THE
CARTER CENTER

Carter Center Pre-election Statement on Tunisia's 2019 Electoral Process

Sept. 9, 2019

The Carter Center commends Tunisia's electoral actors for their swift and efficient efforts to prepare for the upcoming presidential and parliamentary elections, especially considering the need to advance the date of the presidential election following the untimely passing of the president.

Given the 90-day deadline for a new president to take office imposed by the constitution, parliament passed several amendments to the electoral law to accommodate the deadline. The new date has increased pressure on all electoral stakeholders to conduct polls within a compressed timeframe and in compliance with international standards for democratic elections and domestic law. Despite the lack of a functioning Constitutional Court, executive powers were transferred smoothly to the interim president, avoiding a potential constitutional crisis.

Before the death of President Caïd Essebsi, parliament passed several amendments that were perceived as targeting specific prospective candidates and would have been a severe restriction on the rights of Tunisian citizens to run for office. They had been sent to the president for signature but were not promulgated before his death.

In late August, authorities detained candidate Nabil Karoui, who was one of the presumed targets of the failed amendments to the electoral law, which would have effectively barred owners of media outlets and charity organizations from running for office. The Appeal Court ordered Karoui detained on charges stemming from an investigation that began in 2017. His appeal for release was denied, as was a request by the Carter Center observation mission to meet with him in prison. Although the High Independent Authority for the Elections (known by its French acronym, the ISIE) has announced that his detention will not endanger his place on the ballot, Karoui is unable to campaign. In addition, it is unclear how his detention will affect the status of his participation in the rest of the electoral process.

Electoral preparations are proceeding efficiently. The vigorous voter-registration campaign undertaken by the ISIE resulted in the registration of 1,455,898 new voters, of which 63 percent are women or young voters. The ISIE and the High Independent Authority for Audiovisual Communications (HAICA) have called on media to be particularly vigilant in covering the activities of candidates who are also government officials or ministers. The ISIE has reinforced its campaign monitoring and warned government officials against using state resources for any campaign activity.

This statement

Controversial Electoral Amendments. The death of President Caïd Essebsi also ended the possibility that controversial electoral amendments that were drafted by the government, passed by parliament, and declared constitutional by the interim authority mandated to review the constitutionality of laws, would be enacted in time for the upcoming elections. The president did not promulgate the amendments before his death, and the constitution is unclear about the legal status of amendments that are not signed by a president whose term comes to an unexpected end. The electoral amendments would have introduced a three-percent threshold for entry into parliament and would have effectively prohibited owners of television stations and heads of charitable organizations from running as candidates. In addition, they called for the ISIE to vet all candidates and to prohibit persons who made statements against democratic values or the rule of law or who lauded the former regime from running.

Some political party representatives told the Carter Center's election observation mission that the amendments were intended to assure a level-playing field among party contestants and independents. However, the timing and content of the amendments appeared to target specific prospective candidates and would have severely restricted a core right of political participation, the right of Tunisian citizens to run for office.[1] In addition, they also could have been used to introduce a never-ending set of challenges to successful presidential and legislative candidates.

One of the presumed targets of the proposed amendments, presidential candidate and prominent businessman Nabil Karoui, was detained and jailed on Aug. 23 on a warrant issued by an appeals court. The charges, which are based on corruption and money laundering, originated in 2016 and remain under investigation. Karoui is the owner of Nessma TV station.

The timing of the detention raises questions, given that a lower court had allowed him to remain free while the investigation was ongoing. The original complaint was based on information supplied by I Watch, a domestic civil society organization (CSO), which also provided information targeting presidential candidate and current prime minister, Youssef Chahed, and former Ennahda Shoura Council member and current presidential candidate Hatem Boulabiar. Neither of the latter have been detained. The arrest of Karoui has no bearing on his official candidature. He will remain on the ballot and can be elected, even if he remains imprisoned. But the timing of the arrest raises the perception of political motivations and casts a cloud over the process. His detention also means that, unlike all other candidates, Karoui will be at a disadvantage because he cannot take part in the campaign. In addition, it is unclear how his detention will affect the status of his participation in the rest of the electoral process.

Media and campaign rules regarding government officials and use of status resources. A get recently signed memorandum of understanding between the ISIE and the HAICA detailing the rules for media during the campaign is a positive step. It calls on the media to be particularly vigilant in covering the activities of cccca get

The ISIE also issued a specific regulation on campaigning that details what parties and candidates can and cannot do, which includes a prohibition on the use of state resources for campaigning. The ISIE issued a warning to candidates and strengthened its capacity to monitor the campaign through the hiring and deployment over 1,500 campaign monitors across the country.

Candidate Nomination. The ISIE announced candidate nominations for the presidential election from Aug. 2 to Aug. 9. While there was a lack of detailed information about some of ISIE's decisions, the candidate nomination and registration processes went smoothly. ISIE staff implemented the registration procedures and informed potential candidates of any deficiencies in their application papers in a professional manner. The ISIE received 97 candidate applications for president; 26 were approved and 71 rejected. The ISIE published the final list of 26 candidates on Aug. 31, 2019, just two days before the start of the electoral campaign.

However, the ISIE has not yet provided any public information or detailed justification for rejecting three-quarters of the potential candidates, even those who submitted the required number of endorsements. The ISIE informed The Carter Center that this information could only be obtained from the respective candidates, individually. Eventually, after civil society organizations

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- The ISIE, civil society, and political parties should conduct vigorous voter-education campaigns to ensure that voters have the necessary information to make an informed choice on election day. The ISIE should conduct a targeted campaign to encourage newly registered voters to vote, especially women and youth, and should facilitate the active involvement of appropriate CSOs to help voter education efforts.
- Political parties should take steps to address the electorate, especially marginalized groups, directly on those issues of most importance to the everyday lives of Tunisians.
- The Administrative Court and other judicial bodies should be forthcoming with information on any electoral challenges so that the public can assess their judicial deliberations and to avoid any hint of political influence in their work.

Background: The Carter Center in Tunisia. The Carter Center has maintained an office in