and we will support the idea of giving further protection to this right in the constitution. However, proselytism might be a problem because it may hide other hidden agendas.
Ettakattol	Yes. We will support the right to proselytize equally to everyone and will not place limitations.
Republican Party	No
Left Socialist Party	No
Green Tunisia	Yes
Labor Party	This issue requires a long-term social change.
Progressive Democratic Party	Yes, with conditions.
Afek Tounes	We think the state shouldn't interfere in this issue.
Party of Dignity	This right should be guaranteed to Muslims and non-Muslims alike but regulated by law.
Al Baath	Arabic countries are multi-confessional therefore there is not, in principle, a problem with proselytism. However, it should be subject to legal regulation in order to avoid manipulation.
Tunisian Workers Communist Party	Yes with the condition that it is not imposed.
Liberal Maghreb Party	No
Congress for the Republic	It is a contentious question that will need decisions from the party's general congress.

14. Do you believe that adult women have the right to wear a headscarf (hijab) in all public locations, including administration buildings and workplaces? Do you believe that the same right applies to wearing a niqab (a veil covering the face except for the eyes)?

Will you seek to propose legislation or regulations that would require women either to wear – or to refrain from wearing – a headscarf or a niqab in the following contexts: In public outdoor spaces (e.g., on the streets, in parks, on public transportation)? In public buildings? When employed in the public administration? When attending public universities as students? When working as teachers in public schools?

Ettajdid	As a general principle we are in favor of the freedom of choice for clothing. However the niqab poses problem of public security and the regulation of public space. We wouldn't impose restrictions on the wearing of the headscarf. However, we are in favor of the prohibition of niqab as it creates problems of public security.
Ettakattol	As a general principle we are in favor of the freedom of choice for clothing. We would not impose restrictions on wearing the headscarf. The issue of niqab has not been debated within the party as it is a very marginal phenomenon.
Republican Party	The right to wear hijab is guaranteed while the niqab poses problems in terms of identification of the person. We favor the right to wear hijab but we will try to regulate the wearing of niqab and prohibit it in public schools, hospitals and other places where it poses problems for public security.
Left Socialist Party	For the right to wear hijab but against the right to wear the niqab in public space, administrations and places of work for legal reasons related to the proof of identity and security. We will seek to adopt legislation preventing women from wearing niqab in all these spaces.
Green Tunisia	Yes for the hijab, no for the niqab. No.
Labor Party	It is a question of personal freedom but one that can be in contradiction with the requirement of work.
Progressive Democratic Party	Yes for hijab, but the niqab should be regulated. There is confusion in the question between niqab and khimar (other type of head covering).
Afek Tounes	We don't oppose the hijab or the safsari (traditional Tunisian veil) but we oppose the niqab because it is at odds with our social values based on facial recognition. We will encourage banning the niqab in all public spaces.
Party of Dignity	We believe this is part of private freedoms and we won't oppose it.
Al Baath	We believe this is a private right. We won't impose limitations on the wearing of niqab in public space but we will seek to regulate it in public institutions.
Tunisian Workers Communist Party	The principle is one of personal freedom, with the condition that the decision on what to wear is not imposed by other persons.
Liberal Maghreb Party	We won't impose restrictions on the wearing of the hijab or niqab. However we will seek to regulate niqab when there is a need to check identity for reasons of public security.
Congress for the Republic	Yes

15. Will you support the abrogation of the penal code's article 230 criminalizing and providing prison terms for consensual sodomy, and the implementation of laws forbidding discrimination based on sexual orientation and gender identity?	
Ettajdid	We believe that there should be a national debate on this issue, which is still considered a taboo.
Ettakattol	This issue was not debated in the party.
Republican Party	No
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	No, this issue requires a long-term social change and there is scientific debate about it.
Progressive Democratic Party	It is necessary to review this law.
Afek Tounes	Article 230 of the penal code should be abrogated. However, this is not a priority for the party.
Party of Dignity	We are in favor of maintaining this law.
Al Baath	In principle, it should be abrogated. However, as a party we won't propose it.
Tunisian Workers Communist Party	As a principle we believe in personal freedom but as a party we didn't discuss this issue and we will not prioritize it in our action.
Liberal Maghreb Party	No. We are in favor of keeping article 230 of the penal code.
Congress for the Republic	It is a contentious question that will need decisions from the party's general congress

16. Will you support amending the Code of Penal Procedure to give suspects immediate access to legal counsel upon being placed in garde à vue detention?	
Ettajdid	We believe that there must be a full application of the international norms of human rights, including all the guarantees for the rights of the defense.
Ettakattol	We will call for the application of the international norms of human rights, including all the guarantees for the rights of the defense.
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

17. Do you favor amending the law to oblige authorities to grant a request made by a detainee, his family, or his lawyer for a medical exam, and to require that the medical examiner have an independent status?

Ettajdid	We believe that there must be full application of international norms of human rights, including all the guarantees for the rights of the defense.
Ettakattol	We will support the application of the international norms of human rights, including all the guarantees for the rights of the defense.
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

18. Will you support amendments to the Law on the Magistrature to remove the control that the executive branch and its appointees effectively exercise in the High Council of the Magistrates over decisions on promoting and assigning judges?

Ettajdid	We will support the application of the international norms on the independence of the judiciary.
Ettakattol	We will support the application of the international norms on the independence of the judiciary.
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.

19. Will you support either eliminating the anti-terrorism law or revising it in ways that bring it in line with international standards, as indicated above?	
Ettajdid	We will support eliminating the anti-terrorism law and any permanent law on terrorism. Instead there should be occasional measures temporarily limited to face specific situations of threats.
Ettakattol	We will support eliminating the anti-terrorism law.
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes, we will abrogate it.
Afek Tounes	Yes, we will support its abrogation.
Party of Dignity	We will support its abrogation.
Al Baath	We will support its abrogation.
Tunisian Workers Communist Party	We will support its abrogation.
Liberal Maghreb Party	Yes, we will support modifying it in accordance with international law.
Congress for the Republic	Yes, without reservations.

20. Do you support a right to reparation for all victims of serious human rights abuses, and their survivors, including investigations, prosecutions of those responsible for international crimes, and financial compensation where appropriate?	
Ettajdid	We will support accountability for past crimes and will ensure the right to reparation for the victims.
Ettakattol	We will support accountability for past crimes and will ensure the right to reparation for the victims.
Republican Party	Yes
Left Socialist Party	Yes
Green Tunisia	Yes
Labor Party	Yes
Progressive Democratic Party	Yes
Afek Tounes	Yes
Party of Dignity	Yes
Al Baath	Yes
Tunisian Workers Communist Party	Yes, for accountability for the crimes committed since 1956.
Liberal Maghreb Party	Yes
Congress for the Republic	Yes, without reservations.