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# Origins, Evolution and Challenges to the Human Rights Movement in Tunisia

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## **Abstract**

The human rights movement materialized in Tunisia in the mid-1970s. The first organized group was the Tunisian League for the Defense of Human Rights in 1977 (*Ligue Tunisienne de la Defense des Droits de l'Homme, LTDH*). The LTDH remained the only organization active in the field of human rights throughout the first decade of the history of the Tunisian human rights movement. The organization focused on civil and political rights that were systematically and massively violated by the politically-oppressive regimes ruling the country. Since its inception, the LTDH has acted as a refuge for political activists of various ideological and political backgrounds, sometimes resulting in conflating political and rights' activism, despite attempts by the founders to separate the two fields. This overlap affected the LTDH on several occasions, such as the drafting of its charter or the elections of its board. Since the late 1980s, other human rights organizations emerged, both domestic or as branches of international organizations. Rights' activists, whether at the LTDH or other associations, were perceived by the government as part of the political opposition, notwithstanding developments in the official human rights discourse. Activists were persecuted and restrictions imposed on the work of their organizations.

The year 2011 marked a milestone in the history of the Tunisian human rights movement. The fall of the dictatorial, corrupt regime and the ensuing shaky but persistent democratic transition had a major positive influence on the movement and the civil society at large, restructuring both and enabling them to play a key role in this transition. A number of human rights activists and "victims of the former regime" occupied very senior positions within the

post-2011 governments. New human rights organizations emerged to focus on socio-economic, sexual and ethnic rights. Due to the way it evolved and because of the current context, the human rights movement in Tunisia faces a number of challenges, including its relationship with politics, the generational chasm among activists, and internal governance issues.

## Introduction

The Tunisian human rights movement, like most other such civil society actions in the world, arose in the mid-1970s with the birth of the Tunisian League for the Defence of Human Rights (LTDH), officially in May 1977. The movement was born under the regime of former dictator and Tunisia's first post-colonial ruler President El Habib Bourguiba. His regime had consolidated its grip over the previous twenty years and by then had very little space left for any serious political opposition. After Bourguiba was removed, the human rights movement developed and persisted under a regime in which security agencies grew even stronger after former premier and minister of interior Zein El Abidine Ben Ali took over power in a bloodless coup in 1987. Ben Ali and his ruling clique claimed they worked to promote democracy and human rights. However, this so-called promotion of human rights was largely formalistic and devoid of actual policy changes.

The roots of modern human rights action in Tunisia can be traced back to the liberation struggle in the early 20<sup>th</sup> century when nationalists based their demand for independence on the right to self-determination.<sup>1</sup> After independence in 1956, however, the post-colonial state had side-lined and systematically violated human rights because of the focus by the ruling elite on Bourguiba's national construction project, which prioritized eradicating the remaining colonial influence and launching a top-down developmental project. Within this project, society was not capable of "handling differences of opinion or embracing democratic practices."<sup>2</sup> Public and political freedoms were severely restricted, especially freedom of expression and the ability of parties and voluntary organizations to operate - with the exception of the well-entrenched and strong *Union Générale Tunisienne du Travail* (The General Tunisian Labour Union, UGTT). Tunisia became a one-party state in the early 1960s, when the government banned the Communist Party in 1963. In the early 1980s, limited pluralism was tolerated within a dominant party system. All along, the state controlled and almost monopolized the mass media and persecuted dissenting views.

After Ben Ali came to power, the government deployed a positive discourse on human rights as the new political system was keen to present itself, both at home and abroad, as a democratic regime that respects rights and rule of law. In fact, the regime's position was duplicitous; it ratified international human rights instruments, created specialized official

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<sup>1</sup> For example, the Tunisian party, which later became the Constitutional Party, better known as Destour Party, sent a memorandum to the Paris Peace Conference, addressed to US President Woodrow Wilson, invoking the principles of people's right to self-determination in Tunisia and demanding other rights stipulated in the 1789 French Declaration for the Rights of Man and of the Citizen.

<sup>2</sup> Nourredine Daffi, "*Tunis min Ayala ila il Jomhouria 18014-2014* (Tunisia from an Eyalet to the Republic 1814-2014)". Tunisia: Manuba University Publications, 2016, p. 220 (Arabic).

structures and distributed annual human rights awards,<sup>3</sup> but at the same time it restricted freedoms, persecuted human rights defenders, detained activists, and tortured and prosecuted political opponents in unfair trials that ended with their imprisonment. It was extremely difficult for the human rights movement to challenge the political system, but it continued to struggle, partly aided by the fact that most of the rights they advocated for were protected by the 1959 Constitution.

The Tunisian political map changed dramatically after the revolution of 14 January 2011 as the country entered a period of genuine democratic transition. The whole environment of human rights action changed to the extent that several rights activists moved from being shunned members of the persecuted opposition to participation in power and national decision making. Shaming, exposure and documentation became less important functions for the human rights activists than proposing policies and advocating legislations as well as supporting and implementing institutional reforms. The role of civil society organizations, in general, and the human rights community, in particular, was now welcomed – even if cautiously – in the corridors of politics.

In general, Tunisian civil society as a whole underwent structural and functional changes in light of the political and legal transformations that the country experienced after the 2011 uprising. After combatting torture and advocating for public and political freedoms (freedom of association, expression and assembly, for example) as priorities of human rights organizations, the attention shifted after 2011 to economic and social rights and individual freedoms. Also, the issue of torture no longer concerned political opponents in particular, but also included defendants in criminal cases.

On the other hand, this changed context brought new challenges, the most important of which was the opposition of religious actors to the recognition of some rights and freedoms, on the one hand, and the growing phenomenon of terrorism, on the other hand.

Salafists criticized freedom of expression on grounds that it opened the door to sacrilegious practices and statements. They refused to include freedom of conscience and belief in chapter VI of the 2014 Constitution.<sup>4</sup> These calls were echoed within the National Constituent Assembly, where deputies of the Islamist Ennahdha defended this position and demanded constitutional protections for sacred beliefs. Representatives of state Islam (Mufti of the Republic and the Supreme Islamic Council) adopted a similar position and called for abolishing the freedom of conscience, which, for them, encouraged apostasy among Muslims.<sup>5</sup> As for terrorism, it stimulated anew an often superficial and argumentative debate with the

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<sup>3</sup> In 1993, former president Ben Ali introduced an annual prize on the International Day of Human Rights.

<sup>4</sup> A movie theatre was vandalized in 2011 for screening Nadia El Fani's film, *Neither God, Nor My Master*. See "Director El Fani Commenting on Banning her Film in Tunis", Sanad, 28 June 2011, available in Arabic at [bit.ly/2tXhAJ6](http://bit.ly/2tXhAJ6). See also Hafid Eliani, "Political Parties between Condemning Attacks on Creativity and Deploing Sacrilegious Acts", *Al-Sahafa Al-Youm*, 14 June 2012, available in Arabic at [goo.gl/nwV2Ut](http://goo.gl/nwV2Ut)

<sup>5</sup> Rajab Ben Mohammed, "Tunisia's Imams and Sheikhs Rise up against the New Constitution for Criminalizing Accusations of Apostasy and Spreading Corruption", Elaph, 26 January 2014, available in Arabic at [elaph.com/Web/news/2014/1/870892.html](http://elaph.com/Web/news/2014/1/870892.html)

underlying assumption of a trade-off between security prerogatives and human rights guarantees.

In this paper, we focus on the various components of the human rights community and how it evolved in a dynamic interaction with its political, economic and social context of post-colonial Tunisia. Three major milestones mark this evolution: the paternalistic nation-building era of Bourguiba, the security-state era of Ben Ali and the ongoing transformation following the 2011 uprising.

## I. Emergence of the Human Rights Movement under Bourguiba (First Decade: 1977-1987)

The LTDH, the first human rights organization in Tunisia and among the earliest to be established in Arab and African countries, obtained a license on 7 May 1977, five years after submission of its first request for registration by “a group of independent and moderate opposition politicians”.<sup>6</sup> Marzouki believes that the state finally relented “as a result of the pressure exerted at the time by the [US] administration of [Jimmy] Carter, which made human rights one of its foreign policy priorities, but also for venting, at a very low price, as the Tunisian society was continually boiling... the authorities believed that tolerating the LTDH was less harmful than accepting an opposition political party which could break the political monopoly of the ruling party.”<sup>7</sup>

A group of social democrats and liberals, who had resigned from the ruling party,<sup>8</sup> applied for a license to the Ministry of Interior to set up the LTDH on 22 May 1976. In the absence of a formal response, which legally meant a rejection, this group created the Freedoms Committee chaired by Hasib Ben Ammar, the former defence minister. This Committee filed an appeal against this rejection with the Administrative Court and sent a petition signed by five hundred people to President Bourguiba to request the convening of a symposium on freedoms and human rights in Tunisia. The Committee launched an international advocacy campaign in several European capitals in addition to the United States to pressure the Tunisian government. While on a visit to Washington DC, the then Minister of Interior, Tahir Balkhuja, felt the impact of this campaign. After some reluctance, the prime minister decided to recognize the LTDH but not until an agreement was reached to include seven members from the ruling party in the 22-member LTDH Constituent Assembly.<sup>9</sup>

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<sup>6</sup> Moncef Marzouki, “*Al Mohima Al-Sa’ba li Harkat Hokok al Insan fi Tunis* (The difficult Task of the Human Rights Movement in Tunisia)”, in *Tahadiyyat al Haraka al Arabiya li Hokoki al Insan* (Challenges of the Arab Human Rights Movement). (Arabic). Cairo: CIHRS, 1997, p. 149.

<sup>7</sup> Ibid., p. 150.

<sup>8</sup> The ruling party in Tunisia had changed name again to *il Hizb Il-Ishteraki a-Destouri* or the Socialist Constitutional Party in 1964. It will be renamed *a-Tajamo’ a-Destouri a-Democrati* or the Democratic Constitutional Rally in 1988, the year after Ben Ali became president.

<sup>9</sup> Souheyr Belhassen, “La LTDH ou la Gestion du Paradoxe”, *Confluences Méditerranée*, No 51, 2004, pp.105-6.

The LTDH brought under one roof various (and sometimes conflicting) political and intellectual ideologies, but together they acted as united opposition front against the ruling regime (or the post-colonial state). The LTDH became a sanctuary for political activists and replaced, to some extent, banned political parties that were not able to operate freely.<sup>10</sup> LTDH founders chose to base their organization on democratic and pluralistic principles, claiming that they carry a “humanist civilizational mission of benefit to each citizen and every human, and that its mission is incompatible with partisanship, intolerance and all forms of discrimination against human beings... since human rights... are indivisible and our mission calls for concerted efforts and mobilization of all forces of good who believe in human rights and dignity... that is why the LTDH will always be open to all good, humane, patriotic efforts.”<sup>11</sup> So, in addition to trade union and independent activists, the LTDH included Destourians, leftists, Islamists, and nationalists, many of whom belonged to banned political parties or worked underground. Initially, the LTDH included only figures from the ruling party, the banned Communist Party<sup>12</sup> and the Movement of Socialist Democrats.<sup>13</sup>

In the 1970s, various left-wing groups were established<sup>14</sup> and by the end of the decade, *Harkatul Ittijah I-Islami* (the Movement of Islamic Tendency) was formed (becoming *Ennahdha* Party in 1988).<sup>15</sup> Islamists joined the human rights movement in 1982 through Salah Eddine Jurchi, who belonged to what was called the Islamist left or the Progressive Islamists of Tunisia (a group that split from the Movement for Islamic Tendency in 1981 as they refused political engagement preferring to focus on intellectual pursuits and revision of religious

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<sup>10</sup> Larbi Chouikha and Eric Gobe, “Les Organisation de Défense des Droits de l’Homme dans la Formule Politique Tunisienne: Acteurs de l’Opposition ou Faire Valoir du Régime?”, *L’Année du Maghreb*, (Dossier: S’opposer au Maghreb), 2009, p. 165.

<sup>11</sup> Address of LTDH president Saadeddine Zmerli, in LTDH, 1985, “Proceedings of the second LTDH national conference held at the Amilcar hotel 23-24 March 1985”, p. 2.

<sup>12</sup> The Communist Party in Tunisia was founded by European Marxists after the First World War. Leading Tunisian members split in 1937 to establish the Tunisian Communist Party. The Bourguiba regime banned the party and arrested its leaders in 1963. The ban was lifted in 1981. See Chaker Mustapha, “Idées dans l’histoire: les idées politiques du parti communiste tunisien”, Paris: Mémoire de D.E.S, Université Paris I, Pantheon-Sorbonne, 1972.

<sup>13</sup> The Socialist Democrats group was formed in 1978 by senior members of the ruling party who had been an internal opposition wing since the early 1970s. They demanded more political freedoms and democracy in decision making within the party. The group included Bahi al-Adgham, Hasib bin Ammar and Beji Caid Essebsi. The group did not get the state permission to set up a legal party until 1981 when Bourguiba allowed pluralism. See Sarah Fayeze.. “*il Ahzab wal Harakat a Siyassiyaa fi Tunis 1932-1984* (Political Parties and Movements in Tunisia 1932-1984)”, Damascus: Fayeze Sara, 1986, p. 10. (Arabic).

<sup>14</sup> The most important leftist groups were *Afaq*, *il ‘amil a Toonsi* and *a Sho’la* (Horizons, Tunisian Worker and the Torch). *Afaq* was established in the early 1960s in France by immigrant students and professors. It grouped Maoists, Trotskyists, Marxists, Nasserites and Baathists. This lack of ideological harmony and the arrest and torture of some members put an end to *Afaq*. The Maoist members, including some who lived in France like Mohamed Cherfi and Khemais Chammari formed the Tunisian Worker Organization. The Marxist-Leninist faction set up the Torch which quickly disappeared and was replaced by the movement of Democratic Patriots. For more about those groups, see Ibrahim Ommari, “*Horiyat Takween al Ahzab al Siyassiya min khilali al Khitab al Siyassiy al-Rassmi wal Tankkihat a Dostoriya 1987-2002* (Freedom of Establishing Political parties in the Official Political Discourse and Constitutional Amendments 1987-2002),” Ph.D. dissertation in Political Science, Faculty of Law and Political Science, Tunis, 2016 (Arabic).

<sup>15</sup> Hermassi El Baki, “L’Etat tunisien et les islamistes”, *Annuaie de l’Afrique du Nord*, Tome XXVIII, 1989, pp. 298-308.

heritage)<sup>16</sup> *Ennahdha* itself became part of LTDH board in 1985 through Sahnoun Jaouhari.<sup>17</sup> This openness towards all political factions, notwithstanding, the LTDH has almost only had leftist presidents since its inception.<sup>18</sup>

Before the LTDH was established, various political factions did not pay much attention to human rights. Some leftist factions regarded the discourse as “a mere diversion used by the bourgeoisie to keep deprived classes away from the essence of class struggle and the establishment of socialism.” As for Islamists, they were the last to acknowledge the significance of human rights and the need to use the discourse, although the debate is still ongoing within their ranks around some aspects of the international bill of rights.<sup>19</sup>

The LTDH has always sought to assert its independence from the authorities, on the one hand, and from any political affiliation of its members, on the other hand. This was confirmed by the president of the LTDH, Saadoune Zmerli, during the second National Conference in 1985, when he stressed that LTDH was not “an alliance among political parties, nor is it an open space for political organizations to carry out their activities. Membership of the LTDH was granted on an individual basis.”<sup>20</sup> Membership was open to anybody who believed in defending human rights regardless of his political affiliation, even if he was a member of the ruling party. However, in reality there was an unwritten agreement on a proportional representation of the various political forces on the LTDH board, including a reserved number of seats for the ruling party. There was political sharing of key positions, especially in the highest LTDH administrative structures. Many human rights activists maintained their membership and activities in various political parties and movements, while others were suspected by security agencies as political opponents of the regime simply because of their human rights work. A number of LTDH activists were prosecuted and imprisoned, among them Mohammed Al-Khamili, secretary general of the Gafsa branch, and Belqassem Al-Issaoui, chair of the Sidi Bouzid branch.<sup>21</sup> LTDH was run by a 25-member governing body elected by the general assembly.<sup>22</sup> Members of the LTDH were organized in local branches,

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<sup>16</sup> See more about this current in Salah Eddine Jourchi (2015), *Al Islamiyyoon a Takadomiyyon* (Progressive Islamists), Tunis, Ro'ya Publications, 2015 (Arabic).

<sup>17</sup> Jouahari fled Tunisia in 1981 after a security crackdown on his group. He joined Amnesty International in France in 1982. Upon return to Tunisia in 1984, he joined LTDH, Sejoumi branch, and became a board member in 1985. Ten years later he died in prison due to inhumane treatment and medical negligence.

<sup>18</sup> LTDH presidents:

1977-1989	Saadeddine Zmerli (Socialist Democrats)
1989-1989	Mohammed Charafi (Afaq - Communist)
1989-1994	Mocef Marzouki (leftist)
1994-2000	Taoufik Bouderbala (leftist)
2000-2011	Mokhtar Trifi (leftist)
2011-2016	Abdel Sattar Ben Moussa (leftist)
2016-	Jamal Mussallam (independent)

<sup>19</sup> Salah Eddine Jourchi, “*Rabitat Hokok il Insan wal Soltta ... Wifaq sa’ab wa laken lais Mostaheelan* (LTDH and the Authority... A Difficult but not Impossible Reconciliation)”, Al Hiwar Net, 10 June 2010, available in Arabic at [www.alhiwar.net/ShowNews.php?Tnd=7571](http://www.alhiwar.net/ShowNews.php?Tnd=7571)

<sup>20</sup> LTDH (1985), op. cit., p. 12.

<sup>21</sup> LTDH, 1985, op. cit., p. 47.

<sup>22</sup> LTDH, 1985, “LTDH Bylaws”, op. cit., chapter 13.

that were established after the approval of the central board upon the request of at least 50 people to start such a branch.<sup>23</sup> The LTDH expanded quickly with the national conference in 1982 which was attended by representatives of 24 branches.<sup>24</sup>

In developing its concepts, the LTDH refers to three complementary sources, “a historical reference represented in the freedom principles infusing certain values of our Arab Islamic culture”, freedoms enshrined in the Tunisian Constitution, and, finally, the international human rights bill.<sup>25</sup> Those three anchors were mentioned in the LTDH charter published in 1985. The drafting of the charter followed deep, and sometimes, heated discussions among the various intellectual and ideological currents forming the organization. While drawing up its first charter of 1985, the LTDH faced the problem of reconciling the universality of human rights, in which it believed and on the basis of which it was founded, on the one hand, and the claims of Arab Islamic specificity adopted by Islamist and nationalist factions, on the other hand.

From the beginning, the LTDH advocated political, economic, social and cultural rights as an “indivisible whole”. It formulated its objective in the “defence and protection of fundamental individual and general human rights enlisted in the Tunisian constitution, the laws of the country and the international declaration of human rights.”<sup>26</sup> Despite the inclusion of all these rights in the League’s charter, it expectedly focused on a small number of them, depending on the political circumstances of the repressive regimes it operated under. The LTDH always advocated the release of political detainees and for the government to issue a general amnesty. Torture, systematic and widely used in the 1980s and 1990s, constituted one main focus for campaigning for LTDH, and for which dedicated organizations were later formed such as the Tunisian Association to Combat Torture and the Islamist-leaning International Association to Support Political Prisoners.

In 1980, the LTDH organized the international day for human rights under the slogan “General Legislative Amnesty”. The importance of general amnesty lied in the fact that it had been the only legal mechanism, under which political exiles and those who had undergone political trials could return to a normal life in their own country, reclaiming their civil rights, including the right to work. The successive authorities never responded to this repeated demand from the LTDH. Release of political prisoners took place only upon a specific presidential amnesty or after a conditional release decision or a special legislative amnesty. A general legislative amnesty was not granted until after the 2011 revolution, when it became one of the first decisions made by the interim Mohammed Ghanouchi government. This long-awaited amnesty covered everybody who was subjected to a political trial before 2011.

The LTDH defended the right to a free media, the freedom of the press, association and assembly, belief and the right for all citizens to be free from all forms of racial or religious discrimination. It also defended the rights of Tunisians abroad, including their working

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<sup>23</sup> Ibid., chapters 3 and 4.

<sup>24</sup> Ibid., chapter 7.

<sup>25</sup> LTDH, 1985, op. cit., Charter Preamble.

<sup>26</sup> LTDH, 1985, op. cit., chapter 2.

conditions, access to passports and conditions of recruitment for military service. The LTDH monitored violations and judicial investigations in these matters since its inception and investigated and monitored the violations that took place during the clashes between security forces and the UGTT workers on 26 January 1978 and the subsequent trials of 1978 and 1979,<sup>27</sup> the Gafsa unrest in 1980,<sup>28</sup> and the bread riots in 1984,<sup>29</sup> always with a focus on exposing and combating torture and improving prison conditions.

Women's rights were one of the main concerns of the Tunisian human rights movement. Women occupied various positions in the LTDH board and different committees, especially those related to women's issues. The LTDH was the only African and Arab organization that participated in the UN Third World Conference on Women in Nairobi in 1985 to evaluate the UN decade for women. Article 8 of the LTDH's charter was devoted to the personal status law which it viewed as "a cultural asset and an important step in the promotion of women's freedom."<sup>30</sup>

The LTDH did not limit its work to Tunisia, as it supported the Palestinian cause and cooperated with the Palestine Liberation Organization (PLO) advocating the right to self-determination. It also organized a campaign of solidarity with the Palestinian and Lebanese peoples against the Israeli invasion of Lebanon in 1982.

Marzouki attributed LTDH's success in the 1980s not only to its moderation and tactical agility to reconcile competing political agendas among its constituent groups while insisting on a principled commitment to the international human rights bill. Its success also was the result of the "weakness and later collapse of democratic opposition parties and the attack on the trade union movement, which turned the LTDH into a sanctuary for all democrats and defenders of freedom when the totalitarian state visibly succeeded, in the 1990s, to regain and control all the space it had lost in the 1980s because of the ageing of former President Bourguiba, the weakness of the ruling party, the proliferation of democratic organizations and movements and the rise of Islamists."<sup>31</sup>

Marzouki and others raise a major problematic which affected almost all Arab human rights organizations when it came to their relationship with the state, on the one hand, and with

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<sup>27</sup> On Black Thursday, 26 January 1978, the UGTT organized a general strike to protest worsening economic condition after several years of failed liberal economic policies. Security forces killed and wounded several hundred people. The crisis deepened as the UGTT decided to distance itself from the ruling Destourian Party (UGTT secretary general Habib Ben Achour resigned from the party's Central Committee).

<sup>28</sup> On the night of 26 January 1980, an armed group of 60 Tunisian Arab nationalists aided by the Qaddafi regime in Libya, attacked security and strategic installations in the southern city of Gafsa and called on the population to join a rebellion. The attempt failed. Several attackers and some Tunisian soldiers were killed, while the rest of the insurgents were arrested and tried in a State Security Court, where 18 were sentenced to death and executed in April 1980.

<sup>29</sup> Bread riots engulfed Tunisia in early January 1984 after a government decree to raise flour prices. Despite the declaration of a state of emergency and the banning of gatherings, protests spread. Rioting and arson destroyed buses, cars, and buildings. Many protesters were killed in confrontations with security forces. The situation did not calm down until President Bourguiba cancelled the price hikes.

<sup>30</sup> Article 8 of LTDH charter issued in 1985.

<sup>31</sup> Marzouki, *op. cit.*, p. 151.

the political opposition and the rest of civil society, on the other hand. Ultimately, human rights actors address the state and authorities in order to press them to refrain from violating political or civil rights or to work to guarantee economic and social rights, but they do not seek to control state institutions through contestation themselves. They do not seek political power but work all the time to press political institutions into certain directions. Marzouki argued that the relationship between human rights defenders and the state should be constructed to “support reformist forces within [the regime].”<sup>32</sup> And since the Ben Ali regime, throughout most of its years, lacked such reform forces, the relationship with the state was primarily contentious, especially in the nineties.

Since the LTDH was a mixture of different political factions, this resulted in repeated disagreements to the effect that the first charter of the organization was not issued until 1985, i.e. eight years after its foundation. The process of endorsing the charter suffered from deep disputes, mostly from the Islamist opposition, to four main provisions related to equality between men and women, freedom of belief, corporal punishments (*Hodoud*) and adoption. Although the charter was ratified in a way close to the provisions of the Universal Declaration of Human Rights, still the dispute left “cracks within the body of the organization”.<sup>33</sup> The LTDH’s commitment to independence, however, did not prevent it from being used as a battleground between the political authority, on the one hand, and the political opposition, on the other hand, nor among various opposition factions. This political diversity within the organization sometimes led to heated frictions, one strong example was when Iraq invaded Kuwait in 1990.

The LTDH formed the first and main nucleus for the Tunisian human rights movement and remained committed to the international human rights bill. It also defended a wide range of rights in different ways, distinguishing itself from other organizations that defended specific rights only, such as the UGTT, which defended workers’ rights and the women’s union, which embodied state feminism.

## II. Development of the Human Rights Movement under the Ben Ali Regime (1987-2011)

Ben Ali started his rule with relative political liberalization and openness. The state enacted Tunisia’s first ever law for political parties in 1988; political opponents signed a national charter; and the government issued an amnesty for political prisoners. Since the beginning of the 1990s, human rights were in the forefront of speeches by former President Ben Ali.<sup>34</sup> Tunisia ratified several international human rights conventions<sup>35</sup> and established the Supreme Commission for Fundamental Human Rights and Freedoms in January 1991, the first

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<sup>32</sup> Ibid., p. 155.

<sup>33</sup> Ibid., pp. 152-3.

<sup>34</sup> See speeches by president Ben Ali on 9 September 1989 and 7 November 1992; Cabinet newsletter 1989 and 1992.

<sup>35</sup> Tunisia ratified the Convention against Torture without reservation on 11 July 1988.

such official structure in the country.<sup>36</sup> In June the same year, the president appointed a human rights counsellor in his office to follow up and support the state's human rights policy, report to the president on issues pertaining to the human rights situation and advise on relevant national legislations and the ratification of international conventions.<sup>37</sup> This adviser coordinated his work with human rights units established in a number of ministries, foremost among which was the Ministry of Interior.<sup>38</sup> These units were supposed to receive complaints about rights violations and facilitate the relationship between the state and civil society. The term "human rights" was added to the name of the Ministry of Justice in the middle of the 2000s, while human rights were included in university curriculums regardless of specialization. Tunisia participated in as well as hosted several international human rights conferences. There was a marked legislative change: hard labour was abolished from the Criminal Code in February 1989 while torture was recognized and defined as a crime in accordance with the provisions of the international Convention against Torture in August 1999. The creation of such structures and these legislative changes were part of a plan to create a positive image of Tunisia in international forums as a democracy that respects and promotes human rights.<sup>39</sup> In this context, the new political system sought to co-opt some human rights activists despite continued restrictions and allowed some human rights organizations to operate.

## 1. Human Rights Activists between Containment and Persecution

In its early years, the Ben Ali regime worked to maintain the appearance of openness and democratic practices but, in reality, it strove to contain human rights activists. For example, LTDH president Mohamed Charfi was appointed Minister of Education in 1989, while the organization itself was included in the High Commission for Fundamental Human Rights and Freedoms together with other human rights organizations. The unwritten condition was that the LTDH representative in the High Commission should not belong to any political opposition faction.

But the regime gradually showed its true despotic colours. Harassment of human rights organizations continued parallel to attempts to contain human rights activists, especially the LTDH. After a honeymoon that lasted only a few years, the crisis erupted between the government and Islamists. In 1991, security services announced they uncovered a coup attempt. They arrested many Islamists and put them on trial. Soon, with the exception of the UGTT, there was no longer an autonomous organized force in civil society that worries the Ben Ali regime except those working in the field of human rights. In 1992, the government

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<sup>36</sup> Order 54 on 7 January 1991 to establish the High Commission for Human Rights and Individual Liberties, the Official Gazette, No 3, 11 January 1991, p. 43. The High Commission advised the president on how to promote human rights.

<sup>37</sup> Allala Mourad, "Human Rights Institutions in the Arab World", proposal for a Masters in Political Science, Tunis: Faculty of Law and Political Sciences, 1996, p. 57.

<sup>38</sup> These were the ministries of interior, foreign affairs, justice and social affairs.

<sup>39</sup> Khiari Sadri et Olfa Lamoum, "Tunisie: des elections entrompe-l'oeil", *Politique Africaine*, Vol 76 No. 4, 1994, pp. 106-15.

amended the Law on Associations, thereby reclassifying the LTDH in such a way that could allow regime loyalists to join and take over the organization.

In its first chapter, the 1992 Association Law classified such organizations into certain categories: women, sports, science, culture, art, charity, relief, social and development, and, finally, associations of a general nature.<sup>40</sup> A paragraph was added to this last category stating that these associations “cannot refuse membership of any person who adheres to its principles and decisions unless this person has lost his political and civil rights or has activities and practices that were incompatible with the objectives of the association.” In case of a disagreement regarding the right to enrol, the applicant can apply to the court of first instance, in which the association branch is located.

On 14 May 1992, the Ministry of the Interior issued a decision to classify LTDH as an association of a general nature, which meant that it had to accept almost any applying member. In practice, this could have led to the enrolment of a large number of regime loyalists and accordingly put an end to LTDH independent and critical positions. The LTDH was able to annul the ministerial decision (and again have the right to decide on who could become a member at will) at the Administrative Court on ground of its unconstitutionality, but it took the court four years to issue this verdict. Meanwhile the government continued to press the LTDH, preventing it from holding its annual congress. The fourth such meeting took place in 1994, but LTDH fifth congress had to wait till 2000, and even then, its resolutions were abolished by a court order. The court case followed a complaint by regime loyalists, who were members of the ruling party and claimed electoral irregularities were behind their failure to win seats on the LTDH board. The court froze LTDH operations and placed it under judicial control as of November 2001. The LTDH was thus prevented from convening its sixth congress and was entangled in court proceedings until 2009.<sup>41</sup>

The persecution of human rights activists intensified in the final years of the 2000s, especially after protests at Tunisia’s Mining Basin in 2008. A number of activists from various human rights organizations (LTDH, Liberty and Equality Organization, the National Council for Liberties, etc.) were held accountable and illegally investigated. Security authorities prevented local activists from contacting and dealing with regional and international organizations, as well as restricting activities of the latter in Tunisia. For example, Jalloul Azouna was interrogated in November 2009 after receiving a delegation from the Euro-Mediterranean Human Rights Network at his home. The delegation was harassed to prevent field work, meetings with rights activists or victims of violations.<sup>42</sup>

Unknown persons broke into and robbed the offices of human rights organizations and lawyers. In 2010, the LTDH main office was broken into and its central computer disappeared

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<sup>40</sup> Basic Law 25 for 1992 on 2 April 1992 to complement Law 154 of 1959 dated 7 November 1959 on Associations, p. 411.

<sup>41</sup> Omara Ben Romdhan, “LTDH”, Tunis: Mohamed Ali Elhami publishing house, 2011, p. 20 (Arabic)

<sup>42</sup> LTDH statement, “Assaults and persecutions of a number of human rights activists because of a visit by a Euromed delegation”, 17 November 2009, website of the Arabic Network for Human Rights Information (ANHRI) [www.anhri.net/tunisia/ltdh/2009/pr1117.shtml](http://www.anhri.net/tunisia/ltdh/2009/pr1117.shtml) (Arabic)

with the main storage unit.<sup>43</sup> Meanwhile, newspapers close to security agencies, launched a smear campaign against political and human rights activists accusing them of immorality, treason and serving foreign interests.

In addition to various forms of harassment by security agencies, the government restricted the funding for human rights organizations. Independent human rights organizations often resorted to foreign funding since, unlike other civil society organizations, they did not receive any state funding. But through the Central Bank, the government repeatedly froze their assets or stopped financial transfers. For example, on two occasions, a European Union grant was denied to LTDH, one for the establishment of a central legal documentation and counselling centre, and the other to fund LTDH branches.<sup>44</sup> The regime had long exploited foreign funding to discredit human rights organizations in the eyes of patriotic Tunisians. In a televised cabinet meeting in 2009, former President Ben Ali challenged the patriotism of human rights activists and accused them of distorting Tunisia's image abroad and hating their own country.<sup>45</sup>

## 2. How Other Organizations Joined the Struggle

In the early years of Ben Ali's regime, a group of Tunisian feminist activists challenged the state-sponsored National Women Union. They saw a linkage between the struggle for women's rights and democratization, when they went ahead in September 1989 and established the Tunisian Association of Democratic Women (ATFD), which considered "full and effective gender equality and equal opportunities an essential condition to achieving freedom, democracy and social justice. On the other hand, true democracy is the guarantee for public and private freedoms and the granting of rights and dignity in the private as well as public space."<sup>46</sup>

This strand of activism was born out of several feminist initiatives including the Women's Issues Study Group at the El-Taher Haddad cultural club, established in 1978, and a committee for the study of working women issues formed in the UGTT in 1982. The latter group issued "Women" magazine to raise awareness about feminist issues in 1983 and became active within the LTDH women's committee in 1985. ATFD founders were a mix of leftists; some independent and others belonged to the Communist Party. They were careful to separate their ATFD and political activities to ensure the independence of their association away from all political parties.<sup>47</sup> Still, the regime viewed them as political opponents since many of them had had a history of public political struggle. Among its objectives, the ATFD demanded separation of religion and state, thus also getting into an ideological confrontation with the Islamists. The ATFD worked more specifically to "combat patriarchy, eliminate all forms of

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<sup>43</sup> LTDH statement, "LTDH office subjected to raid and theft", 8 February 2010, ANHRI, available at [www.anhri.net/tunisia/ltdh/2010/pr0208.shtml](http://www.anhri.net/tunisia/ltdh/2010/pr0208.shtml) (Arabic)

<sup>44</sup> LTDH, *Annual Report 2003*, available in Arabic at [anhri.net/tunisia/ltdh/pr040000.shtml](http://anhri.net/tunisia/ltdh/pr040000.shtml)

<sup>45</sup> See the meeting video at [www.facebook.com/205911609426924/videos/1102538619764214/](https://www.facebook.com/205911609426924/videos/1102538619764214/)

<sup>46</sup> The ATFD website was available at [femmesdemocrates.org.tn/ar/](http://femmesdemocrates.org.tn/ar/) but it went offline before this paper was finalized. Some ATFD documents can be viewed at their FB page [www.facebook.com/femmesdemocrates](https://www.facebook.com/femmesdemocrates)

<sup>47</sup> Interview with Souad Triki, founder of ATFD, on 27 December 2016.

gender discrimination, combat all forms of violence against women and develop and disseminate a progressive secular feminist discourse in order to build Tunisia on the basis of dignity, freedom, democracy and social justice.” It also advocated equality in inheritance, women’s freedom to choose their partners in accordance with international conventions, which meant the possibility of marriage between a Muslim woman and a non-Muslim man, a choice that remains denied to almost all women in predominantly Muslim countries. In January 1989, these feminists founded the Tunisian Women’s Association for Development Research to produce critical and action-oriented research about the status of women in Tunisia and to support their active participation in development at political, economic, social and cultural levels.<sup>48</sup>

As of the late 1990s, several human rights organizations sprang up to fill the void left by an increasingly restrained LTDH and to monitor human rights violations, in particular torture, which became rampant, especially against Islamist activists in an increasingly repressive environment.

In 1998, the National Council for Liberties was established by former LTDH members, including Marzouki, Mustapha Ben Jaafar and Siham Ben Sedrine. Radhia Nasraoui, lawyer and wife of Tunisian Communist Party leader Hamma Hammami, founded the Tunisian Association against Torture in 2003. As for Islamists, they founded the International Organization for the Support of Political Prisoners in 2001. Among the founders was leader of Ennahdha movement and lawyer Samir Dilou. On his return to Tunisia in 2009, Mohamed Nouri, a member of the movement who lived in exile in France, founded *Huriya wa Insaf* (Liberty and Equality) organization.

In addition to organizations that were more concerned with documenting and exposing violations, and providing legal aid, Tunisia also started to tolerate regional and national organizations concerned with human rights research, training and education. Foremost among these was the Arab Institute for Human Rights (AIHR), which was established in 1989. These organizations enjoyed more freedom in their work as they do not work on documenting violations in a way that exposes the government’s responsibility or complicity.

The AIHR was the initiative of the LTDH, the Arab Lawyers Union, and the Arab Organization for Human Rights, in addition to assistance from the United Nations. In the context of the relative political opening at the beginning of Ben Ali’s rule, the AIHR was allowed together with branches for other Arab and international non-governmental organizations. The AIHR organized training courses and symposiums to raise awareness about human rights and teach skills necessary to work in this field. It also undertook research projects and provided researchers and activists with a specialized library containing books, periodicals, reports and UN documents on human rights. Despite the integration of the AIHR into the Tunisian human rights fabric, it maintained its Arab regional dimension. In addition to its headquarters in

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<sup>48</sup> See the organization’s website at [www.afturd-tunisie.org/a-propos/](http://www.afturd-tunisie.org/a-propos/)

Tunis, it kept branches in Cairo and Rabat and included in its scientific committee experts and human rights activists from various Arab countries.

The relative opening under Ben Ali also allowed the opening of an Amnesty International branch in Tunis in April 1988. The LTDH and ATFD joined the International Federation for Human Rights (FIDH). These steps and others enhanced networking among various human rights organizations working on Tunisia domestically and internationally.

### III. Transformations of Civil Society after 2011

After 14 January 2011, and the fall of Ben Ali's regime, a few human rights activists moved from opposition to direct political action in elected bodies, committees, councils and ministries. The following few years saw a dramatic legislative improvement with almost all universal freedoms and rights included in the 2014 Constitution. Torture, long an established practice by security forces in the country, ceased to be a systematic instrument. Nevertheless, several reports issued by local and international human rights organizations still indicated that much work remained to be done to ensure respect for human rights in Tunisia.<sup>49</sup>

The confusing overlap between the human rights and the political has been inevitable for the Tunisian human rights movement, and perhaps for all human rights action in countries that suffer from dictatorial regimes or lack a stable system of popular representation. In these cases, advocates for human rights are also necessarily opponents of the dictatorship and the regime it embodies. Also, the closure of political space drives those concerned with public issues to engage in and use the smaller spaces granted to civil society to work for their causes. This explains the return of Islamist and leftist human rights activists to the political field after 2011. Even some rights activists who never engaged in political action moved into politics after the fall of Ben Ali.

Meanwhile, new human rights organizations multiplied and became more varied bringing into the foreground issues related to economic, social and cultural rights as well as the rights of marginalized groups and minorities.

#### 1. Human Rights Activists: From Opposition to Power

The seats shifted dramatically after 2011 with yesterday's victims moving into positions of power, including ministerial positions and the presidential palace. It started with the High Commission to Achieve the Objectives of the Revolution, Political Reform and Democratic Transition,<sup>50</sup> which included several human rights activists, either as public figures or

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<sup>49</sup> See LTDH Freedoms Monitor, "Freedoms in Tunisia: two years after the Elections from October 2011 to October 2013", and Human Rights Watch, *World Report 2016*, Chapter on Tunisia, available at [bit.ly/2fiKGNn](http://bit.ly/2fiKGNn), and Euro-Mediterranean Human Rights Centre, "250 Cases of Torture and Maltreatment in Prisons and Detention Centres in Tunisia", 8 May 2016, available at [bit.ly/2t0O9WH](http://bit.ly/2t0O9WH)

<sup>50</sup> On 17 January 2011 Law Professor Ayad Ben Ashour was appointed to form a committee on political reforms to prepare for presidential and legislative elections after the fall of Ben Ali few days earlier. The committee included about 16 experts in law and political sciences. It quickly evolved into the High Commission taking in 150

representing their own organizations. The High Commission was the institution that brought together representatives of various political and ideological circles to develop legal mechanisms for peaceful democratic transition (electoral law, press law, political party law, and associations law).

The High Commission represented a negotiating ground for the various actors, both from civil society and the political and business community. The LTDH, ATFD, the Tunisian Women's Association for Development Research, the National Council for Liberties in Tunisia, the International Association for the Support of Political Prisoners and *Hurriya wa Insaf* all became members of the High Commission. This allowed a large number of human rights activists to join government bodies either in their individual capacity as public figures or as representatives of their organizations. For example, Kamal Jendoubi<sup>51</sup> participated as a representative of one of the organizations of Tunisians abroad, while Ali Ben Salem<sup>52</sup> represented the Association of Veterans of Resistance.<sup>53</sup> LTDH president Abdel Sattar Ben Mousa, AIHR president Abdel Basset Ben Hassan, and ATFD president Ahlem Belhadj, all joined the High Commission as public figures.

Other government institutions also included human rights defenders. Taoufik Bouderbala, former LTDH member, was appointed head of the National Fact-Finding Commission on Abuses and Violations in January 2011.<sup>54</sup> Among the members of the same committee were Bochra Belhaj Hmida, former ATFD president, Hayat al-Wartani and Charifa Tilli, members of the same association, and Abderrahmane Hedhili, LTDH board member, and Salah Eddine Jouchi, also from the League. Siham Ben Sedrine, former president of the National Council for Liberties, became chairperson of the Truth and Dignity Commission in 2013. Among members of the Independent High Commission for Audio-visual Communication was Hisham Senoussi, the North Africa representative of Article 19.

A number of human rights advocates took part in the legislative elections in 2014 on party lists such as Bochra Belhaj Hmida, who was nominated on a Neda'a Tunis list, Ali Ben Salem, who ran for the same party in Bizerte, and Samir Dieou, former President of the International Organization for the Defence of Political Prisoners, on the Ennahdha list in Bizerte, too.

Marzouki, LTDH former president, became the first elected president of the country after the fall of Ben Ali and remained in office till 2014 after he re-energized the Congress Party for the

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additional members representing political parties, CSOs and public figures. See Decree No. 6 on 18 February 2016 for the decision to establish the commission.

<sup>51</sup> Jendoubi is a human rights activist who lived in exile in Paris, where he graduated from a business institute. He had chaired the Euro-Mediterranean Organization for Human Rights since 2003. In 2011, he chaired the Independent Electoral Committee and in 2014 he was appointed as minister in charge of relations with civil society in the Habib Essid cabinet and served till 2016.

<sup>52</sup> Head of the LTDH branch in Bizerte and a parliamentarian, who was detained and tortured in the early 1960s after being suspected in a coup attempt.

<sup>53</sup> This organization now includes a small number of veteran anti-French resistance fighters.

<sup>54</sup> This was one of three committees formed immediately after Ben Ali's fall. The other two were the Political Reform Committee led by Ben Ashour and the National Commission of Inquiry on Corruption and Bribery, led by Abdel Fattah Ammar

Republic and chaired it until his success in the elections. Dilou was appointed Minister of Human Rights and Transitional Justice under the Troika Government.<sup>55</sup> Abdelkarim Harouni, former member of the board of *Hurriyat wa Insaf* became Minister of Transport under the same government; while Mustapha Ben Jaafar, co-founder of LTDH and chair of the Alliance party for Labour and Freedoms became head of the National Constituent Assembly (2011-2014).

The performance of these activists varied toward human rights issues when they assumed office but with the majority giving priority to their political party prerogatives and strategic objectives. Thus, despite the large number of human rights activists in the corridors of power, violations continued, though far less systematically. For example, security forces shot heavily at protest marches in Siliana town and in Tunis in 2012 while two young Salafis died in detention after a protracted hunger strike in 2013.<sup>56</sup> On the other hand, the performance of some activists, who did not have partisan affiliations before 2011, was not supportive enough of some human rights issues, especially with regard to socially sensitive rights such as the rights of sexual minorities.<sup>57</sup>

On the other hand, the presence of human rights activists in some positions was positive. That was especially the case within the High Commission to Achieve the Objectives of the Revolution, Political Reform and Democratic Transition, and inside the High Commission for Fundamental Human Rights and Freedoms. The former commission drafted the most important legal texts that opened up the political life after 2011. Hafidha Chekir, an ATFD founding member and member of the panel of experts on the taskforce formed by the High Commission for Electoral Planning, managed to include an equitable quota system for women in the electoral lists. A number of rights activists worked within the High Commission for Fundamental Human Rights and Freedoms in their personal capacity or as representatives of their respective organizations, including Abderrahman Hedhili (LTDH), Souad Triki (ATFD), Rami El-Salhi (Euro-Mediterranean Human Rights Network), as well as the Tunisian Association Against Torture, ATFD and the National Union of Journalists in their organizational capacity. Members of the taskforce worked to produce a new, more effective Basic Law on Rights and Freedoms.<sup>58</sup>

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<sup>55</sup> The Troika was formed after the 2011 elections of the National Constituent Assembly and ruled till 2014. It included Ennahdha Movement, the Congress Party for the Republic and the Party for Labour and Freedoms.

<sup>56</sup> Mohammed al-Bakhti and al-Bashir al-Qali were members of a Salafi group suspected of attacking the US Embassy in Tunis on 12 September 2012 in a protest against an American film that ridiculed prophet Mohammed. The detainees entered a hunger strike to protest prison conditions and long incarceration without charges. Bakhti and Qali's health deteriorated and they died. In Silliana, the police shot at demonstrators protesting against unemployment and poverty on 27 November 2012. Many civilians sustained eye and other injuries. Interior Minister Ali Laarayedh claimed in a Parliamentary hearing that birdshots were used for self-defence against stone-throwing demonstrators. Samir Dilou, Minister of Human Rights and Transitional Justice, said security forces acted legally. He was kicked out of hospital when he tried to visit the injured protesters.

<sup>57</sup> Shams Society, which defends sexual minorities, did not find the support expected from human rights advocates who became MPs nor from Kemal Jendoubi, Minister of Relations with Civil Society, when they faced a registration problem. Interview with Hadi Bouhadid, Shams board member and spokesperson, 28 December 2016 .

<sup>58</sup> Interview with Souad Triki, ATFD founding member and current member of the High Commission for Fundamental Human Rights and Freedoms, on 27 December 2016.

## 2. Diversity of Human Rights Organizations

According to official registration statistics in 2017, there are about 21,000 associations or NGOs in Tunisia, of which at least 350 work on human rights.<sup>59</sup> According to a study conducted by the National Observatory - Elaph on associations after the revolution, human rights associations represented 28% of all NGOs.<sup>60</sup> The database of the AIHR lists 856 organizations active in the field of human rights throughout the country.<sup>61</sup> This disparity in numbers may be attributed to the varying definitions of human rights work and the different periods of data collection, but they all point to a large and sustained increase in the number of rights organizations after the revolution.

The scope of human rights activism also expanded after 2011 to include rights that had not received much attention before, such as the rights of sexual, racial and religious minorities. Identity politics and debates were foregrounded after the revolution with traditionalists and Islamists positing an “Arab Islamic identity” and labelling the rest as secularists or even “anti-Islam” or anti-Arab. In this context, the issues of diversity were discussed in a hostile and volatile atmosphere loaded with assumptions as well as offensive and defensive dynamics on religion, race and sexuality. These debates helped show the fallacy of a presumed homogeneity of the Tunisian society with minorities speaking up and demanding respect for their collective and individual rights, some through organized NGOs.

Although the issue of homosexuality, or non-heterosexual identities at large, has been the subject of public debate since 2011 when some Islamists used the label to smear leftist candidates in the elections of the National Constituent Assembly, the first association to defend LGBTQ rights did not appear till 2015. *Shams* (Sun in Arabic) was established under the old association law, thus it needed a license, which was not granted. After heated public controversy, a court order suspended *Shams* activities in early 2016 for a month following a complaint by the government that it had been “misinformed [by *Shams*] ... when submitting its application.”<sup>62</sup> Its members were also subjected to harassment and violent attacks, driving some of them to attempt suicide or leave the country. However, *Shams*, whose ultimate objective is to decriminalize homosexuality through removing Article 230 of the Penal Code, continued to be active well into 2017 and seems to slowly have more support and social acceptance.<sup>63</sup> Advocates of bodily integrity in the human rights community expanded their work from a focus on combating torture and documenting bodily violations against detainees

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<sup>59</sup> Statistics published by the Center for Information, Training, Studies and Documentation on Associations, available at [www.ifeda.org.tn/stats/arabe.pdf](http://www.ifeda.org.tn/stats/arabe.pdf)

<sup>60</sup> Yasin El Attawi, “Elaph National Monitor Presents a Study on Post-revolution Tunisian NGOs”, Tunis Arrakmia, 19 April 2013, available in Arabic at [bit.ly/2vXXBi3](http://bit.ly/2vXXBi3)

<sup>61</sup> See AIHR website at [www.aihr-iadh.org/](http://www.aihr-iadh.org/)

<sup>62</sup> For details on the case, see HRW, “Tunis: LGBT Group Suspended”, 16 January 2016, available at [bit.ly/1n0KbZi](http://bit.ly/1n0KbZi), and for government spokesman statements see (in Arabic) [bit.ly/2jnkLbV](http://bit.ly/2jnkLbV)

<sup>63</sup> See “Shams Vice-president Attempts Suicide”, 11 July 2016, available in Arabic at [bit.ly/2xy5FqI](http://bit.ly/2xy5FqI) and Ossama Hamraoui, “After Fleeing to France, a Shams VP Says Everybody Threatened to Kill Him in Tunisia”, 27 July 2017, available in Arabic at [bit.ly/2h1kqL9](http://bit.ly/2h1kqL9). Check *Shams* FB page at [www.facebook.com/lgbtrightstunisia/](http://www.facebook.com/lgbtrightstunisia/)

to include other degrading treatment such as forced anal examination used by interrogators to prove the charge of “sodomy”. These examinations constitute a form of torture or cruel, degrading, and inhuman treatment, prohibited under the Convention against Torture, the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples’ Rights.<sup>64</sup>

Although Chapter VI of the 2014 Constitution provides for religious freedoms, especially freedom of belief, certain Tunisians are still unable to express their religious choices freely such as Bahá’í, Shiite or those who do not want to abide by certain social or religious customs such as Ramadan fasting in public. For example, the government refused to permit a Baha’i group to establish an association in 2011 on the grounds that the group was named the “Bahá’í Assembly”.<sup>65</sup> Shiite associations became active after 2011 and demanded permission to proselytize and hold their religious rites. Despite the absence of a legal provision criminalizing apostasy or conversion of religion, like other Arab countries, those who convert to Christianity in Tunisia do not dare to profess their religious choices openly in view of the expected social pressure in this regard. Also, public declaration of atheism is not possible because of expected violent reaction. A good example for the complexity and sensitivity of this issue was the attack by a Salafi group on a movie theatre for showing Nadia El Fani’s “Neither God, nor My Master” in 2011.<sup>66</sup>

As for ethnic minorities, at least 10 Amazigh associations have been established between 2011 and early 2017, mostly focusing on cultural activities, language, and advocacy for the recognition of their cultural specificity as the indigenous population of the country. Their publications use a rights-based discourse, call for legal equality, economic development, and demand recognition of their culture and language in educational institutions and curriculums. Meanwhile, the nearly one million dark skinned Tunisians have started to demand equality and fight discrimination after the 2011 revolution, exposing in campaigns and publications how they had been badly treated and discriminated against in daily interactions and in the mass media. They organized sit-ins and established two societies: “Manamti” (‘My Dream’ in

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<sup>64</sup> HRW, “Tunisia: Men Prosecuted for Homosexuality”, 29 March 2016, available at [bit.ly/2toBqjx](http://bit.ly/2toBqjx)

<sup>65</sup> There have been Bahá’í in Tunisia since the early 1920s. The post-colonial state ignored the group leaving the Bahá’í assembly in Tunis open until 1984 when it was closed after a hostile security and media campaign. The government reversed position in the early 2000s and allowed the community to have some administrative associations but without a legal recognition. A Bahá’í society applied for a licence under the old law that required government permission. See Ahmad Nazif, “The Baha’is of Tunisia: Seeking Recognition”, *Rasif22*, 7 May 2016, available in Arabic at [bit.ly/2eW1etX](http://bit.ly/2eW1etX)

<sup>66</sup> On 26 June 2011, a group of Salafis attacked a movie theatre that was to show “Neither God, not my Master” (the original title, “Secular if God wills”), raising Islamic slogans and attacking atheism. The documentary was filmed in Ramadan 2010 in Tunisia, including cafes for those who were not fasting. Through this work, the director wanted to show that Tunisia was a country of coexistence and that everyone has the right to choose their beliefs and to practice their freedoms without fear. It seems that opponents of the film and critics of its director understood through the title that it was an invitation to atheism and an assault on Islam. They demanded El Fani be stripped of her Tunisian citizenship. See “Nadia El Fani Comments on the Suspension of her Movie”, *Sanad*, 28 June 2011, available in Arabic at [www.sanadfilmfund.com/ar/archive/2011/2011-06-28](http://www.sanadfilmfund.com/ar/archive/2011/2011-06-28)

colloquial Tunisian Arabic) and “Adam Society for Equality and Development” to struggle against racial discrimination. Activists are working to enact an anti-discrimination law.<sup>67</sup>

Advocacy for economic rights has expectedly become much more significant after the 2011 revolution, which was undeniably rooted in grievances related to unemployment, poverty, corruption and inequalities. The unemployed youth, working through many associations, pressed for jobs especially for the educated and university graduates.<sup>68</sup> Formal and loose groups were established to monitor and advocate on socio-economic issues. Among the leading conventional ones is the Forum on Economic and Social Rights or Le Forum Tunisien pour les Droits Economiques et Sociaux (FTDES), which publishes periodic reports on economic and social conditions and monitors and supports labour and social movements and action in various areas, especially the least developed and poorer southern provinces. FTDES is led by Hedhili, a leftist rights advocate for decades who had long worked within the LTDH. Among the leading unconventional organizations is *I Watch* which focusses on transparency, fighting corruption, observing elections, parliamentary performance, and legislations. The organization uses social media extensively for lobbying, mobilization and advocacy. It played a significant role to block a bill for reconciliation in major pre-2011 corruption cases. Unlike most other Tunisian NGOs, *I Watch* publishes its budgets and sources of funding in detail regularly on its website.<sup>69</sup>

In the various provinces, several human rights associations were formed in different fields to serve children, the disabled and work for the right to development, etc. There is hardly a province in the country that does not have such associations.

## Conclusion – The Future of Tunisia’s Human Rights Movement: Opportunities and Challenges

The Tunisian human rights movement has achieved multiple gains over 40 years of struggle, not least its survival under many years of dark authoritarian conditions. Joining the ranks of the movement, protected by them and leaving them have been some of the most prominent political figures who contributed to the shaping of the Tunisian state and society after the

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<sup>67</sup> On the Amazigh in Tunisia check the UN Commission on Economic, Social and Cultural Rights, “Concluding Remarks on the third periodic report for Tunisia,” 14 November 2016, available in French and Arabic at [bit.ly/2x3aSmS](http://bit.ly/2x3aSmS) and see Amal Al-Hilali, “After 1000 Years of Arabization, Has Tunisia Denied its Amazigh Culture?,” *Huffington Post*, 19 October 2016, available in Arabic at [bit.ly/2x50Gfh](http://bit.ly/2x50Gfh), and on discrimination against dark-skinned Tunisians, see Naila Al-Hami, “Racial Discrimination in Tunisia, the Shameful Secret,” *Ultra Sawt*, 24 March 2016, available in Arabic at [bit.ly/2y5DxYl](http://bit.ly/2y5DxYl)

<sup>68</sup> There are several national and provincial organizations as well as social media platforms for the unemployed such as the Union of Unemployed Graduates or *Union des Diplômés Chômeurs* (UDC) (see [bit.ly/2x4k8Y7](http://bit.ly/2x4k8Y7)). Unemployment in Tunisia hit 15.3% or more than 626,000 people according to the National Institute of Statistics (see [bit.ly/2y2SPwy](http://bit.ly/2y2SPwy) for unemployment figures in the second quarter of 2017). Unemployment levels had been almost stable for the previous two years but with dramatic differences between the sexes (more unemployed females), geographically (where unemployment hits 25% in southern provinces and dips to 10% in the northwest), while unemployment among university graduates rises to 28%.

<sup>69</sup> Check FTDES website at [ftdes.net/ar/](http://ftdes.net/ar/) and *I Watch* at [www.iwatch.tn/ar/](http://www.iwatch.tn/ar/)

January 2011 revolution and the fall of the Ben Ali regime. During the post-revolution years, a large number of associations appeared and used a rights discourse in advocacy, mobilization and documentation, working on various social, economic and cultural causes such as unemployment, non-discrimination for sexual and ethnic minorities, development and fighting corruption. Older organizations continued to work while international and regional associations became more active through branches or new offices as Tunisia became probably the only Arab country where foreign and regional rights organization can register relatively quickly and work freely.<sup>70</sup>

However, the movement faces a number of old and new challenges:

- The overlap of political and human rights activism (whether directly through vying for power or holding political positions or engaging in conflicts within or between organizations because of political affiliation). This overlap undermines human rights activism and weakens coordination and cooperation among rights organizations. There is an urgent need for clearer and more public positions on the relationship between human rights activism and the engagement in politics, including direct conflicts over power and executive positions. There is also a need to examine the difference between human rights actors engaging in politics for human right to achieve certain public gains for the movement, on the one hand, and politics of human rights where the actors become primarily a part of the ruling regime (as individuals or as organizations).<sup>71</sup> Finally, there is a need for a clearer articulation or recognition of the inevitable ambiguity of the relationship between human rights actors and other components of civil society and the political community (blue and white collar trade unions, political parties and the media).
- There is something akin to a generational gap, where fewer young people work in the traditional rights organizations, while a majority of them prefer to engage in or create new organizations or networks or work in branches of international organizations in Tunisia.
- Terrorist acts also constitute a major challenge to the human rights movement, especially with the tendency of governments and security agencies around the world, including Tunisia, to invoke security considerations in order to restrict rights in general and the rights of terrorism suspects in particular. This reinstates the argument used by former President Ben Ali for years to suppress Islamists and to restrict political and personal freedoms.
- The Tunisian human rights community faces a set of challenges related to internal governance, decision-making, financing (domestic and foreign), open membership (as opposed to closed professional organizations) and professionalism (for example, developing and stabilizing internal administrative and financial systems). For

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<sup>70</sup> Tunis has regional and country offices for several organizations including Amnesty International, Human Rights Watch, Euro-Mediterranean Human Rights Network, the International Federation for Human Rights, and the Cairo Institute for Human Rights Studies.

<sup>71</sup> The best differentiation between the two approaches is explained by Upendra Baxi in his book, *The Future of Human Rights*, New Delhi: Oxford University Press, 2002.

example, in 2015 and 2016, several organizations began to suffer a dramatic decrease in foreign funding and had to reduce their activities. Although there is often no ideal way to build an exemplary human rights organization, these challenges related to governance, transparency, funding and sustainability call for new approaches to enhance and increase the impact of human rights action.<sup>72</sup>

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<sup>72</sup> Five separate research papers will be released by the Arab Reform Initiative as part of the project on the Future of Human Rights Action in North Africa before the end of 2017. These papers will address some of these internal and external challenges in Tunisia.

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### **ABOUT ARI**

The Arab Reform Initiative is the leading independent Arab think tank working with expert partners in the Middle East and North Africa and beyond to articulate a home-grown agenda for democratic change. It conducts research and policy analysis and provides a platform for inspirational voices based on the principles of diversity, impartiality and social justice.

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