

Celebrating the first bloom of the Arab Spring: Success in the Tunisian constitution-making process

28 January 2014

On 27 January 2014, the new Constitution of Tunisia was adopted by an overwhelming majority of the country's National Constituent Assembly, marking a historic moment for Tunisia. This is the country's first democratic constitution and opens a new chapter in the country's democratic transition.

The new Constitution has been hailed as a landmark document in the region, not only for its progressive approach to religion and the state, but also its strong commitment to human rights and the promotion of gender equality.

Despite a complex and sometimes volatile political landscape, the constitutional process has also been hailed for having produced a document with genuine buy-in from across the country and its various political and ideological formations, through a peaceful and inclusive process.

BACKGROUND:

Following the revolution of December 2010 – January 2011, Tunisia started on its journey towards constitutional democracy. In March 2011, the interim Government announced elections for a National Constituent Assembly (NCA) that would be responsible for drafting a new Constitution. Those historic elections, widely considered to be free and independent, were held on 23 October 2011, and resulted in the 217-member NCA.

On 10 December 2011, the NCA adopted a Provisional Constitution, which has been guiding the process since. Constitutional drafting was initially envisaged to last one year, but the process of drafting and approving a new constitution took longer than anticipated. It was buffeted by two political assassinations, rising insecurity, and economic recession, as well as political divisions that at times threatened to derail the process.

Significantly however, the Tunisian people and their representatives remained committed throughout the process to consensus and to ensuring that the sacrifices of the revolution were rewarded through a new political dispensation that reflected the Tunisian people's call for democratic rights and respect for human dignity.

UNDP SUPPORT:

Throughout the transition process, UNDP has been Tunisia's main international partner in providing support to the constitutional process and capacity development to the new Assembly.

UNDP's Constitutional Support Project (2012-15) was designed in response to the fluid national political context. It is supported with funding of \$18 million from Japan, Belgium, the European Union, Sweden, Denmark, Norway, and Switzerland, as well as UNDP's Bureau for Crisis Prevention and Recovery in recognition of the core importance of the constitutional process to peace-building in Tunisia.

The project prioritized support to the National Constituent Assembly in three key areas:

1. Support to the NCA to organize an open and participatory constitutional process

Over the course of the drafting process from 2012-2013, UNDP provided wide-ranging support to the constitutional process. Throughout, UNDP responded quickly with high-level international constitutional expertise when requested by the Assembly, including by tapping the expertise of other UN agencies.

At the request of the NCA Speaker Mustafa Ben Jaafar, UNDP provided in-depth technical expertise on constitutional and legal provisions that were subject to intense negotiations during the “National Dialogue”, which aimed at resolving the political deadlock that occurred from July to December 2013.

UNDP collaborated closely with other UN agencies to develop recommendations on how to ensure the constitution conformed with Tunisia’s international human rights commitments. Successive constitutional drafts have progressively strengthened human rights protections.

UNDP also worked to ensure gender issues and women’s equality were promoted during the constitutional process, benefiting also from the expertise of UNWomen. UNDP helped communicate international good practice on gender equality, quotas, and constitutionalization of equality provisions. This included sponsoring a South-South exchange in 2012 that brought South African women MPs to Tunis to share their experiences on the democratic transition in South Africa.

2. Development of constitutional dialogue mechanisms, including at local and national level, in order to ensure citizen and civil society input into constitutional and political process

UNDP supported a nationwide dialogue between NCA members and citizens and civil society organizations in all 24 of Tunisia’s governorates, involving 80 Assembly deputies, with training provided both in legislative and constitutional drafting, and in public consultation techniques.

Over 6000 citizens, 300 civil society organizations, and 320 university representatives provided input during the dialogue. A report on the impact of the nationwide dialogue on the constitutional process was presented to NCA members in June 2013, and discussed in plenary session. Furthermore, over 300 participants including 40 Assembly members took part in activities fostering constitutionalization of gender equality and the political participation of women.

UNDP also provided extensive support to build the capacity of Tunisia’s fledgling civil society sector to participate in the political process, in relation to both constitutional drafting as well as local and national policy advocacy. UNDP supported 140 civil society development projects focused on marginalized regions of the country. Special emphasis was given to developing consensus building skills and strategies for preventing violence.

30,651 citizens were consulted on the draft Constitution through civil society initiatives supported by UNDP. A national survey of 1100 youth provided detailed information on the desires and expectations of Tunisian youth; the segment of the population whose exclusion sparked the 2011 revolution.

3. Strengthening of institutional capacities of the NCA to undertake law-making, oversight and representation

The new Constitution will grant Parliament considerable powers. With that in mind, while engaging on the short-term constitutional reform process, UNDP also focused on long-term activities to build an effective and efficient parliament, in order to ensure successful constitutional implementation.

UNDP prioritised South-South parliamentary assistance, and focused on building partnerships with sister parliaments in established democracies to develop understanding of parliamentary and democratic good practice. Collaboration was supported with legislatures in Belgium, Lebanon, Switzerland, Denmark, Portugal, South Africa, Canada, France and the European Union.

UNDP also developed a strategy for capacity building activities directly aimed at elected members of the NCA, as well as staff of the NCA secretariat. Seminars – including one on the role of the opposition led by UNDP’s New York-based Advisor, Parliamentary Development - and study trips familiarized parliamentarians with the effective functioning of democratic and pluralist parliaments. NCA staff members were also trained on financial management, protocol, parliamentary security and information management through the development of sustainable partnerships with similar parliamentary departments abroad.

In an effort to promote public transparency during this tumultuous period from autocracy to open democracy, significant investments were also made in information infrastructure. This work aimed to enable the Assembly’s activities to be carried out transparently and to promote interaction with the population through real-time web broadcasting, a modern media centre, and tools such as electronic voting.

More detailed information is available from the UNDP project supporting the constitutional process, parliamentary strengthening, and national dialogue: Mounir Tabet, UN Resident Coordinator, UNDP Resident Representative, Tunisia, Jonathan Murphy, Chief Technical Advisor, UNDP Tunisia, jonathan.murphy@undp.org; Olivier Pierre-Louveaux, Parliamentary Development and Constitutional Expert, UNDP Tunisia, olivier.louveaux@undp.org.

Source: UNDP Democratic Governance Practice Network dated 28 January 2014