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الدورة الثانية والعشرون

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية بحالة المدافعين عن حقوق الإنسان، مارغريت سيكاغيا

إضافة

البعثة إلى تونس (٢٧ أيلول/سبتمبر - ٥ تشرين الأول/أكتوبر ٢٠١٢)*

موجز

قامت المقررة الخاصة المعنية بحالة المدافعين عن حقوق الإنسان بزيارة رسمية إلى تونس في الفترة من ٢٧ أيلول/سبتمبر إلى ٥ تشرين الأول/أكتوبر ٢٠١٢، اجتمعت خلالها بكبار المسؤولين والمدافعين عن حقوق الإنسان.

وتبيّن المقررة الخاصة في هذا التقرير الإطار القانوني والمؤسسي لتعزيز حقوق الإنسان وحمايتها في تونس. ثم تناول بالتفصيل الوضع الحالي الذي يواجهه المدافعون عن حقوق الإنسان في تونس أثناء قيامهم بأنشطتهم المشروعة، بمن فيهم أعضاء جمعيات حقوق الإنسان، والصحافيون والعاملون في وسائل الإعلام؛ والمدافعون عن حقوق المرأة، والفنانون والعاملون في القطاع الثقافي، والجامعيون، والمدافعون عن الحقوق الاقتصادية والاجتماعية والثقافية، والمحامون والقضاة، وضحايا الثورة. وما زال المدافعون عن حقوق الإنسان يتعرضون لمخاطر الاغتيالات والتهديدات بالقتل والاعتداءات البدنية واللفظية والوصم والمضايقة القضائية.

* يعمّم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعمّم باللغة التي قدّم بها وبالفرنسية فقط.

وتحلل المقررة الخاصة بعد ذلك التحديات الرئيسية التي يواجهها المدافعون عن حقوق الإنسان، ومن جملتها الإفلات من العقاب على الانتهاكات المرتكبة بحقهم وانعدام تدابير الحماية من هذه الانتهاكات، والقيود غير المشروعة المفروضة على ممارسة الحقوق الأساسية، والتجريم، وقدرة الأطراف الفاعلة في المجتمع المدني والتنسيق بينها ووصم المدافعين عن حقوق الإنسان.

وتختتم المقررة الخاصة التقرير بتقديم توصيات لينظر فيها جميع أصحاب المصلحة.

Annex

[English and French only]

Report of the Special Rapporteur on the situation of human rights defenders on her mission to Tunisia (27 September–5 October 2012)

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I. Introduction

1. Pursuant to Human Rights Council resolutions 7/8 and 16/5, the Special Rapporteur on the situation of human rights defenders conducted an official visit to Tunisia from 27 September to 5 October 2012, at the invitation of the Government. The visit was conducted jointly with the Special Rapporteur on Human Rights Defenders of the African Commission on Human and Peoples' Rights. The views presented in the current report belong solely to the United Nations Special Rapporteur on the situation of human rights defenders. The Special Rapporteur of the African Commission will present her views in a separate report.

2. The purpose of the visit was to assess the situation of human rights defenders in Tunisia in the light of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly in its resolution 53/144. An examination of the legal framework in the country, institutional policies and mechanisms for the promotion and protection of human rights were of particular importance to this assessment.

3. During her visit, the Special Rapporteur had the chance to meet with the Chair of the Rights and Liberties Commission within the National Constituent Assembly, the Minister for Human Rights and Transitional Justice, the Minister of Justice, the Minister of Social Affairs, the Secretary of State of the Ministry of Finance, the Secretary of State in charge of reforms of the Ministry of the Interior and the Chief of Cabinet at the Ministry of Foreign Affairs. She met the President of the Higher Committee for Human Rights and Fundamental Freedoms, the country's national human rights institution. Furthermore, the First President and the Chief Prosecutor of the Court of Cassation shared their experiences with the Special Rapporteur. Besides Tunis, she travelled to El Kef and Sidi Bouzid, and in both places she met the Governor, senior officials from the municipality and the chiefs of police and the National Guard. She met with a broad range of civil society representatives in Tunis, Jendouba, El Kef and Sidi Bouzid during her visit. She also held meetings with the United Nations country team, including the Resident Coordinator, and members of the diplomatic corps. She would like to thank everyone who took the time to meet with her and shared their valuable and important experiences.

4. The Special Rapporteur thanks the Government of Tunisia for extending an invitation to her and for its cooperation throughout the visit. The Special Rapporteur also expresses her appreciation to the Office of the United Nations Resident Coordinator and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Tunisia for their excellent support in the preparation of and during the visit.

II. Background

5. Decades of denial of basic rights, corruption, economic inequality and a sense of injustice all gave rise to the revolution that began on 17 December 2010. On that day, Mohamed Bouazizi, a 26-year-old vegetable-seller from Sidi Bouzid, self-immolated in front of a local state office to protest at the Government's confiscation of his produce and denial of a livelihood. His subsequent death was the catalyst for protests in Sidi Bouzid and in neighbouring Kasserine, regions widely affected by youth unemployment. The protests gained impetus and quickly spread to other cities, in large part due to digital activists who, despite the Government imposing Internet censorship, used social media to disseminate real-time images of and information on the protests. Tunisian men and women from

different social classes, ages and political beliefs identified with the sense of humiliation and lack of recourse embodied by Mohamed Bouazizi's act.

6. Trade and student unions, notably the Tunisian General Labour Union and the General Union of Tunisian Students, political activists, lawyers of the Bar Association and human rights defenders joined and transformed early spontaneous protests into organized and sustained social action, helping them to spread to all parts of society and the country. As noted by the report of the OHCHR Assessment Mission to Tunisia in 2011,¹ the protests were peaceful in nature, with violence emanating from security forces and armed militia rather than protesters. Live ammunition and tear gas were used against peaceful protesters, with an estimated 147 civilians killed and 510 civilians injured between 17 December 2010 and 14 January 2011, according to reports received by the United Nations. As noted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in his report on Tunisia (A/HRC/19/61/Add.1), several human rights organizations in Tunisia have reported a much higher number of killings (ibid., para. 37).

7. On 13 January 2011, then President Ben Ali made a televised speech in which he promised full press freedom and confirmed that he would not stand for election in 2014. The protests persisted nonetheless and culminated in the departure of President Ben Ali on 14 January 2011.

8. Following the fall of Ben Ali, two interim Governments quickly succeeded one another. A third interim Government was formed on 7 March 2011 that pledged to organize the transparent election of a 217-seat National Constituent Assembly mandated to draft a new constitution and name a new interim government. Elections were held on 23 October 2011, in which the Islamist party Ennahda received the greatest number of votes and formed a ruling coalition known as the Troika with two other parties. During Ben Ali's rule, Ennahda was deemed a "terrorist organization" and had operated in exile in London. The previous parliament was suspended on 9 March 2011 and the ruling Constitutional Democratic Rally party was dissolved.

9. The interim Government legalized all political parties, granted passports to Tunisians in exile and allowed the return of exiled Tunisian opposition figures. By July 2011, there were more than 80 officially registered political parties, according to the United Nations High Commissioner for Human Rights,² compared to seven before the revolution. The Higher Authority for the Achievement of the Objectives of the Revolution, Political Reforms and Democratic Transition was assigned the task of revising regulations and laws related to the democratic transition. In February 2011, a general amnesty law allowing for the release of more than 500 political prisoners was adopted.

10. Tunisia is currently undergoing a transition period. A number of new laws have been enacted to respond to the key demand for increased respect for the exercise of basic human rights. The drafting of the new constitution is being closely followed by many segments of Tunisian society, amid considerable expectations for a future involving increased respect for civil, political, economic, social and cultural rights.

¹ OHCHR, Report of the OHCHR Assessment Mission to Tunisia: 26 January–2 February 2011.

² Statement by the High Commissioner for Human Rights to mark the opening of the United Nations Human Rights Office in Tunisia, 14 July 2011. Available from: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11239&LangID=E..

III. Legal framework for the promotion and protection of human rights

A. International level

11. As at October 2012, Tunisia is party to the International Convention on the Elimination of All Forms of Racial Discrimination (ratified 1967) the International Covenant on Civil and Political Rights (1969), including the First Optional Protocol thereto (2011); the International Covenant on Economic, Social and Cultural Rights (1969); the Convention on the Elimination of All Forms of Discrimination against Women (1985), including the Optional Protocol thereto (2008); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1988), including the Optional Protocol thereto (2011); the Convention on the Rights of the Child (1992), including two Optional Protocols thereto (2003 and 2002, respectively); the Convention on the Rights of Persons with Disabilities (2008), including the Optional Protocol thereto (2008); and the International Convention for the Protection of All Persons from Enforced Disappearance (2011).

12. The Special Rapporteur notes that Tunisia is not yet party to the Second Optional Protocol to the International Covenant on Civil and Political Rights; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. She applauds the decision of the interim Council of Ministers of 16 August 2011 to lift the majority of the reservations of Tunisia to the Convention on the Elimination of All Forms of Discrimination against Women and calls on the Government to ensure that this decision is formalized without delay. She is happy to note that on 24 June 2011 Tunisia ratified the Rome Statute of the International Criminal Court.

13. Under the Constitution of 1959, currently suspended as a result of Constitutional Act 2011-6 coming into effect, the country's international obligations took precedence over domestic law (art. 32). The Special Rapporteur is concerned about the unclear status of international obligations given the current legislative context in Tunisia regulated by Constitutional Act 2011-6 on the provisional organization of public authorities.

B. Domestic level

14. In this section, the Special Rapporteur provides observations on domestic legislation deemed to have an impact on the situation of human rights defenders in Tunisia.

1. Constitution

15. The Constitution of 1959 was suspended after the revolution and Constitutional Act 2011-6 is the legislative text currently governing the organization and execution of public authorities in Tunisia.

16. The National Constituent Assembly started drafting a new constitution in February 2012. A preliminary draft was published on 13 August 2012 and has sparked widespread and often heated discussion throughout Tunisia. Below the Special Rapporteur provides observations on the current draft, while emphasizing that the version she has seen is preliminary.

17. Under article 1.17, the country's obligations under international law are conditioned by the fact that respecting them is compulsory as long as they do not contradict the constitution. The Special Rapporteur believes this is insufficient to uphold the country's

international obligations. The constitution should stipulate that all domestic legislation must be in compliance with international standards. Human rights defenders by definition work to ensure increased respect for international human rights standards and their role could be seriously undermined if the current provisions remain unchanged.

18. Article 2.3 of the preliminary draft endorses freedom of belief and worship, while all “attacks on the sacred” are forbidden. However, the text does not define what constitutes “the sacred” and “attacks”, leaving considerable room for individual interpretation and arbitrary application. This provision will likely lead to self-censorship among human rights defenders, who will have difficulty defining what would constitute an offence. Nonetheless, the Special Rapporteur is encouraged by recent public statements by the President of the National Constituent Assembly that this provision would not be featured in the final draft and looks forward to seeing this confirmed.

19. There has been much debate in Tunisia on the references to the complementarity of the roles of women and men (art. 2.28). While the drafters themselves might not see a contradiction between the language regarding complementarity and the notion of equality, which is endorsed in other parts of the constitution for all Tunisian citizens (e.g. articles 1.6 and 2.22 guarantee equality before the law without any form of discrimination), the Special Rapporteur is concerned that endorsing this concept in the constitution will create ambiguity as to women’s equality with men. In turn, this could be used to justify attacks and harassment against women human rights defenders by segments of Tunisian society which do not think it is appropriate for women to actively defend human rights. The explicit objective of the constitution should be to ensure legal guarantees and language relating to complementarity does not add anything in this regard. In the light of these observations, the Special Rapporteur recommends all language relating to complementarity be removed from the constitution.

20. Article 2.31 grants certain rights to children, while not defining what a child is, and attributing unclear responsibilities to parents and the State. The Special Rapporteur emphasizes that the State is in every instance responsible for ensuring that the rights of children are respected and that the article could have repercussions for young defenders who might be defined as children. The State’s obligations should be made clear in the constitution and what constitutes a child clearly defined.

2. Decree Law 88 of 24 September 2011 concerning associations

21. Decree Law 88 of 24 September 2011 is the current legislative framework regulating associations in Tunisia. The Special Rapporteur notes with appreciation that this law largely complies with international standards relating to freedom of association. It puts in place a regime of notification for associations, rather than a regime of authorization, and facilitates cooperation between local and international non-governmental organizations (NGOs).

22. Nevertheless, the Special Rapporteur is concerned about reports of a number of actors having registered as associations without complying with international human rights standards in their activities, notably educational institutions working on children’s rights. While they should continue to be subject to a regime of notification, the appropriate Government authority should ensure that the work of these associations is in line with international human rights standards.

3. Decree Law 115 of 2 November 2011 concerning freedom of the press, printing and publishing and Decree Law 116 of 2 November 2011 concerning freedom of broadcasting and the establishment of an independent broadcasting authority

23. At the time that the current report was finalized, the status of laws relating to the press in Tunisia was unclear. The Press Code of 1975 (Law No. 32) had remained in place

since the revolution while new legislation was being developed. Decree Laws 115 concerning freedom of the press, printing and publishing and 116 concerning freedom of broadcasting and the establishment of an independent broadcasting authority were signed into law by the then Interim President on 2 November 2011. However, once in power, the current ruling coalition expressed dissatisfaction with the two laws and has not allowed them to be implemented. After the visit of the Special Rapporteur, the Government announced on 17 October 2012 that it would implement Decree Laws 115 and 116. The Special Rapporteur commends the Government for finally having come to this decision and urges swift and effective implementation of the two laws.

24. Decree Law 115 guarantees press freedom. Defamation, insult and other offences criminalized under the old law would have civil liability under the new law, in compliance with the Special Rapporteur's recommendations in previous reports (A/67/292, para. 57). The strict regulation of foreign publications would be eliminated and pre-publication authorizations would no longer be required. It would provide for the right to access information and ensure confidentiality of sources. The law criminalizes both physical and verbal attacks on journalists (arts. 12–14). Importantly, article 79 provides that all previous laws contradicting the current law are repealed, starting from the day it comes into effect. The Special Rapporteur emphasizes that this last provision needs to be followed closely and harmonized with other legislation, notably the Penal Code, which still criminalizes defamation and other offences (arts. 121 and 226).

25. Decree Law 116 establishes an independent broadcasting authority, which would be responsible for issuing broadcasting licences and appointing directors of State-run media outlets. Its overall objective is to enhance freedom of broadcasting in the country. The Special Rapporteur emphasizes the independent character that such an authority needs in order to make decisions that are credible and not subject to interventions by Government. Given the difficult climate which currently persists for journalists and media workers in Tunisia, this is crucial. The Special Rapporteur urges the Government to include the recommendations of the National Commission for Information and Communication Reform when setting up the broadcasting authority, including its terms of reference and appointment procedures.

4. Law 69-4 of 24 January 1969 regulating public meetings, processions, parades, demonstrations and gatherings

26. Law 69-4 of 24 January 1969 remains in effect after the revolution. While the Special Rapporteur is encouraged by the law providing in principle for a regime of notification rather than a regime of authorization for public gatherings, she is concerned by a number of provisions in the law. Article 5 places the responsibility to uphold order on a group of designated individuals participating in the public assembly. While such individuals can assume a role of guiding the crowd and report problems to the appropriate authority, international standards maintain that the responsibility for upholding order rests completely with the authorities (see report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27, para. 33).

27. Furthermore, the lack of definition of “public security and order” in article 7 leaves considerable discretionary powers to the authorities to ban demonstrations. In the same vein, article 13, part 2, prohibits unarmed gatherings which may disturb “public tranquillity”, a term which remains undefined and which is not used in international standards.

28. With regard to demonstrations that can be dispersed by law enforcement officers, articles 13 and 14 are not in compliance with international standards. The mere fact that somebody is carrying arms at a demonstration should not authorize dispersal by officials, as

article 14, part 2, provides. In such a case, officers should intervene to remove the armed individual, but it should not affect the right of other demonstrators to assemble peacefully.

29. On the use of force, the Special Rapporteur finds the reference to legitimate defence by law enforcement officers in article 20 and the list of proportional use of force in article 21 commendable. However, articles 21 and 22 do not refer to the concept of legitimate defence endorsed by article 20. In article 22 particularly, this is very unfortunate, as it appears to authorize disproportionate use of force, including firearms. A serious shortcoming is the fact that the law does not give any indication of the accountability of law enforcement officers for violations perpetrated during assemblies.

5. Decree Law 41 of 26 May 2011 concerning access to administrative documents of public organizations

30. Decree Law 41 of 26 May 2011 is the current legislative framework for accessing public information. The law guarantees the right to access information. The Special Rapporteur is encouraged by the simple procedure for requesting release of documents and the time limit given to public institutions to respond. However, article 16 of the Decree Law states that the Government can refuse the publication of any document deemed to be confidential. This is an overly broad provision which leaves considerable room for interpretation.

31. The Special Rapporteur is also concerned about article 17, which provides a number of grounds on which information could be withheld in broad and imprecise terms, and article 18, which by providing exceptions to the reasons for denying publication of a document contributes to increased confusion about the criteria enumerated under article 17. The Special Rapporteur recalls that, according to international standards, the burden should be on the authorities to provide justification for withholding publication of a public document. Articles 17 and 18 are too broad and unclear to provide guidance in this regard.

6. Law 2003-75 of 10 December 2003 concerning support to international efforts countering terrorism and money laundering

32. The Tunisian anti-terrorism law dates from the pre-revolution era and has been subject to criticism, notably by the former Special Rapporteur on the promotion and protection of human rights while countering terrorism during his visit in January 2010 (A/HRC/16/51/Add.2). The Special Rapporteur concurs with the observations in the report that the definition of acts of terrorism under article 4 of Law 2003-75 is overly broad (*ibid.*, para. 9). Furthermore, she is concerned that activities by human rights defenders could be interpreted as a terrorist act in the context of the law, e.g. when conducting demonstrations or by associations taking positions which are not favoured by the Government. “Terrorizing people”, “influencing State policies” and “harming public facilities” are terms which remain undefined in the law, and which have been used to target human rights defenders in other countries (see A/67/292, paras. 14–16).

33. The Special Rapporteur also expresses concern about article 22 of Law 2003-75, which criminalizes the failure to notify the authorities of any acts or information which could pre-empt a terrorist attack. The provision requiring professionals normally bound by confidentiality to disclose such information is particularly problematic and does not respect the rights of, for example, lawyers and medical staff as contained in the Declaration on Human Rights Defenders.

7. Decree Law 106 of 22 October 2011 concerning reform of the Penal Code and of the Code of Criminal Procedure

34. Decree Law 106 amended the articles of the Penal Code relating to torture, in an effort to have these comply with international standards. In the light of the numerous cases of torture reported to the Special Rapporteur, notably in the context of detention of human rights defenders following demonstrations, such efforts are welcome. However, the law includes a statute of limitations of 15 years on crimes of torture. This is not in compliance with international standards, which do not carry a time limit for perpetrators to be prosecuted for such heinous crimes.

C. General observations on the legal framework

35. The Special Rapporteur has taken note of significant deficiencies in the full implementation of legal instruments, a situation that adversely affects the work and safety of human rights defenders.

36. The Special Rapporteur observes that the absence of a specific legal framework for the protection of human rights defenders contributes to their situation of vulnerability. She firmly believes that the adoption of a national law on their protection would enhance and give legitimacy to their work, and strengthen the framework for national dialogue with civil society.

IV. Institutional framework for the promotion and protection of human rights

A. Law enforcement authorities

37. During her visit, the Special Rapporteur met with the Secretary of State in charge of reforms within the Ministry of the Interior and the chiefs of the police and the National Guard in the governorates of El Kef and Sidi Bouzid.

38. It was emphasized that the law enforcement authorities in Tunisia were going through substantive reforms. The new Tunisian State has inherited structures based on repression and dictatorship and it will take time for this apparatus to be reformed to facilitate democracy and respect the fundamental rights of the population.

39. The Special Rapporteur is encouraged by the commitment expressed by the Government to protect human rights defenders and facilitate their participation in the country's transition. However, she observed during her visit that citizens appear to have little confidence in the police and its ability to protect them from violations. She received reports that the police had not been fulfilling its mandate to protect the population and that morale among the police was low. For human rights defenders, the lack of responsiveness of the police in the numerous cases of attacks by a group of conservative Islamists, known as Salafists, was of particular concern. The Government recognized that, in these cases, it faced a difficult balancing act and aimed to act neutrally, but the Special Rapporteur reiterates that it is the duty of the State to ensure the physical integrity of all individuals in its territory.

40. Freedom of peaceful assembly has become an integral part of Tunisian society in the post-revolution era. The Government should be commended for largely respecting the right of its citizens to assemble and protest peacefully, although bans on demonstrations were enforced shortly before the Special Rapporteur's visit and remain in place, notably in

downtown Tunis. Some protests have turned violent, reportedly because of counter-protests by Salafists. The police has for the most part not been able to protect protesters in these cases. Peaceful protesters have been injured and in some instances killed as a result of violence perpetrated by counter-protesters or excessive use of force by law enforcement officers.

41. The most serious incident in the post-revolution era appears to be the commemoration of the Martyrs' Day in Tunis on 9 April 2012. An unidentified number of people, including civilians, were injured and there are unconfirmed reports of fatalities. The Special Rapporteur welcomes the establishment of a committee by the Ministry of the Interior to investigate the events of 9 April, but she regrets that hardly any information is available on its findings so far.

42. Protests have also continued outside of Tunis. In Sidi Bouzid, 300 protests had taken place in 2012 alone at the time of the visit of the Special Rapporteur. On average, this constitutes more than one protest per day. Local authorities reported to the Special Rapporteur that most demonstrations were peaceful and that security forces had been obliged to intervene in only 14 cases. Nevertheless, the Special Rapporteur received reports of excessive use of force in a number of cases and repeated arrests of protesters in Sidi Bouzid.

43. The Special Rapporteur is dismayed by a number of allegations of torture of demonstrators while in detention and reports received detailing poor conditions of detention in prisons. Continued allegations of torture point to a substantive need for systemic reforms within the police. The national preventive mechanism, which has been in the pipeline for some time, should be enshrined in law and set up as an independent institution in accordance with international standards as a matter of priority.

B. Judiciary

44. The Special Rapporteur met with the Minister of Justice during her visit, as well as with the First President and the Chief Prosecutor of the Court of Cassation. It was noted during these meetings that the judiciary is going through considerable reforms in the aftermath of the revolution. Officials pointed to a lack of human and financial resources, which has led to a considerable backlog of cases in which investigations are still pending. The Special Rapporteur received disconcerting reports that cases passed on from law enforcement authorities were not dealt with by the judiciary in a timely and efficient manner.

45. A major obstacle to the efficiency of the judiciary noted by numerous stakeholders is its lack of independence. The institutions inherited from the Ben Ali era were closely linked to the executive branch. Law 67-29 of 1967 gave the President the power to appoint a majority of the members of the Supreme Council of Judges, the body in charge of appointing, promoting, transferring and disciplining judges. To date, no new law has replaced Law 67-29, and the interim representative body provided for in Constitutional Act 2011-6 has not been put in place. On 13 September 2012, the Minister of Justice reinstated the Supreme Council of Judges and assumed the role of the former President with regard to appointment of its members.

46. The Special Rapporteur is deeply concerned about these recent developments and considers them a setback for the independence of the judiciary in Tunisia. Judges must be allowed to work independently and free from any kind of interference, including political interference, and this is best facilitated through appointments, security of tenure and disciplinary measures handled by an independent body. Such conditions are necessary in

order for judges to assume their crucial role in guaranteeing the rule of law, which includes ensuring due process and respect for human rights during proceedings and in rulings.

47. Several cases were brought to the Special Rapporteur's attention during her visit where procedural safeguards appeared had not been respected. Charges were still pending against several human rights defenders despite an apparent lack of evidence and the Special Rapporteur is concerned that these charges could be politically motivated.

48. The Special Rapporteur is seriously concerned that the lack of independence and the backlog of pending cases lead to perpetrators not being brought to justice. This contributes to a deteriorating situation for the rule of law in Tunisia, which needs to be addressed as a matter of priority by providing adequate resources and ensuring the independence of the judiciary. Tunisia faces considerable challenges related to addressing impunity for human rights violations in the post-revolution context and a lack of trust in the judiciary among the public. An independent and well-resourced judiciary is essential to respond to such challenges.

C. Legislative branch

49. During her visit, the Special Rapporteur met with the President of the Rights and Liberties Commission within the National Constituent Assembly, the country's interim parliament. The President of the Rights and Liberties Commission emphasized the National Constituent Assembly's need to start drafting the new constitution from point zero. The revolution has brought a new era for Tunisia and a new law of the land is needed to ensure the objectives of the revolution are attained. The President noted that the working method of the Constituent Assembly is participatory, with a view to ensuring that all points of view are taken into account. It is a consensus-based approach driven by wide consultations with civil society and the public at large all over Tunisia.

50. In the Special Rapporteur's view, the drafting of the constitution is a true test of the strength and openness of the Tunisian public institutions in the post-revolution era. She commends the National Constituent Assembly's intention to adopt a consensus-based and participatory approach to the drafting of the constitution, but such good intentions need to be translated into practice. She is concerned about differential treatment of civil society in consultations around the drafting of the constitution. Since the drafting process is at the centre of the country's historical juncture, it is of utmost importance that this be an open and transparent process in which all parts of Tunisian society have a sense of ownership. However, the process appears to be polarizing civil society, as there is reportedly not equal treatment of those providing inputs. Under the Declaration on Human Rights Defenders, individuals and associations defending human rights have the right to participate in public affairs without discrimination.

51. The mandate of the National Constituent Assembly and its members lacks specificity and it is not clearly stipulated how the constitution should be drafted. In consequence, it remains unclear how submissions received from different stakeholders are supposed to be taken into account. NGOs were reportedly told during a consultation in mid-September 2012 that their inputs might not be considered by the Constituent Assembly. Such statements contradict the consensus-based approach which the Assembly has endorsed explicitly. The fact that a number of NGOs have chosen to boycott the process should be of utmost concern to the Constituent Assembly.

52. It has also come to the Special Rapporteur's attention that NGOs monitoring the drafting process face considerable constraints in doing so. Minutes of the meetings of the different commissions within the National Constituent Assembly are not uploaded onto its website and it is difficult to get hold of voting reports, thematic reports, submissions

considered and other information that should be publically available in order to ensure transparency. Reasons cited for not publishing more information include “lack of capacity” and “resource constraints”. Access to such information would alleviate some of the frustrations expressed by the authorities in relation to what they characterized as “sensationalist” and “speculative” media.

D. Ministry of Human Rights and Transitional Justice

53. The Special Rapporteur met with the Minister for Human Rights and Transitional Justice, who is in charge of the newly created Ministry responsible for implementing the Government’s human rights policy and coordination in this area across the Government. The Special Rapporteur welcomes the creation of a Ministry dedicated to the promotion and protection of human rights. The development of a protection policy for human rights defenders should be a priority for the Ministry, as well as making efforts to sensitize key actors within Government about the role of defenders in society, including during the transition period.

E. Higher Committee for Human Rights and Fundamental Freedoms

54. During her visit, the Special Rapporteur met the President of the Higher Committee for Human Rights and Fundamental Freedoms, the country’s national human rights institution. The Higher Committee is a consultative committee established by Decree 54-1991 of 7 January 1991. It aims to promote and protect human rights throughout Tunisia and ensure that all Government institutions comply with human rights principles. However, the Committee is not considered to be an independent national institution as required by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, which accredits such institutions on the basis of the 1993 principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The interim Government has expressed its intention to revise the statute of the Committee in order to align its mandate with the Paris Principles and a draft law has been developed to this end.

55. The Special Rapporteur believes the draft law would provide ample grounds for ensuring a robust national institution with sufficient independence from the State. A few points could still be strengthened in the draft. The ability of the Higher Committee to initiate investigations of human rights violations on its own initiative should be made explicit (art. 24). Furthermore, the institution should not only be contributing to national reports to international and regional human rights mechanisms, but also provide independent, alternative reports to these bodies if deemed necessary. The security of tenure of members of the Higher Committee would also benefit from being further clarified in article 37. Finally, the Special Rapporteur stresses the importance of the national institution being provided adequate resources to fulfil its mandate in all regions of Tunisia.

V. Situation of human rights defenders

56. During her visit, the Special Rapporteur met with approximately 100 human rights defenders engaged in the protection and promotion of civil, political, economic, social and cultural rights through advocacy, monitoring, education and peaceful protests. She is particularly grateful to defenders who travelled considerable distances to see her in Jendouba, El Kef and Sidi Bouzid.

57. The Special Rapporteur observed that, because of their legitimate work in upholding human rights and fundamental freedoms, certain categories of human rights defenders are at particular risk in Tunisia. These include members of human rights associations; journalists and media workers; women human rights defenders; artists and cultural workers; academics; defenders of economic and social rights; judges and lawyers; and victims of the revolution.

A. Members of human rights associations

58. Despite a climate which was not favourable to civil society working explicitly to defend human rights persisting for several decades, Tunisia has a long tradition of associations defending human rights. Even during the Ben Ali era, an independent civil society existed and suffered serious repression and abuse of human rights by the State.

59. In the post-revolution context, members of human rights associations with whom the Special Rapporteur met noted that they enjoy a greater respect for their fundamental rights than they did prior to the revolution. However, the security situation has become more unpredictable and several defenders have received threats and been attacked for positions they have taken in public or to intimidate them into stopping their human rights work. The perpetrators in these instances were often Salafists. The situation for human rights defenders in urban areas outside of Tunis seemed precarious in this regard.

60. A general trend noted by human rights associations was the proliferation of associations which appear to be ideologically aligned with the current Government. While the Government claimed to be treating all associations equally, human rights associations noted that those sympathetic to the Government appeared to be consulted more closely on Government policies and the drafting of the constitution. The limited public funds and benefits, including those aimed at getting the unemployed back to work, were reportedly allocated to organizations sharing the Government's ideology. The Special Rapporteur finds this trend very unfortunate and wishes to remind the Government that freedom of association is dependent on other human rights, including the right to equality and non-discrimination. The plethora of associations loyal to the Government was a very regrettable feature of the old regime which should not be reproduced.

B. Journalists and media workers

61. The media sector in Tunisia has featured a wide range of television stations, radio stations, newspapers and other publications for a number of years. Whereas the same actors remain in this sector after the revolution, their content is now different. Many of them have adopted a critical stance towards Government policy which would have been unthinkable during the previous Government. The media sector is rapidly evolving, with a number of challenges for journalists and media workers as they report on human rights and other issues.

62. Both the Government and media organizations described their relationship with one another as volatile. The Government emphasized the responsibility of the media to report responsibly and refrain from unnecessary provocation. Journalists, their organizations and media outlets stressed the need for independent national media, respect for the rights of journalists and media workers and an appropriate legal framework.

63. The Special Rapporteur is concerned by recent developments whereby the Government has appointed directors to different national media outlets without any apparent form of consultation with stakeholders. This has led to a number of labour conflicts, the most serious of which appears to have taken place in the conglomerate Dar

Assabah. The Government's appointment of a chief executive officer who most employees found to be inappropriate and not qualified led to a much publicized dispute, including a general strike among the employees. Some of them also went on hunger strike for different periods of time. The crisis has been resolved, for now, by the chief executive's resignation on 31 October 2012. Appointments to such positions should be subject to wide consultations and ideally decided by an independent broadcasting authority.

64. The Special Rapporteur heard a number of accounts of threats, harassment and attacks against journalists and media workers during her visit and she urges the Government to bring perpetrators of such crimes swiftly to justice to ensure a more enabling work environment for them. A particular concern pertains to journalists who are monitoring and reporting on demonstrations. The Government needs to make every effort possible to protect them from violations as they take on this crucial role.

65. As a result of purported efforts to protect religion and public morals, Tunisia faces serious challenges related to limitations on freedom of expression. The emblematic case in this context is Nessma TV's airing of the film *Persepolis*. Nabil Karoui, director of Nessma TV, was found guilty of "breach of good morals" and "disruption of public order" on 3 May 2012, for which he was sentenced to pay a fine of 2,400 dinars (approximately 1,500 USD), despite the film having been approved and shown in cinemas throughout Tunisia. While he was not found guilty of "attack on the sacred", which would have involved a prison sentence of three to six months, there is a tendency of charging journalists and media workers with such offences. Such criminalization and judicial harassment should not be allowed, as it deters journalists and media workers from bringing human rights and related issues into the public spotlight.

66. Bloggers have been targeted in various ways since the revolution for writing about human rights issues. The Special Rapporteur was informed of cases of attacks, break-ins at their offices and computers having been stolen on which sensitive information was stored.

67. With regard to the legal framework, the Special Rapporteur welcomes the Government's decision to implement Decree Laws 115 and 116, announced on 17 October 2012. Effective implementation of these two laws will be a significant step forward in ensuring that the media sector can operate independently in a safe environment. Setting up an independent broadcasting authority, as Decree Law 116 provides for, will be an important step towards ensuring the quality of reporting is independently monitored and mediating conflicts between the media and the Government.

68. As a general observation, the Special Rapporteur notes that the media sector is in need of reform and capacity-strengthening to better assume its role as a watchdog for Government policies and their effects, which can stimulate public debate and dialogue, not just denunciations from each side. International organizations, NGOs and donors have a key role to play in this context.

C. Women human rights defenders

69. Consistent with her earlier reports, the Special Rapporteur applies the term "women human rights defenders" to everyone working for the protection and promotion of women's human rights, regardless of their sex. Respect for women's rights and gender equality have to a large extent been enshrined in the Tunisian legal framework since independence, even though there are areas, e.g. inheritance rights, where women do not as yet enjoy equal rights to men. Organizations working on women's rights have been in existence since independence and during the Ben Ali era some of them took a firm stance against the regime's human rights record.

70. The Special Rapporteur was disturbed to learn during her visit of numerous physical attacks against women human rights defenders, as well as of harassment, threats and stigmatization. Some defenders in this category noted that the security situation was less predictable in the current context than before the revolution. Women human rights defenders remain vulnerable in various contexts, including demonstrations, rural areas and urban areas outside of Tunis. In cases of violations, perpetrators were often identified as Salafists and defenders expressed concern about perpetrators not being prosecuted and convicted. The police and prosecutors cited lack of evidence as the main reason for not pursuing the cases.

71. The Special Rapporteur is concerned about statements in the media by various actors, including Salafists, critical of women's participation in public life and activities in defence of human rights. Such remarks contribute to the insecurity felt by women human rights defenders.

72. Reporting and speaking out about sexual violence is associated with social stigma and considerable personal sacrifice for the individuals who choose to do so. By breaking the silence surrounding sexual violence, such individuals clear the way and empower others to speak out about an abhorrent human rights violation which is a considerable societal problem. As such, they are considered human rights defenders. During her visit, the Special Rapporteur was informed of the case of a young woman, Meriem (not her real name), who was charged with "public indecency" after filing a complaint with the police for allegedly having been raped by two police officers. The Special Rapporteur expresses serious concern about judicial harassment and stigmatization of victims who have reported cases of sexual violence. She urges the Government to ensure appropriate support is available to victims of sexual violence and their representatives and that the reporting of such cases to the authorities is dealt with in a way which respects their fundamental rights and does not punish victims further.

D. Artists and cultural workers

73. Tunisia has an active artistic community with numerous art festivals held throughout the country every year. Urban centres have usually been quite well equipped with cultural arenas, including cinemas and theatres. In the light of the considerable tradition in the country for raising issues related to human rights through artistic expression, a number of recent developments in this field are of concern to the Special Rapporteur.

74. On 10 June 2012, an exhibition at the Spring of Arts, a well-known contemporary arts fair held in La Marsa, a suburb of Tunis, was targeted by a group of Salafists. At the closing ceremony of the exhibition, the group demanded the removal of two works considered offensive against Islam. During a stand-off between attendees and a group of approximately 20 Salafists, the two groups were separated by police. That night, a larger group of Salafists returned, broke into the venue and destroyed several artworks. These attacks allegedly took place amid misinformation on online social networks, including by circulation of a photo of a painting considered to be provocative which was not featured in the exhibition. While the Government condemned the attacks and arrested a number of people for vandalism, it was announced on 14 June 2012 that six artworks had been confiscated and two artists have subsequently been charged with "harming public order and public morals" under article 121.3 of the Penal Code. The charges are still pending, and the two individuals risk up to five years in prison.

75. The incident at the Spring of Arts fair appears to be part of a trend whereby artists are stigmatized and attacked, physically and verbally, through social media. Some have received death threats. Physical attacks and threats have also been perpetrated against cultural workers in urban areas, notably outside of Tunis, particularly for screening films

and encouraging artistic expression among youth. The Special Rapporteur has been informed that such cases have not been properly investigated and that perpetrators remain at large.

E. Academics

76. Since the end of 2011, Salafist groups have reportedly carried out attacks against staff at several institutions of higher learning, including the Faculty of Arts and Humanities in Sousse, the School of Business in Manouba, the Higher Institute of Applied Science and Technology in Kairouan, the Higher Institute of Theology in Tunis and the Faculty of Arts and Humanities in Manouba University. The Special Rapporteur heard numerous accounts of threats against university professors for refusing to organize separate classes for male and female students and for implementing dress code regulations in their institutions. Regrettably, there has been a lack of response from law enforcement authorities to these incidents, who often cite conflicts as internal disputes. While discussions must be allowed to go ahead within each institution concerned, the Government has a duty to ensure the physical and psychological integrity of its citizens.

77. The Special Rapporteur received reports during her visit of what appears to be politically motivated charges against a number of academics. In one particular case, where the dean of the Faculty of Arts and Humanities at Manouba University is charged with violence against a student amid a very heated environment inside the university, the Special Rapporteur is particularly concerned that the charges are still pending despite an apparent lack of evidence.

78. Academic freedom, which has traditionally been fought for by academics and largely respected, is under serious threat. The Special Rapporteur received disconcerting reports that researchers are now reluctant to take up any issues related to religion and its effects on society due to fear of retaliation. As human rights defenders, academics have the right to discuss how religion impacts on the situation of human rights.

F. Defenders of economic and social rights

79. Lack of respect for economic and social rights was at the heart of the popular mobilization which brought down the regime of Ben Ali. Economic and social issues will not be resolved overnight. The Special Rapporteur observed a sense of disillusionment among people she met with in the traditionally marginalized areas in the north-east and central parts of Tunisia, including Sidi Bouzid, who did not find their situation had changed for the better following the revolution. This remains a key issue which the Government appears to be taking seriously, but in order to ensure social stability in these regions, it is in the Special Rapporteur's view important that defenders of economic and social rights are allowed to participate in the development of social and economic Government policy.

80. Trade unions are a vital force in this regard in Tunisia. The Special Rapporteur received reports of violence perpetrated against them and their offices having been raided or set on fire. There has been one recent case of a trade unionist being assassinated in the southern city of Tataouine and defenders of workers' rights in the industrial city of Sfax have been subject to threats. The Special Rapporteur is also concerned about members of associations working to ensure the right to work of youth, who have reportedly been met with restrictions in some regions, notably regarding their right to assemble peacefully.

G. Lawyers and judges

81. Lawyers in Tunisia have faced some restrictions in their work, notably in relation to anti-terror legislation, which imposes certain obligations on them to breach their code of confidentiality. The Special Rapporteur expresses serious concern about accounts of lawyers having received threats and being subject to campaigns discrediting their work in the media for representing victims of torture and sexual violence.

82. As emphasized by the Special Rapporteur on the independence of judges and lawyers in her report to the General Assembly (A/66/289, para. 38), judges have a responsibility under international law to protect human rights, notably in case deliberations and application of court procedures. In Tunisia, this responsibility is severely compromised by the lack of an independent judiciary. The Government needs to enter into full cooperation with the judges to find a solution to the situation of the body nominating and disciplining, when necessary, judges.

H. Victims of the revolution

83. The Special Rapporteur wishes to pay tribute to those who paid with their lives and those who were wounded during the revolution for having defended human rights and human dignity. During her visit, she met with some of the victims, as well as family members who lost their loved ones. Many of these individuals live in precarious circumstances and the Special Rapporteur is concerned that most of the victims and their families have not obtained effective remedy or fair or adequate compensation, including medical rehabilitation. The Government informed the Special Rapporteur that a commission is currently being set up to establish the modalities for providing effective remedy to victims. This should be put in place as a matter of priority.

VI. Challenges faced by human rights defenders

A. Impunity for violations committed against defenders and lack of protection

84. Tunisia is increasingly facing challenges related to combating violence and insecurity. There is a considerable need to consolidate the rule of law in the post-revolution era and law enforcement authorities have to step up their efforts to ensure violations are investigated and perpetrators prosecuted promptly and impartially. This would be a crucial first step towards addressing the lack of confidence in the police and the justice system displayed by various parts of Tunisian society.

85. Facilitating peaceful demonstrations is one specific area where the capacity of the police and the National Guard appears quite limited. The lack of protection of protesters and monitors of demonstrations against counter-demonstrators needs to be addressed as a matter of urgency. Proper equipment and training are essential to ensure the police and the National Guard can provide such protection.

B. Restrictions on the exercise of fundamental rights and criminalization

86. While the legal framework has seen some important improvements after the revolution, there are still restrictions in place with regard to freedom of expression and to some extent freedom of peaceful assembly. The Special Rapporteur is seriously concerned

about the provisions relating to blasphemy and preservation of public order and morals in the Penal Code and the restrictions they impose on freedom of expression. They have led to self-censorship among journalists, media workers and within academia. Another ramification is their negative impact on the arts and cultural activities.

87. While the law relating to freedom of peaceful assembly ensures a regime of notification, it also authorizes bans by the Government when deemed necessary according to quite broad criteria. There have recently been a number of bans on demonstrations, notably in downtown Tunis. Given the tense situation surrounding the drafting of the constitution, the Government should do its utmost to allow legitimate protests to go ahead.

88. The Special Rapporteur is concerned that restrictions on the rights of defenders lead to their legitimate activities being criminalized. Legislation on blasphemy, public morals, public security and defamation are the most obvious causes, with journalists and women defenders particularly affected.

C. Capacity of civil society and coordination among actors

89. The proliferation of new associations seen in the post-revolution era means that there are an unprecedented number of new actors that make up civil society. The Special Rapporteur observed during her visit that the majority of these have limited organizational capacity. In order for them to assume their critical role in society, training and accompaniment in advocacy, monitoring, organizational planning and public outreach is necessary. Most importantly, however, the Special Rapporteur believes these actors need to be sensitized about human rights and related principles to ensure they work towards their full realization.

90. Furthermore, civil society actors should develop networks among themselves to ensure enhanced coordination. Particularly associations in Tunis should ensure associations in rural areas and other urban areas can profit from their expertise. The authorities also have a role to play in ensuring that civil society actors in rural areas can travel safely to other parts of the country to this end.

91. A considerable challenge for civil society is its polarization and politicization. It is of concern to the Special Rapporteur that some associations appear to be favoured by the Government because of their political alignment. This has led to certain grievances within the traditionally independent civil society. While the Government needs to ensure that associations are treated equally, efforts can be made by all actors to ensure that associations enter into dialogue and cooperate across the ideological divide.

D. Stigmatization

92. A number of statements by the media by conservative Islamists and certain Government officials have stigmatized human rights defenders after the revolution. Such statements delegitimize their work and make them more likely to suffer violations, including threats and physical attacks. The Government has an important task in ensuring that public opinion is favourable to human rights defenders. Their role should be recognized in public by senior officials.

VII. Role of the international community in the protection of human rights defenders

93. The Special Rapporteur met with members of the international community and of the United Nations country team, including the United Nations Resident Coordinator. She welcomes the role played by these actors in supporting civil society organizations, particularly those working with human rights defenders. She is particularly encouraged by innovative efforts of donors to ensure civil society organizations work together across the ideological divide. The international community needs to continue to support Tunisia in the democratization process in order to avoid a fall-back of the revolution, especially in the areas of human rights, transitional justice, reform and strengthening of the police and judicial reform, and to strengthen the media.

94. The Special Rapporteur wishes to encourage the use of the Declaration on Human Rights Defenders, the European Union Guidelines on Human Rights Defenders and the manual thereon, which are useful tools for the promotion of the role of defenders and their protection.

VIII. Conclusions and recommendations

A. Conclusions

95. **The legal framework is relatively favourable to the activities of human rights defenders, though some implementation gaps remain and restrictions on some fundamental rights, most notably freedom of expression, are yet to be addressed.**

96. **The Government of Tunisia has taken positive steps towards ensuring an institutional framework conducive to the protection and promotion of human rights, including the activities of human rights defenders. These include the establishment of the Ministry of Human Rights and Transitional Justice, and the national mechanism to prevent torture and the national human rights institution, which are both close to being finalized. Tunisia faces considerable challenges in ensuring violations against human rights defenders are investigated and perpetrators brought to justice. Substantive reforms within the police and the justice system are urgently needed to this end.**

97. **The drafting of the constitution is a true test for the country's public institutions in the post-revolution era. The intended approach of wide consultations with civil society and the public at large is highly commendable, but it is yet to be translated into practice. Human rights defenders have a very important role to play in this process and they should be fully involved in the drafting on a non-discriminatory basis.**

98. **The security situation for defenders is more unpredictable than before the revolution. Defenders are at risk of attacks, killings, threats, stigmatization and harassment, including judicial harassment and criminalization. Contexts with a particularly high risk include demonstrations, urban areas outside of Tunis and rural areas.**

99. **The Special Rapporteur thanks the Government of Tunisia once again for its cooperation during her visit. She remains available to provide any technical assistance the Government may require in the implementation of the recommendations herewith.**

B. Recommendations

100. The Special Rapporteur recommends that the Government:

(a) Clearly define its policies regarding protection of human rights, including protection of human rights defenders, and communicate clearly the measures undertaken to this end to the population;

(b) Publically recognize the essential role played by human rights defenders, in particular in this transitional period and ensure their effective protection;

(c) Address impunity for human rights violations as a matter of priority by ensuring prompt and impartial investigations and bringing perpetrators promptly brought to justice;

(d) Enact reforms and improve both responsiveness and accountability of the police without delay, especially in urban areas. This should be the responsibility of the Ministry of the Interior;

(e) Investigate allegations of excessive use of force and arbitrary arrests during demonstrations in all parts of the country. The events in Tunis on 9 April 2012 need to be investigated in a prompt and impartial manner;

(f) Ensure allegations of torture while in detention are investigated urgently and that perpetrators are held accountable, notably by local authorities and the Ministry of the Interior. The national preventive mechanism, which is currently being developed, should be in compliance with relevant international standards;

(g) Ensure that the National Constituent Assembly has enough financial and human resources to make all relevant information about the drafting of the constitution available to the public in a timely and efficient manner;

(h) Protect women human rights defenders if they are harassed or attacked and ensure a conducive work environment for them;

(i) Revise provisions in the Penal Code relating to blasphemy, preservation of public security and morals and defamation, in an effort to strengthen freedom of expression;

(j) In order to ensure the press is able to operate freely, implement and consistently apply Decree Laws 115 and 116 without any further delay;

(k) Establish a regulatory body for audiovisual communications without further delay and ensure it has broad representation from media outlets and civil society, and that it is independent of the Government;

(l) Revise regulations relating to access to information, notably Decree Law 41, in order to make sure they are in compliance with international standards;

(m) Urgently establish an independent regulatory body for selection, appointment and discipline of judges, in order to strengthen the independence and credibility of the judiciary;

(n) Ensure the mandate of the Higher Committee for Human Rights and Fundamental Freedoms is in compliance with the Paris Principles, including adequate staffing and resources, complete independence from the Government and a consultation process with relevant civil society organizations from different fields pertaining to the appointment of members;

(o) Investigate violations committed during the revolution in a prompt and impartial manner;

(p) Expedite the process of providing effective remedy to the families of those killed during the revolution and to individuals who were wounded as a matter of priority. Adequate compensation needs to be provided on a non-discriminatory basis, including access to appropriate medical and rehabilitation services for the individuals and families;

(q) Ensure respect for economic and social rights through investments in relevant sectors. It should assist NGOs working on issues of women and children to this end, notably in rural areas and urban areas outside of Tunis;

(r) Treat associations equally and encourage dialogue and cooperation across the ideological divide currently observed in the country.

101. The Special Rapporteur recommends that the National Constituent Assembly:

(a) Develop a clear strategy for how it will take into account submissions from the public in the drafting process regarding the new constitution. The strategy should provide transparent and clear criteria which can be applied consistently;

(b) Inform the public proactively about the drafting process in order to ensure transparency and a sense of ownership among the population. All relevant documentation should be made available on the Assembly's website;

(c) Ensure the constitution has general provisions guaranteeing values and rights, including equality, non-discrimination, dignity, as well as the universality, interdependence and indivisibility of human rights. The constitution needs to state that national legislation should be in compliance with international standards;

(d) Remove provisions criminalizing "attacks on the sacred" from the constitution;

(e) Remove references to the complementarity of the roles of women and men in the constitution and emphasize equality of women and men.

102. The Special Rapporteur recommends that human rights defenders:

(a) Improve their capacity and work together in networks. In order for civil society to be effective, it needs to work in unison and according to human rights principles, across the ideological divide;

(b) Reach out to rural areas and urban areas outside of Tunis;

(c) Undertake training in human rights and the use of regional and international mechanisms.

103. The Special Rapporteur recommends that the international community:

(a) Continue to support Tunisia in the democratization process in order to avoid a fall-back of the revolution, especially in the areas of human rights, transitional justice, reform and strengthening of the police and judicial reform, and strengthen the media;

(b) Provide support to strengthen civil society and in particular those outside of Tunis and in rural areas;

(c) Continue and enhance efforts promoting dialogue and cooperation between civil society and other actors across the political and ideological divide.

104. **The Special Rapporteur recommends that all stakeholders:**

(a) Familiarize themselves with the provisions of the Declaration on Human Rights Defenders;

(b) Continue to raise civic awareness among the general public and the spirit of dialogue and cooperation in society;

(c) Ensure all protests and assemblies are peaceful. Citizens should not perpetrate violence and need to act within the provisions of the law while carrying out their activities;

(d) Ensure a culture of respect for human rights and upholding of the rule of law.
