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PERCEPTIONS AND IDEAS FOR REFORM AND DEVELOPMENT

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Report

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Introduction

The stage of democratic transition, which comes within the framework of a traditional revolutionary path, is characterized by a dual disassociation and construction. Dismantling the pillars, institutions and methods of the old system and seeking to build democratic alternatives to these various structures, pillars and methods. The process of dismantling and building is characterized by conflict between the conservative forces benefiting from the old regime and the forces aligned with the revolution, and for building a democratic system that cuts with tyranny, its institutions, methods of governance, and culture. The media is at the heart of this conflict because of its wide impact and access to various groups of citizens in cities and rural areas, in public places and in private shops, and entering into people's homes and addressing different groups regardless of their level of education, culture and awareness. The establishment of pluralism, integrity, objectivity, values, methods of management and democratic activity in the media sector at the same time is a major goal of the democratic transition and one of its most sensitive pillars, and therefore one of the most important fields of conflict, intensity and ferocity between the forces of pull back and the forces of push towards change and democratization. In addition to the constitution and political institutions, such as representative and constitutional councils, the institutions of the executive, judicial, and security authorities, and the ruling party's machine, the system of tyranny relies on the media as a tool of propaganda, fallacy, forgery, and blackout on the reality of social, economic, and political reality. It is also used as a powerful tool to defame dissidents and honorable defenders of rights, freedoms and democratic values.

The democratic transition in general and in the media sector in particular is a very difficult labor process, because it is at the crossroads of interests, visions, perceptions and cultures of conflicting and contradictory governance.

The media sector constitutes the real battleground for liberties, as it plays, as a fourth Estate, a very sensitive role. It represents a major arena for the struggle between authoritarian and democratic aspirations.

It also represents a field of conflict between the tendency of political power in general, and whatever the rhetoric of domination, or at least the influence of using it to serve its options, policies, and “achievements”. The practitioners in general and democratic forces are keen on ensuring the independence and objectivity of this media. The media traditionally faces a problem in its relationship to political power, which is the problem of dependency and independence, or in a constitutional language, the dialectic of authority and freedom, and the necessity of balance between them, which drives the necessity of strengthening media freedom as a traditional target in the policies of subjugation and employment so that it plays its role as a fourth authority that contributes to this balance, and in removing the danger of striking a balance in favor of the authority at the expense of freedom and the path that definitely leads to tyranny.

Regarding the relationship of the media with democracy, there is a prevailing belief in our country, as well as in the world in general, that reaches the level of axioms that accept a lot of discussion, and that since the time of the philosopher Kant, a belief in the deep connection between media and democracy. Democracy is characterized mainly by the freedom to exchange opinions and ideas and to fight them together as the best way to establish a rational democratic government.

It is from this belief that the idea of the link between democratic transition and the media appears to be more reliable. The media benefits from the shifts toward democracy directly, as the media can influence some behaviors and events in a way that contributes to the process of getting rid of authoritarian regimes. The

democratic transition process is often long and difficult, which makes the media a major arena for dialogue, conflict, and the democratic process in general.

In this context, and on the relationship of the media to democracy, we notice internationally, and through comparative experiences, two main trends:

A first trend focuses especially on the need to democratize the media and communication and its institutions in the emerging or rising democratic contexts.

A second trend deals with the media and the freedom it enjoys or its absence as an indicator to assess the depth of democracy reached by the countries living a democratic transition.

As for the influence of the media as a vital actor in the process of democratic transition, it did not receive much attention in the whole world to the limits of the 1990s, as the shifts in Eastern Europe and a number of countries in Latin and South America, Africa, and Asia imposed this issue. But during the preceding decades, attention was focused on the role of the media in a relationship with the dualism of underdevelopment and development, then the problem of media and cultural dependency and the demand for a new global media system.

Despite the coherent and simultaneous development since more than two centuries between the spread and emphasis of democracy and the emergence and development of the mass media multiplied in recent decades and voices expressing fear of a counter-trend in which the media turned to a threat to democracy that threatens it and even destroy it.

The future relationship between the media, democratic transition, and democracy today appears unclear, especially in terms of its contribution to the democratic process. It is a relationship that seems complicated and not without ambiguity with the increasing deviations of many of the most important, largest and most

widespread and influential media, which have become a threat to media freedom and democracy under the influence of political forces, financial lobbies, populist and demagogical practices and programs, and gasping behind the rates of viewing in search of promotion in the income of advertising and in the absence of professional ethics.

In this context, the Tunisian case provides an appropriate framework for reflection, analysis and finding legal, functional, institutional and moral legal solutions to establish a free, independent, professional and impartial media that is at the service of democracy and an area to consolidate its culture.

The establishment of an independent and pluralistic media is transparent in its conduct and necessarily superior in its contents to the goals of the revolution and the democratic transition in freedom. The issue of independence is closely related to the issue of freedom, as there is no freedom without independence and no independence without freedom.

The legal and institutional framework in which the media moves is at the heart of the mixture between the inherited and the desired: between inherited legislation dominated by the spirit of subjugation and the absence of independence and other innovations characterized by a liberal spirit that seeks to establish guarantees not only at the level of principles, values and general rules, but also at the level of practical and institutional mechanisms guaranteeing conformity with the principles and rules of actual practice.

The Tunisian media have, in the vast majority, formed the pillars of the authoritarian regime for the decades that preceded the year 2011. Since the former president left, they have become one of the most important workshops for the democratic transition in the country. Since that date, it has blown on the media sector and the country on the winds of freedom. Even the Tunisian revolution has been described

as a revolution of freedom. Observers are unanimously agreed that the most important thing that has been achieved since the departure of the former president is freedom of expression, media and communication, but everyone acknowledges that this freedom, which is considered " The rest of freedoms portal "is still fragile and threatened, and it needs to establish a legal system that will protect it effectively and contribute to the development of its requirements and its pillars through the establishment of a framework for self-adjustment, especially for written and electronic journalism and the promotion of an independent, professional, objective and neutral amendment system for audio communication." And visual.

Although the transitional period was characterized by great difficulties and the process of establishing a free, pluralistic and professional media scene faced and still faces major obstacles and strong difficulties, it has known a number of important reforms and established a new legislative and constitutional legal framework such as real gains. And if the legislative reforms are transitional and temporary and not without shortcomings and weaknesses, the new foundations laid down by the new constitution for the year 2014 are still waiting for elaboration and detail, which means that the media sector in general and its adjustment in particular is still the subject of research on the focus of an institutional, legal, continuous and integrated framework contributes to overcoming the problems and difficulties that the sector knows and the shortcomings in the reforms that were established after January 14, 2011.

One of the major open workshops since 2011 is the creation of a new legal framework that guarantees freedom of the media and supports it and establishes an atmosphere of high pluralism and high professionalism. Freedom of expression, which is the freedom of media as its main gateway, is one of the most important gains of the Tunisian revolution.

After decrees n° 115 and 116 of 2011 which, despite some limitations and shortcomings that are related to their transitional nature, for example, important qualitative progress, the 2014 constitution opened the door to support and develop freedom of information and communication. The new constitution stipulated that freedom of opinion, thought, expression, information and publishing is guaranteed "(Chapter 31), and it is the responsibility of the state to" guarantee the right to information and the right to access information "and" to strive to guarantee the right to access to communication networks "(Article 32) it also enshrined the constitutional character of the adjustment authority (articles 125 and 127).

In this context, and in an effort to perpetuate these constitutional provisions, several official and trade union parties, particularly in the Ministry in Charge of Constitutional Bodies, Civil Society and Human Rights, the Independent High Authority for Audiovisual Communication and the National Syndicate of Tunisian Journalists, have prepared and submitted proposals for draft laws Fundamental and new reforms, some of which caused differences, controversies and debates.

This modest paper aims to contribute to establishing a comprehensive and forward-looking vision that will help to introduce deep reforms embodied in a harmonious and integrated legal framework that opens up real prospects for establishing a pluralistic, professional and media landscape free from the hegemony of all power, political forces, and economic and financial lobbies.

And this vision necessarily requires a reading of the inherited and an objective critical evaluation of what has been achieved since 2011 in terms of reforms and gains, but also of shortcomings and weaknesses and a diagnosis of the current reality of the sector with its positive elements and what it knows from weaknesses, deviations and threats to it and In anticipation of the prospects for the development of the sector to allow the development of an integrated and harmonious vision of

reform and the presentation of practical proposals and recommendations that are realistic and ambitious at the same time related to the prospect of the legal framework for the future amendment of the media sector, whether paper print and digital or audiovisual communication.

Accordingly, this paper will be divided into three parts.

The first is exposed to an attempt to define what is meant by adjusting the media, its goals, characteristics and development.

The second part focuses on trying to diagnose the inheritance and assessing the current context.

The third part is concerned with critical reading of the various proposed or prepared bills by the various parties concerned

And submit a number of proposals and recommendations.

Part one: Media Adjustment: What do we mean? And any peculiarities in the media sector?

According to Solidar Organization's previous studies on regulatory bodies[1] and on the adjustment of the media sector, we will going just to recall the adjustment concept (first section) and then highlight the specificities of the adjustment in the media field and its objectives (second section).

Section 1: The concept of regulation and its origins

The regulation in terms of its origins is not a legal concept, but rather entered the legal sciences late from several other sciences. The concept of regulation has

[1] In particular, the study of Professor Mohamed Chafik Sarsar and Mr. Mourad Ben Moula on independent constitutional bodies - Tunisia 2018

emerged, especially in biology, mechanics, electronics, and cyber sciences, and the regulation in these areas means mechanisms to make the movement, a machine conduct , momentum, or body regular and balanced.

On the economic and institutional levels, the concept of adjustment and the regulatory bodies have emerged since the nineteenth century in the United States, especially in the sectors of economy, trade, competition and communications.

The Interstate commerce commission has been established since 1887, then the Federal Trade Commission was established. After that, the regulatory bodies spread and emerged, especially in the countries of Northern Europe and the United Kingdom, before they spread to the rest of the world starting from the late seventies and during the eighties and nineties of the last century.

Indeed, regulatory bodies appear to be a legal entity that is not clearly identified. They are increasing and spreading and expanding internationally and nationally in an atmosphere characterized by a general welcome and even graciousness and its institutional and legal standing is increasing to reach the level of constitutional devotion to a number of them despite the ambiguity and ambiguity of the concept and the absence of an accurate legal definition, whether in Tunisian law or in foreign legislation.

The ambiguity of these bodies is the result of a set of data, the most important of which are:

- The blurring of the concept of regulation itself

The newly developed nature of the regulatory bodies on our legal system.

- The association of the emergence of these bodies with a deep, comprehensive and even global orientation and movement in the field of public affairs governance in general and economic governance in particular has led to

accelerated and mobile reviews and developments of the role of the state and its relationship to the market on the one hand and to society as a whole on the other hand.

These factors and data make the regulatory bodies a legal entity of a new class that cannot be approached with concepts, institutions, the legal system, and even the traditional political system prevailing so far.

The regulatory bodies represent a distinct class of public structures that often raises the question about their nature and their position in the institutional system: are they high constitutional structures, administrative structures, judicial or quasi-judicial structures, or are they in status between the two places, whether in terms of their functions or in terms of their organization and Their composition? .

In the first stage, the predominant approach was to consider it of an administrative character, so that these bodies are often described as independent administrative bodies mandated to adjust a specific sector or field, but they are independent and are located outside the administrative pyramid and have strong independence from the executive authority and therefore are not subject to any presidential control and no supervision.

In a second stage, a number of these bodies became described as independent public bodies, and in a third stage a new class of independent bodies emerged, which was enshrined in the constitution, to be described as independent constitutional bodies.

The adjustment function is one of the most important characteristics of regulatory bodies that distinguishes it from traditional management functions. While the main function of the traditional administration is to implement the law and to devote the options of political authority through control activities (setting rules and making application decisions) and the public facility (providing

services) which all ultimately represent the implementation and enforcement of the law, the regulatory bodies are not satisfied with applying the law in the narrow sense and transcends it to a more specific and broader function of amendment, which aims through a number of rules to establish a balance between several activities and movements in order to ensure the stability of the system and its balance and thus its continuity.

In Tunisia, the emergence and development of the independent regulatory bodies has known three stages.

In the first stage, independent bodies emerged that were created by law and described as independent administrative bodies such as the updated Capital Market Authority in 1994 and the National Communications Authority updated in 2001 and then the National Authority for the Protection of Personal Data updated in 2004 or the General Insurance Authority updated in 2008.

In a second phase, it was launched immediately after January 14, 2011, and it continued until the date of the ratification of the 2014 constitution. A number of transitional bodies emerged, described as public bodies as **Higher Authority for Realization of the Objectives of the Revolution, Political Reform and Democratic Transition**, the **National Commission to Investigate on Corruption and Embezzlement**, and **The National Commission of Inquiry on Abuse and Violations recorded** during the events of the revolution and The **National Independent Commission for Media Reform and Communication**, and after that in particular the **Independent High Authority for Elections** (Decree No. 14 of 2011) and the **High Independent Authority of the Audiovisual communication** (Decree No. 116 of 2011) Then, after the elections for the **Assembly of the Representatives of the People**, other

independent bodies were created, such as the **National Authority for Prevention of Torture**[2] and the **Truth and Dignity Commission**[3].

In a third stage, which started with the issuance of the new constitution on January 27, 2014, a new category of independent bodies emerged and was described as constitutional. The new constitution devoted a whole article, Article Six to Independent Constitutional Bodies (articles 125 to 130), which stipulated the creation of five bodies of this type. Within this framework, the audiovisual media commission stipulated in article 127 of the Constitution is included.

And still this section suffers from the lack of dedication of its full provisions, as some of the bodies stipulated have not yet occurred, while some bodies of a temporary nature are still active on the basis of temporary transitional decrees or laws and the status of the audiovisual communication body that concerns us within the framework of this paper. It is the only constitutional body of a regulatory nature in the strict sense of this term. What are the peculiarities of the adjustment in the field of media?

Section Two - Media Adjustment: What are its specificities?

In general, an adjustment can be defined as a function aimed at ensuring the stability and balance of a system and, when necessary, restoring it.

The media adjustment is distinguished from the rest of the categories and areas of the regulation because it is not only a guarantee of competition and economic balance between the various media institutions, but rather by its attachment to public freedoms, especially the freedom of expression.

[2] Organic Law n ° 2013-43 dated October 21, 2013 relating to the National Authority for Prevention of Torture
[3] Organic Law No. 53 of 2013 dated December 24, 2013, relating to the establishment and organization of transitional justice

In general, the adjustment of the media and communication can be divided into three sections:

- Working to respect the economic rules on the one hand, which means that in particular, by resisting the concentration of ownership of the media and economic domination sites, and establishing a balance between the various institutions and the actors involved in the sector. From this angle, the adjustment is not distinguished as an regulation of an economic sector.

- But the media is not just an economic sector and not a sector like other sectors. Rather, it is a sector closely related to freedoms. Therefore, its amendment as well as its economic dimension is essentially a regulation of freedoms in terms of protecting, strengthening and framing them. Therefore, the adjustment of the media aims to guarantee freedom of expression and pluralism in opinion and the media, and to protect the independence of media institutions and journalists from various pressures and restrictions that can be exercised by various political and economic forces in order to subjugate and employ it in a way that harms the credibility of the media, the public interest and the right of Citizens in professional and impartial media. Since 1984, the French Constitutional Council has considered the independent regulatory committee for audiovisual communication a fundamental guarantee for the exercise of public freedom[4].

- Ensure respect for the rules of the ethics of the profession to ensure professional, objective and balanced information and protection from deviations and abuses, especially at the level of the contents of the media article and media work methods.

[4] "A fundamental guarantee for the exercise of a public freedom" within the meaning of Article 34 of the Constitution

And the specificity of the adjustment in the media sector finds its basis in that this sector faces various and multilateral influences and pressures. While the state's intervention can protect freedom of expression, the media, and communication from the pressures of economic interests, it carries the risks of political trusteeship. Therefore, an independent regulation represents a compromise that enables protection from state pressures as well as from economic and financial lobbies and supporting the independence of actors in the sector, institutions and Individually.

Independence means that individuals, or entities, produce the unfinished, unguided act of any party, and whatever it is, and on the basis of a certain conviction that seeks to build visions aimed at serving the public interest, towards economic, social, cultural, civil, and political issues And, without prejudice to this or that party, and without a desire to achieve a specific goal, it is sought after it to please this or that party. This concept raises the need to respect democratic practice with its economic, social, cultural, civil and political content, which provides an opportunity for the practice of independent media.

On the basis of this vision of media independence, the adjustment seeks to:

- The media should not be a platform for the state's view of its three powers, especially the legislative and executive authorities, towards economic, social, cultural, civil, and political issues, but it is, at the same time, concerned with reporting on what the state is doing in various fields, without specifying a specific position on that. .
- That it not be a platform for the government in the sense of the executive authority, which is controlled by a specific party, or a group of parties, so that it is possible to move away from containing the government, its party, or its parties to it, and so that it can embody the

necessary neutrality towards government action, and toward government parties.

- Not to be a platform for a specific party, or a group of parties opposed to the government, so that it remains completely away from alignment with the opposition, whatever its form.

The impartiality of the independent media does not prevent it from being an area for displaying what the state, the government with its various parties, and what the opposition parties do, in addition to what they do with civil society organizations, without prejudice to any of them. Thus, the independence of the media is embodied on the ground, and at all levels, so that it can fully play its role in serving abstract information except from alignment to serving the truth, which contributes to raising the awareness of all members of society, at all levels: economic, social, cultural, civil , and political. This is what the public media needs in particular, as it is more threatened than others, by the tendency of those holding power to overuse it.

The culture of regulation suffers from real fragility due to a legacy characterized by its total absence and a transitional context, despite the important steps and developments achieved in it. The legal and institutional frameworks regulating the media scene and the protection of his freedom are still not firmly established and supported, and for some types of media such as written and electronic have not established at all.

Part Two: The Media Adjustment in Tunisia: A Heavy Legacy and Important But Insufficient Transitional Reforms

The media reform process and the establishment of freedom and professionalism faced many difficulties resulting from a long legacy of repression, the usurpation of freedom, and the absence of the slightest constituent elements of the

adjustment culture (first section). This is what makes the reforms that were made after 2011 distinguished at the same time by audacity, but also by not being sufficient (second section).

Section 1: Heavy legacy

The transition that has started since 2011 has faced a very heavy legacy, the fundamental character of which is repression and isolation

And ad hoc propaganda recruitment and impoverishment of the talents and severe repression of the people of this sector so that the previous regime mourned the finger and placed at the bottom of the arrangement in terms of respect for freedom of information and communication and at the forefront of the black lists of the enemies of this freedom from many international organizations with credibility in this field.

The country has therefore inherited a media landscape that is dominated by seclusion, mediocrity, desertification, absence of pluralism, diversity in content, ideas and opinions, despite the relative increase in institutions and addresses in quantitative terms.

Regarding the audiovisual media sector, the authoritarian regime has left a scene characterized by two types of institutions and devices:

- Public, closed and poorly publicized media organizations are represented by the Tunisian Television Corporation, with its channels Tunisia 7 and Tunis 21, and the Tunisian Radio Corporation, which includes two central radio stations and a number of regional radio stations.
- Private institutions represented in two television channels and four radio channels that have been given licenses to exploit them without objective and transparent criteria, and these licenses have overcome the criteria of loyalty or closeness and even belonging to the two ruling families. In spite

of this, mistrust prevailed as many restrictions were placed on these channels and subjected to strict control and prevented from producing or broadcasting programs concerned with public affairs, especially news and political programs.

This closed and stagnant scene experienced a strong disruption and turmoil with the rise of the revolution, and only after the compass of propaganda, loyalty, obfuscation and inaccuracy that was directed by some of the most powerful symbols of the authoritarian regime, and after the media institutions found themselves in a new context gave them a large margin of freedom has opened new horizons for it that were not ready for the best exploitation, given its lack of familiarity with the values of freedom, pluralism, objectivity, transparency and integrity. This shaking led to a lot of errors, transgressions, and looseness that were, albeit not surprising, in the context of a revolutionary transformation, the fall of a number of pillars, institutions, and legislation of the previous regime, and the lack of preparedness of the sector's institutions and its journalists to deal with the new climate of freedom and pluralism; However, it requires urgently the establishment of a new institutional, legal, behavioral and regulatory framework based on democratic principles and values, including in particular freedom, pluralism, transparency and balance.

The creation of media and journalists, Tunisian and foreign, was a common practice, especially through the Tunisian agency for external communication. As loyal to Ben Ali and his regime, the media enjoyed the rights to publish public ads. And if a certain media outlets disobeys obedience and expresses an opinion that is not satisfied with the system, the agency deprives it of all public announcements that were from its share and pushes it towards bankruptcy. Thus, the regime imposed censorship on all news that it did not like. The agency was also paying a group of local and foreign mercenaries to polish the system in

general and Ben Ali in particular in their countries. Some of the paid media were also transferring the regime's propaganda abroad.

After a period of relative openness in the late eighties, with the beginning of the rule of Ben Ali, the pace of infringement of freedoms in general, and freedom of expression and the media in particular, escalated very quickly, which, starting in 1989, led to the disappearance of most independent newspapers and magazines, such as Le Maghreb and Le Phare weekly And L'opinion…

During the 1990s and the first decade of the current century, the titles multiplied, but they were all serving the regime's propaganda interests and directed to attack opponents and human rights activists[5].

As for the audiovisual sector, it was tightly closed, the lean public part was limited, as previously mentioned, to two television channels and a public radio corporation, which runs four national radio stations, one of which is French-speaking, and five regional radio stations.

The private sector was not better off, with its two television channels, Hannibal and Nesma, and four medium-frequency FM stations (Mosaique, Shams, Express and Jawhara), which were all owned by President Ben Ali's relatives and family members, and licensed on the basis of political patronage and exploitation of influence, with total prevention of any news or political programming.

The sector was totally subject to the domination of political power, in the absence of an independent organization to organize it.

With regard to digital media, the communication networks were subject to severe closures and censorship, in light of an authoritarian legal framework that

[5] Despite the harassment, trials, and censorship, the resistance managed only a small number of opposition newspapers, which were distributed on a small scale, including the weekly Al-Mawkif of the Progressive Democratic Party and the weekly Al-Tajdid movement.

strikes rights across the wall and adopts legislation that appears to be liberal, while opposing freedoms on the ground.

In this context, the legal framework of the media did not provide any space for real freedom or pluralism and did not include any provisions or mechanisms for adjustment. Although the 1959 constitution recognized in its eighth article that freedom of the press and expression is guaranteed, this did not prevent the legal and regulatory framework for the sector from being repressed and arbitrary.

The written media was subject to a repressive law dating back to 1975[6]. As for the audiovisual sector, it was suffering from a legal gap allowing all transgressions, in light of the total absence of any mechanisms for adjustment, and even the idea of regulation itself. The available texts were limited to government radio and television[7].

As for the written press, the 1975 law was more like a penal law specific to the press, due to the large number of negative provisions for freedom that it contained, despite its successive amendments, in the years 1988[8], 1993[9], 2001[10] and 2006[11], in addition to transferring part of these provisions to the magazine. Criminal 2001 and the abolition of legal deposit and its provisions (2006)[12].

This repressive character was reinforced after the issuance of the anti-terrorism law in 2003[13] and the amendment of Article 61 of the Criminal Code in August 2010[14].

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[6] Law No. 32 of 1975 on April 28, 1975, Official Gazette No. 29 of April 29, 1975 amended.
[7] Law No. 33 of 2007 of June 4, 2007 on Public institution of audiovisual Communication, the Official Gazette No. 45 of June 5, 2007, and Law No. 49 of 1990 of May 7, 1990 related to Tunisian Radio and Television Establishment
[8] Organic Law No. 89 of 1988 dated August 2, 1988
[9] Organic Law No. 85 of 1993 of August 2, 1993
[10] Organic Law No. 43 of 2001 dated May 3, 2001
[11] Organic Law No. 01 of 2006 dated January 9, 2006
[12] Chouikha (L.),« *Fondement et situation de la liberté en Tunisie* »& « *Tunisie, la liberté d'expression assiégée* », rapports du groupe IFEX-TMG, février 2005, page 22 et s.
[13] Law 75 of the year 2003-2003 on December 10, 2003
[14] Law 35 of 2010 on June 29, 2010

Thus, Tunisia was at the top of the black list of countries hostile to freedom of the media and the Internet[15].

In this suffocating public climate, a telecommunications law and a basic law to protect personal data were passed, respectively in 2001 and 2004[16].

This last law was issued in order to polish the image of the system, just before the World Summit on the Information Society in 2005, and it was only a facade of deception, as it was hiding behind the recognition of the principle of transparency and respect for human rights, a severe restriction of access to information. The prevention of the processing of certain sensitive information, such as provided for in Article 13 (information of a personal nature relating to violations and their examination, criminal prosecutions, judicial rulings, preventive measures and case law) and Article 14 (information on assets, convictions, beliefs and health) does not apply to departments and public moral entities. Article 56 also states that the citizen's right to access information and personal information does not apply to public administrative structures.

As for Article 54, "public authorities, local groups, and administrative public institutions" are exempt from applying some of the requirements of this law, especially those related to compulsory prior authorization to process any personal data for reasons related to public security and national defense or with the aim of launching criminal prosecutions or when it is necessary to carry out their tasks. According to the laws in force.

The regulatory framework for media freedom has worsened over the years, especially during the years before the fall of the Ben Ali regime.

Despite this anti-freedom legislative arsenal, the digital space has actively contributed to the growth of the revolutionary movement [17]. During the

[15] Since 1998, Ben Ali was considered among the "10 worst media enemies" by the Committee to Protect Journalists. Also, Reporters Without Borders saw it as a major threat.
[16] Official Gazette no. 10 dated February 3, 2004

revolution period[18], and to face censorship and poor coverage by traditional media, the struggle shifted to the level of information and moved to the digital world.

To combat the phenomenon, the authorities tightened their censorship on Facebook and blocked some pages on YouTube, while the police have set the network content at the level of Internet service providers.

Then came the revolution, and turned the media field upside down, whether during the uprising stage or the transitional phase.

Section 2 - Transition reforms: important steps in need of strengthening

After the fall of the Ben Ali regime, freedom of expression and the media occupied a special place in the various reform workshops, and the reforms of 2011 constituted a real step forward (a), which was strengthened by a new constitutional arsenal that gave impetus to these freedoms despite its ambiguity and suspicion (b).

A- Decrees issued in 2011: concrete steps forward

After Ben Ali fled, the winds of freedom blew powerfully on the country and brought with it unprecedented pluralism and freedom. Since 2011, the sector has been seeking to locate and obtain legal status.

In the public sector, journalists are looking to move from a government media to a media that raises the slogan of public service and respects the ethics of the profession, objectivity and balanced pluralism, among which the private sector seeks to preserve and strengthen the freedom it has recently acquired.

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[17]Ben Letaief, « *Droit, administration publique et TIC en Tunisie »,* dans Mezouaghi (M.), (dir.), *Le Maghreb dans l'économie numérique,* IRMC, éd. Maisonneuve et Larose, Paris 2007, p. 181-201 ; également, « *Médias, Internet et transition démocratique en Tunisie »,* dans, Lavenue (J.J.), (Dir.), *E-révolutions et révolutions, Résistances et résiliences*, Presses Universitaires du Septentrion, Lille 2016, p. 91.

[18] From December 17, 2010 until January 14, 2014.

At the institutional level and in the context of the aftermath of the fall of the former head of state, three independent committees were created, the first was charged with investigating bribery and corruption practices under the previous regime, the second was to investigate violence against revolutionaries, and the third with political reform included law experts, before joining them at the beginning March 2011 Young revolutionaries from different regions of the country and representatives of civil society bodies, such as the Tunisian League for the Defense of Human Rights, the Tunisian Order of Lawyers, Magistrates Association and the Tunisian General Labor Union and a group of political parties, to turn into the higher authority for realization of the objectives of the revolution political reform and democratic transition. The committee of experts within the commission was divided into four sub-committees, one of which was entrusted with launching the process of reforming the media sector.

After a few weeks have passed and the Ministry of Information and communication and the Supreme Council of Communication disappeared, the National Authority for Media Reform and Communication Sector was established, by virtue of Decree Law No. 10 of 2011 on March 2, 2011. The authority was entrusted with assessing the status of the sector, submitting proposals for reform, proposing the necessary legislative texts and working to establish independent amendment bodies.

The subcommittee charged with reforming the media of the higher authority for realization of the objectives of the revolution political reform and democratic transition and the National Authority for Media Reform and Communication worked hand in hand, considering that the sector must be cleansed and removed from the interference and domination of political power. This joint work enabled the development of two basic texts: one is the regulation of the written press and the second is the audiovisual media, and it is related to Decree No. 115 of 2011 and Decree No. 116 of 2011 issued on November 2, 2011, who were issued after

a series of consultations, in which experts and representatives of the National Syndicate of Tunisian Journalists, and national and international NGOs, in addition to a number of comparative studies, workshops and debates for reflection and exchange with many foreign regulatory bodies, including the High Councils of Audiovisual in France, Belgium, the Czech Republic, Romania and the United Kingdom.

1- Reforming the written press

Decree No. 115 of 2011 of November 2, 2011 repeals and replaces the Press Law of 1975.

It includes 80 articles spread over 7 titles and stipulates many important new requirements, including in particular:

- Removing the Ministry of the Interior from running the sector and transferring all powers and stages related to freedom of information and expression to the judiciary.
- Include requirements for defining a professional journalist and granting a reporter's card (articles 7 and 8).
- - Guaranteeing the right of the journalist to access information and publish it.
- Protection and independence of the journalist against all forms of pressure and intimidation (articles 9 to 14).
- Protecting the confidentiality of media sources (article 11).
- - Repealing the disguised licensing system for publications that was in the hands of the Ministry of the Interior (articles 5-19).
- - Include requirements for financial transparency for media institutions and enable the reader to view the sources and methods of their financing, as a measure to ensure that they are not affected by internal or external parties (articles 23-32).

- Inclusion of requirements for pluralism to ensure the right of citizens to a diversified media and to avoid monopoly and exploitation of hegemony (articles 31-38).
- Repeal most of the repressive requirements of the previous law set by the dissolved regime to subject journalists and compensate them with fines for insulting crimes and defamation.
- Restricting negative sentences to limited cases related to serious crimes such as incitement to murder, physical violence, rape, and praise of crimes against humanity, war crimes, or sexual abuse of children.

2- Reforming the audiovisual sector and establishing a regulatory body

The second text is Decree No. 116 of 2011 of November 2, 2011 on Freedom of Audiovisual Media and the Establishment of the High Independent Authority of Audiovisual communication.

This text guarantees freedom of the audiovisual media to all citizens (article 4) and establishes the basic principles related to freedom of expression, equality, pluralism of ideas and opinions, objectivity and transparency of the media.

In order to guarantee these rights and freedoms and regulate the sector, the law provides for the establishment of a High Independent Authority of Audiovisual communication. with civil personality and financial independence.

Under Article 6 of this decree, this authority exercises its powers with complete independence, without interference from any party that would affect its members or activities.

- **Composition of the regulatory body**

The authority is managed by a council composed of nine independent personalities, known for their experience, integrity and competence in the field

of media and communication, to be appointed by order. We subject this composition to an innovative participatory logic, as it includes two judges from the administrative and judicial courts, one of whom is the vice president, two members proposed by Parliament, two journalists proposed by the most representative professional organizations, a member proposed by the most representative organization for the owners of audiovisual institutions, a member proposed by the most representative of the non-press media profession, and a member appointed by the President of the Republic, after consulting the members of the Commission and holding the position of President. Members are appointed for a six-year term, with a third of the members renewed every two years. In order to ensure the independence and impartiality of the authority, a number of incompatibilities have been identified[19].

- **Competencies**

The terms of reference of the Independent High Authority of the Audiovisual communication are divided into three integrated categories: decisional, consultative and monitoring.

Decision specializations: determined by article 16 of the decree and related to respecting the rules and regulations applicable to the audiovisual sector, deciding requests for granting licenses for the creation and exploitation of audiovisual communication facilities, granting the necessary frequencies, laying out brochures of conditions and licensing agreements for audiovisual communication establishments, and monitoring and observing their respect. It also includes observing respect for the sector's principles and behavioral rules, ensuring freedom of expression and pluralism in thought and opinion, and punishing the violations committed.

[19] Membership of the Authority cannot be granted to anyone who practiced governmental, partisan or political responsibilities or paid work with a political party during the last two years prior to appointment, or who directly or indirectly shares financial interests or interests in media contracts.

In cooperation with the Independent High Authority for Elections, the High Independent Authority for Audiovisual Communication defines the rules of the election campaign in audiovisual communications, based on respect for the principles of pluralism, fairness, and transparency (article 44). The High Authority also determines the rules and conditions for the production, programming and broadcast of programs, reports and paragraphs related to election campaigns (article 43).

As for the consultative powers, it is related to expressing opinion on draft laws relating to the audiovisual communication sector and expressing the corresponding opinion regarding the appointment of the heads general managers of public institutions for audiovisual communication[20].

The High Authority can also submit proposals related to the reforms imposed by the development of the audiovisual communication sector.

In addition to these decisional and consultative powers, the Commission has been empowered with complementary competencies in the field of monitoring and, when necessary, punitive, where the Authority interferes on its own or with an external request to "monitor the extent of respect for the general principles for the practice of audiovisual communication activities in accordance with the legislation in force" (article 27). The authority can impose gradual financial or non-financial penalties, from warning to the final withdrawal of the leave. In all cases, the penalty must be commensurate with the gravity of the violations committed and related to the benefit that the violator may derive, without exceeding 5% of the transaction number before taxes achieved during the fiscal year preceding the violation (article 29). It can also refer the matter to the competent judicial or professional authority, as appropriate.

[20] Which means, according to the principle of parallel measures, that the termination of services is also subject to its opinion.

However, these reforms were blocked by the Islamic majority government that was produced by the elections for the National Assembly of the Representatives of the people that was organized on October 23, 2011, which showed a real reluctance to install the new independent bodies and a desire to control the media.

After a long and elusive struggle, the general strike, which journalists launched on October 17, 2012 and witnessed a high turnout, was the first in the country's history, and the government announced its intention to implement the decrees inaugurating the High Independent Authority for Audiovisual Communication. However, prevarication persisted, and members of the commission were not appointed until 3 May 2013. Since that date, the organization has faced resistance and deformation campaigns to weaken it.

B : The reforms included in the 2014 constitution: gains and fears

The new constitution, which was ratified on January 27, 2014, promotes freedom of the media and constitutionalizes the audiovisual communication regulatory body.

The new constitution devoted many articles to freedom of expression and the media, such as articles 6 and 21, especially 31 and 32, as well as 42 and 49, which entrusted the law with the task of defining the regulations related to the rights and freedoms guaranteed in the constitution and exercising them in a way that does not affect its essence. It also devoted its sixth article to independent constitutional bodies and devoted the creation of five bodies. The constitution referred to the law the task of controlling the composition and representation of these bodies, the methods for their election and organization, and ways of holding them accountable. Article 127 of the Constitution devotes to the audiovisual communication authority, in which it is stated that this body undertakes the adjustment and development of the audiovisual communication

sector, and strives to guarantee freedom of expression and information, and to ensure a fair, pluralistic media. It also stipulated that it had a regulatory power in its field of competence and was obligated to consult in draft laws related to this field. And in terms of its composition, it says in the last paragraph of this article that the commission is made up of nine independent, impartial and competent members who carry out their duties for a single period of six years, and a third of its members are renewed every two years.

And the contents of the constitution can be considered as an enhancement of the 2011 reforms and opens new horizons for supporting freedom of expression and information, by establishing this freedom and strengthening the institutional framework for media freedom in the audiovisual sector.

-1Emphasizing the principle of freedom

Article 31 of the new constitution affirms that "freedom of opinion, thought, expression, information, and publication is guaranteed. No prior censorship of these freedoms may be exercised."

The official assertion of freedom of the media is especially important, because other freedoms are closely related to this freedom, but it is unfortunate that the confidentiality of the press sources and the independence of the media are overlooked.

Article 32, for its part, states that "the state guarantees the right to information and the right to access information. The state seeks to guarantee the right to access communication networks." The ratification is a major breakthrough. Organic Law No. 22 of 2016 of March 24, 2016[21] regarding access to information details this right and guarantees its application, by establishing an independent body whose guarantee of access to information has been included among its tasks.

[21] Official Gazette No.29 dated March 29, 2016. p.949

2 Institutional protection for freedom of audiovisual communication

The matter concerns the constitutional body for audiovisuals stipulated in title 6 of the Constitution, which will replace the current high independent authority for audiovisual communication. In this regard, as previously mentioned: Article 125 of the Constitution states that "independent constitutional bodies shall work to support democracy. All state institutions shall facilitate their work."

These bodies have the legal personality and administrative and financial independence, and are elected by the People's Assembly with a strengthened majority, and they submit an annual report to it that is discussed with respect to each body in a public session devoted to the purpose.

The law shall determine the composition and representation of these bodies, the methods for their election and organization, and the means for holding them accountable.

Article 127 states that "the audiovisual communication commission shall adjust and develop the audiovisual communication sector, and shall ensure the freedom of expression and the media, and to ensure a fair and pluralistic media. The authority has a regulatory authority in its field of competence and is obligatory consulted in draft laws related to this field."

The text affirms that the commission includes "neutral, independent and competent members". The text reminds of the principles guiding the work of the commission, namely, "respecting freedom of expression and the media" and ensuring "pluralism and integrity of the media." The powers vested in it would enable it to fully play its role as a body for modifying the audiovisual sector.

Initially, the creation of an regulatory body can be considered one of the most important institutional guarantees of this freedom of information and to reconcile it with the controls stipulated in Article 49 related to rights and

freedoms that aim to **protect the rights of others, or for the requirements of public security, national defense, public health, or public morals ,**

And therefore monitoring these limits and ensuring that they are exercised "**in a manner that does not undermine the essence of these freedoms, and that they are placed only for a necessity required by a democratic civil state while respecting the proportionality between these controls and their obligations in a manner** that does not lead to the curtailment or circumvention of freedoms."

And it can be said that the dedication of such a body is in itself a necessity and a gain that meets an urgent demand for the people of the sector and for the citizens in general, but what was mentioned in the new constitution in its sixth title of the creation of an audiovisual communication body is not without deficiencies, which makes it does not rise to the level of expectations and hopes and leads and stays in below target.

The constitutionalization of a body concerned with the protection of media freedom and the consecration of the right to a free, impartial and independent media is considered a necessity for many reasons, the most important is the very heavy repressive legacy of the media sector and the necessity of cutting with it by giving freedom of the media and the guarantor institutions it has a high position in the desired democratic construction and thus the acquisition of this freedom and its institutional guarantees are constitutional value.

The dedication of independent bodies in general and a body charged with regulating the audiovisual communication in the constitution is not an innovation, as we find such a dedication in a number of constitutions, including the new Morocco's new constitution issued in 2011.

This constitution also represents an initial guarantee for the freedom of the audiovisual media, its pluralism and balance, and it was able to elevate it to the

level of the fourth Estate that media practitioners dream about and that democracy requires as a counter authority that helps balance the political system and society, consolidates its democracy and its pluralism, and protects it from the risks of deviation towards tyranny.

Moreover, constitutionality is precious in principle, because it leaves the concerned bodies out of the status of mere administrative bodies, and if they are independent, they will be elevated to the level of the constitutional body.

The administrative bodies, even if they are described independently, will necessarily be part of the administrative cabinets in which the head of government acts, in accordance with Article 92 of the Constitution, which, according to the third paragraph of the same Article 92,in "creating, amending, and deleting public institutions and public establishments and administrative departments, and setting its terms of reference and powers after the Council of Ministers' deliberation.

And the commission stipulated in Chapter 127 of the draft constitution comes as an extension of what was mentioned in the aforementioned Chapter 31 of the same constitution. The amendment body represents a constitutional institutional guarantee for this freedom.

And the commission stipulated in Article 127 of the draft constitution comes as an extension of what was mentioned in the aforementioned Article 31 of the same constitution. The regulatory body represents a constitutional institutional guarantee for this freedom.

And Article 127 of the Constitution cannot be read in isolation from Article 125 that leads the sixth title, which defines the objectives of the constitutional bodies, namely working to support democracy and its characteristics, which is the enjoyment of the legal personality and administrative and financial

independence and how to appoint its members, which are elected by the Parliament with an enhanced majority.

It is worth emphasizing in this context the specificity of the regulatory bodies in the field of media and communication, given the privacy of this highly sensitive sector, as it is not just an economic market regulation and an endeavor to establish its balance as is the case in other sectors, but it is in addition to this an adjustment in the heart of freedoms aimed at protecting it and establishing the balance between it and the authority and the requirements of security and public order within the framework of the power and freedom equation. Therefore, it is traditionally exposed in all countries of the world to multiple pressures in which the economic is mixed with the political, the most important of which comes from two sides:

- Lobbying, financial and economic interests pressures
- And the political authority pressure s

All of them carry major risks to media freedom and open the door to subjugation and misuse of it.

The main task of the regulatory body is to protect the freedom of the audiovisual media, which is the most influential among citizens, and to reduce these pressures and these risks.

Freedom is closely related to the issue of independence. The aim of the constitution is usually to seek to fortify the freedom of the sector by establishing its actual independence from political powers (executive and legislative) and to distance it from narrow partisan and political conflicts in order to play its role with integrity and objectivity and be a positive counter-authority.

So does the new constitution enable the authority of audiovisual communication of the necessary powers and does it provide adequate guarantees for its freedom and independence?

The version contained in the 2014 constitution, and if it represented a significant progress in comparison with what was previously the case, it remained below the democratic aspiration, as it is not without shortcomings full of risks.

The most important risks are represented in the version of the provisions of article 6 of the Constitution, which states that " The state is the guardian of religion. It guarantees freedom of conscience and belief, the free exercise of religious practices and the neutrality of mosques and places of worship from all partisan instrumentalisation. The state undertakes to disseminate the values of moderation and tolerance and the protection of the sacred, and the prohibition of all violations thereof. It undertakes equally to prohibit and fight against calls for Takfir and the incitement of violence and hatred."

This vague wording is of a conciliatory nature, which is not without contradictions that allows conflicting and even contradictory readings and interpretations, whereby some may interpret these provisions in a manner that protects and overrides freedom of belief and conscience, while it is possible to adopt a different interpretation that overcomes the role of the state in protecting religion and the sacred, which raises some people's fear that the state, as a guardian of religion and guarding the sacred, will be unable to maintain neutrality. On the basis of this wording, which carries conflicting interpretations, many NGOs and civil society organizations have expressed fears that this protection constitutes an unacceptable and dangerous restriction on freedom of expression, according to internationally accepted standards, and that it opens the door to enacting legislation that criminalizes any speech or text deemed as a violation of religious beliefs.

In practice, freedom of expression often collides with other public freedoms, individually or collectively, or with sources of political or financial power that make the relationship tense between them. Among the manifestations of tension emerges the problematic relationship between freedom of expression and some

aspects of religious freedom, such as respecting the sacred of others to the sensitivity of the matter, especially in relation to religion.

This problematic relationship leads to the question of whether the sacred represents a control of the freedom of expression? To what extent can respecting the sacred be a threat to freedom of expression as a fundamental freedom?

- Many believe that the history of public freedoms in Tunisia, and in particular freedom of expression, makes it difficult to accept the identification of the last freedom with cloudy and hazy concepts such as the sacred and its respect. This determination is reminiscent of the various violations that were practiced by the state against its opponents and against journalists and creators in the name of protecting public order and good morals

The sacred linguistically is the most glorified, and forbidden. And we can call it the characteristics of the transcendent command, the majestic prestige, the extraordinary, the respect and the differences of the worldly ... The sacred includes symbols, personalities, religious books or places of worship ...

Moreover, defining the concept of the sacred is characterized by a subjective character, as it differs according to a person's religious or even non-religious beliefs, as we can imagine a religious sacred existence related to the sanctity of freedom of expression itself, for example. The sacred is determined from within the same ideological or religious system and among those who belong to it so that the sacred of Muslims, for example, may not be not sacred in another religion.

And considering the contents of the first article of the constitution, is the sacred only Islamic, or does it belong to every religious belief or all philosophy or ideology? Also, providing for the protection of "public morals" in Article 49, among the interests that must be protected and which restricts freedoms, may be

a source of concern. Despite mentioning this limitation in Article 19 of the International Covenant on Civil and Political Rights, the Tunisian context, which is printed by religious authority and conservative extension, may make it a vague and anti-freedom concept.

As for the institutional guarantee represented in establishing the constitutional body for audiovisual communication, and given that the appointment of members takes place through elections within the People's Assembly, some fear that the majority parties will obtain the appointments, at the expense of competence and integrity, based on the logic of proximity to these parties. In this way, the effort to avoid deviations resulting from factional interests turns into a trap in the political interests of the parties, which is more dangerous.

Freedom of the media and its regulation objectively and closely related to the true independence of the regulatory body.

Independence, along with the organic and functional dimensions, have two fundamental legal and political meanings.

From a legal point of view, membership in particular means constitutionally guaranteed independence, placing the body outside the principle of subordination to the government and thus immunizing it from the consequences of that dependency and submitting to government powers such as issuing instructions and directing orders as well as the powers of cancellation, deletion, and amendment of its decisions and actions as well as protecting it from the deviations of traditional guardianship control which controls the administrative authorities who enjoy the legal personality.

Independence is also related, in particular politically, to the method of appointment and composition, as well as the nature of the competencies and powers enjoyed by the body.

With regard to the method of appointment, although it was characterized by some progress by strengthening the majority, the constitution maintained despite numerous criticisms the same method of appointment stipulated in the draft of December 2012 and the “my project” April and June 2013 and included in Article 125 of the constitution in its final form, and it is a method which does not guarantee the independence, despite this strengthened majority, and despite Article 127 stipulating that the nine members of the commission will be "impartial, independent, competent and impartial." Election by the People's Assembly means necessarily a composition that is subject in a large percentage of it to the parliamentary majority and in all cases to party quotas, which inevitably leads to its politicization, thereby reducing its impartiality, objectivity, credibility of its work and decisions, and making the independence and impartiality stipulated in Article 127 really questionable.

In addition, the adopted method can lead to the absence of professionals and the judiciary and the absence of a participatory dimension, which is contradictory to the constitution’s assertion since its foreground on the participatory nature of democracy that is to be established.

However, Article 125 referred to the law the task of controlling the composition and organization of bodies. Did the texts that were issued since the ratification of the constitution and the proposed projects contributed to reducing the elements of fragility and ambiguity? And does its contents enable the removal of fears and suspicions and establish an atmosphere of trust between the various parties regarding the freedom of the media and the independence and impartiality of its regulation?

C : Post-constitution texts: conflicting approaches

Here it comes with three texts approved in 2015, 2016 and 2018:

- Organic Law No. 22 of 2016 of March 24, 2016 related to the right to access to information
- Organic Law No. 26 of 2015 of August 7, 2015, related to combating terrorism and preventing money laundering
- Organic Law No. 47 of 2018 of August 7, 2018 related to common provisions between independent constitutional bodies

In addition to a set of draft laws.

-1- Anti-terrorism and money laundering law

The matter relates to organic Law No. 26 of 2015 issued on August 7, 2015, which came with many requirements that would significantly limit freedom of the media in its coverage of political events, especially the authorities 'work in the area of fighting terrorism. The law provides for a set of crimes and violations that are broadly defined, through vague terms that allow for self-interpretations that may lead to unacceptable pressures on the media and journalists when covering events related to alleged terrorist activities or the positions of the authorities regarding these events, or even in the case of broadcasting opinions criticizing public policy. All these crimes, misdemeanors and offenses are offset by harsh and depriving freedom penalties, especially those stipulated in the following articles:

- Article 5: Incitement to commit a terrorist crime
- Article 21: Publishing, in bad faith, false news, thereby exposing the safety of aircraft and civilian ships to danger during navigation.
- Article 31: Praise Terrorism
- Article 34: Many misdemeanors and offenses
- Article 37: Refraining from notifying the competent authorities at once of the actions they were able to see and the information or instructions they

have reached regarding the commission of a terrorist crime stipulated in the law or the possibility of its commission

- Article 58: Refraining from revealing the true identity of the infiltrator, which is punishable by law from six to 20 years in prison and a fine between 15,000 and 30,000 dinars
- Article 73: Refraining from disseminating information about the pleadings or decisions that undermine the private life or reputation of the victims, which are punishable by law by imprisonment and a fine of 1,000 dinars.

It also seems legitimate to fear the possible use of the requirements of the fifth part of the law relating to the use of "special investigation techniques" (Article 54) against the press and journalists, because the definition of some terrorist crimes is ambiguous, as resorting to these special techniques can open the door to monitoring means of media thus compromising freedom of expression and the right to respect for private life.

This text undoubtedly constitutes a weakening factor for freedom of expression and information.

-2 The Organic Law related to Access to Information

The right to access information has been constitutionalized through Article 32 which states that the state “guarantees the right to information and the right of access to information. The state seeks to guarantee the right to access communication networks.”

In implementation of this paragraph, the Organic Law on Access to Information No. 22 of 2016, issued on March 24, 2016, was ratified.

This law, which includes 61 articles, repeals and replaces Decree No. 41 of 2011. In its first article, it stipulates ensuring the right of every natural or legal person to obtain the information, and expands the scope of its application, while

urging the relevant public institutions to publish and update the data in their possession regularly.

It also provides for the establishment of an independent public body called the "Information Access Authority" and charged with investigating complaints and monitoring the implementation of this law. After being repeatedly postponed, it was recently installed, and it has a moral personality and financial independence (Article 37). Its board is made up of 9 members who are appointed for a non-renewable period of 6 years. Half of the committee members are renewed every 3 years.

It has been empowered with several specialties, the most important of which are:

- Deciding the lawsuits filed with it in the field of accessing the information
- Carry out the necessary investigations and listen to public bodies
- Pronouncing the penalties stipulated by the law
- Follow the publications of bodies subject to the law

The promulgation of this Organic Law can be considered as an important step forward in order to promote freedom of expression and set transparency rules that allow Tunisia to occupy advanced ranks among Arab countries in the field of the right to access information.

However, it suffers from some deficiencies and is being subjected to wrongdoing due to the exceptions provided for in Article 24 related to:

- Public Security, National Defense, or International Relations in connection with them
- Protection of private life, personal data and intellectual property

Among the disadvantages that could also direct this law are the weakness of the restraining power of sanctions and their limitations (Articles 57 and 58), in addition to the weak protection of journalists and their sources.

Part Three - Prospects and Obstacles

Section I - Controversial draft laws

A number of these projects relate to the media directly, both in audiovisual communication and in print and electronic media. A number of other projects are also related to other fields, such as protection of personal data, arms forces, and the state of emergency.

A - Projects directly related to the media

A number of them concern audiovisual communication (1), one of which is print and electronic press (2).

1) Projects related to audiovisual communication

In order to perpetuate the requirements of the provisions of the Constitution, and considering Decree No. 116 was a transitional interim text, and if the establishment of important foundations were not sufficient or comprehensive, a number of draft laws were drafted by several stakeholders, including the High Independent Authority of the Audiovisual Communication and the Ministry in charge of Human Rights And relationships with constitutional bodies and civil society.

In a first stage, the Ministry in charge of Human Rights and Relations with Constitutional Bodies, under the supervision of former Minister Kamal Jendoubi, established a committee that was charged with preparing an organic law covering various aspects related to the legal framework for the audiovisual sector and consists of 170 articles divided into 7 titles.

For its part, the Higher Independent Authority of Audiovisual Communication initiated the preparation of an organic law on the same subject, not much different from the first and with the same number of items.

It seems that there was insufficient coordination between the two sides, and several points of difference emerged between the two projects, mainly related to the future composition of the audiovisual body and the method of appointing its members and specializations. These differences led to a kind of tension, lack of communication and even clashes.

In this regard, the two projects stipulate the Authority of the Audiovisual Communication Board is consisting of 9 members, but they differ on the status of the members, especially the presence of journalists within them, where the Ministry's draft stipulated the presence of one journalist, while the Authority's draft stipulated two.

But the most important difference in the original version of both projects is related to the method of appointing members. While the Ministry's project proposed the principle of free candidacy and the election of members by the People's Assembly by the enhanced majority, the authority's project differentiate between those who nominate members, that is, organizations that represent the sectors to which the next members belong, and who They vote for their appointment, that is, the Parliament.

The two projects raised a lot of controversy and divergence of opinions about the stakes presented by the independence of the regulatory body, the objectivity and impartiality of its work and the credibility of its decisions.

After being fed up with the current audiovisual communication body and opposing a number of civil society organizations and experts and in an attempt to contain the resistance, the government decided, through the ministry in charge of relations with constitutional bodies, since the beginning of 2017, and after the appointment of a new minister, Mr. Mahdi ben Gharbia, to divide the initial project into Three texts separate from each other.

The first: An organic law that included the common provisions to all constitutional bodies, voted by Parliament, despite the criticisms faced because of its violation of the independence of these bodies. It was appealed for violating the constitution and the provisional body to monitor the constitutionality of the laws accepted the appeal and canceled, by its decision No. 04/2017 of August 8, 2017, Article 33 of the draft law. The appeal was aimed at this article, which authorized parliament to withdraw confidence from the whole body or from one of its members by a strengthened majority. The declaration of the unconstitutionality of this article has been withdrawn in article 11 and 24. The Provisional Authority to Monitor the Constitutionality of Laws abolished article 33, considering that the withdrawal of confidence violates the principle of the independence of constitutional bodies and violates the principle of proportionality, but Parliament, in a clear insistence to challenge the body, re-voted on the project after reformulating it was limited to changing the withdrawal of confidence with the word exemption. And the temporary authority to monitor the constitutionality of the draft laws once again repealed it by its Resolution No. 9 of November 23, 2017. Finally, a third version was adopted, ratified, and the said law published and entered into force[22].

Among the most important provisions that have sparked controversy are those related to the mechanisms for selecting members of constitutional bodies. The framework law affirmed the importance of electing members of bodies by a two-thirds majority of the members of the People's Assembly (Article 6), which is in accordance with the text of Article 125 of the Constitution. However, the aforementioned law did not set the procedural controls for the selection of these members, as it did not address the issue of submitting nominations and the creation of a screening and selection

[22] Organic Law No. 47 of 2018 dated August 7, 2018, related to common provisions to independent constitutional bodies.

committee within the People's Assembly, which is a fundamental issue that would either make these bodies politicized bodies that reflect the balances of the People's Parliament or be promoted, even partially. On excessive politicization.

The second: a project related to the composition and part of the competence of the commission (without the authority of punishment), which greatly weakens the body, as it becomes without real control and punishment, that is, without an effective regulatory authority.

Third: It has been postponed, related to the rest of the requirements of the original text, that is, the system of public and private media, illegal practices and penalties.

This division appears to contradict international trends towards unifying and simplifying legislations, limiting their dispersal and the resulting lack of clarity and transparency, and the source of many negatives, including the fragmentation of texts and the risks of inconsistency between them.

On the other hand, the ministerial project related to the Audiovisual Communication Authority included a number of controversial provisions regarding the competencies of the expected authority, especially with regard to its composition.

The two draft texts issued by the Ministry and issued by the current independent high commission raises the debate about the independence of the next body and its relationship with political authorities on the one hand and their relationship to organizations and forces with factional interests on the other hand, especially in terms of composition and appointment procedures.

We can say that the approach proposed by the ministry is distinguished by keeping the organization away from the dominance of the professional group,

(corporatism), but it opens the door to the domination of parties and party blocs with a parliamentary majority and control of the executive, which threatens to blow up the independence of the body and impede its work, as happened recently in the High Authority for Elections.

The Ministry's project gives an important position to the political authority by adopting the principle of free individual candidacy, and it completely excludes sectoral professional organizations even from just the authority of making propositions. It gives political parties, especially those with a parliamentary majority, and consequently the ruling parties the possibility to control the selection and appointment process. Thus, it opens the door seriously to the possibility of political party and government domination over the next body and the risks this poses to the authority of the commission and the objectivity of its decisions and opinions and therefore to the freedom and pluralism of audiovisual communication in general.

On the other hand, the authority's project excludes the executive and legislative public authorities from any presence in the composition of the body, which makes the independence of the next body in principle very strong regarding the political authorities, and in return it gives an important presence, or perhaps even control, of sectoral professional organizations representing the most important parties involved in the sector and It is what may carry the risks of the domination of factional interests and their primacy over the public interest, and what may lead to it of the interactions and even dependency of the members of the body towards these professional group as it has emerged sometimes during the experience of the current body from resignations and designations that do not necessarily have sufficient competence.

We believe that these two risks can be avoided, or at least reduce them, in two complementary ways:

- First, and to avoid the risks of political hegemony by separating the nomination process from the election body, that a side of the members be nominated by the most representative professional bodies, which are magistrates, journalists, and audiovisual non-press professions,
- Secondly, in order for the parliament that enjoys the legitimacy of the elections and the representation of the people not to turn into a mere tool subject to the will of the sectoral organizations, the nomination must be multiple, for example, four nominations, one of which is chosen by a two-thirds majority constitutionally stipulated.

But, until the risk of the hegemony of organizations and factional interests falls, the door must be left open for free individual candidacy for a number of members such as university students in the fields of law and news and press sciences as well as the specialist information and communication technologies and competition and the protection of consumer rights. By this, we believe, it is possible to reduce the risks of the hegemony of this or that party and find a balanced composition that combines independence and diversity of competencies, making the work of the body objective and with a high degree of professionalism and thus credibility.

In general, the Ministry's projects represent a significant retreat compared to the 2011 decrees, which clearly weakens the regulatory authority and directly or indirectly threatens freedom of expression, information, and communication. The project prepared by the Independent High Authority for Audiovisual Communication needs to scrutinize some aspects, especially reviewing the composition of the next body to avoid the risk of group dominance Corporatisme.

2) Project on written and digital journalism

As for the written and digital press, the public authorities did not publish or announce any project, as the National Syndicate of Journalists was the only party that prepared a project with the participation of a number of experts. It enters a number of clarifications and checks a set of requirements that would limit the overlapping of texts, especially of a criminal nature, and from the variation of interpretations and decisions from one court to another.

Regarding the sector regulation, this syndicate, in cooperation with the Association of Newspapers Managers, creates a press council that undertakes the task of self-adjusting of the sector. Article 13 of the project stated the following: "Professional organizations of journalists, owners of media institutions, and representatives of the public establish an independent structure to ensure self-regulation and professional ethics called the Press Council."

This council is a regulatory body that carries out the task of "self-regulation" in the written and electronic press sector similar to the role that the High Independent Authority for Audiovisual Communication currently plays in relation to audiovisual communication. The events of a temporary body of this council have also occurred since April 19, 2017, and identified two main goals, which are defending the freedom of the press and protecting it from all pressures of any nature, and defending the citizen's right to information and protecting them from possible violations of the exercise of the right to freedom of expression.

"Self-regulation" aims to guarantee freedom, independence, and transparency for the written media. It also aims to promote the quality of media content and to establish a climate of trust between journalists and readers based on respecting the ethics of the journalistic profession and on setting up the necessary

mechanisms to avoid media slips and to address them in the form of their occurrence, which would ensure a more solid protection of press freedom and reduce distortions and abuses.

Within the framework of its role as a regulatory body in the written and electronic press sector, the Press Council monitors and follows the journalistic practice and its suitability with professional standards and journalistic work ethics. It also plays the role of mediator between the written media and the public and follows up on petitions through conciliation, reconciliation or accountability as well as playing an important role In the formation, reform and dissemination of a culture of quality journalism.

It also created an association to support the Press Council made up of the National Syndicate of Tunisian Journalists, the Tunisian University of Newspaper Managers, the General Syndicate of Information, the Tunisian Syndicate of Media Institutions, and the Tunisian League for the Defense of Human Rights.

It is noted that, in principle and in theory, self-regulation and its bodies do not need to be enshrined in a legislative text that necessarily implies interference from public authorities. And it seems that the issue of financing is the main justification for this legislative interference in the events of the Council in charge of the "self-regulation" and its financing, as it was stated in the second paragraph of the same article 13 of the project that the resources of the Press Council come from:

- Annual public financing,
- Funding from professional media structures, as determined by the Press Council,
- Donations, gifts, and wills.

And that the amount of public funding allocated to the benefit of the Press Council is adjusted according to a government order, which

would seriously limit the independence of this Council and the subjective nature of the regulatory process.

It should also be noted that a draft law prepared by the National Authority for the Protection of Personal Data relates to updating the legislative framework for the protection of personal data and includes provisions that have caused controversy between the project owner and the Information Access Authority and critical and fearful reactions in civil society and among journalists that lead the new proposed legislation is to restrict access to information, reduce transparency and empty open governance from its core.

B - Other projects with important implications for the media

These projects consist of three texts related to:

- The aggression against the armed forces
- By protecting personal data
- In an emergency

1) The draft law on restraining the attack on the armed forces

This project has been prepared and submitted to Parliament since 2015[23] and it comes back to the front of interest from time to time. This project appears to threaten the human rights force, as it aims to grant immunity to security forces and promote impunity, and excludes them from any judicial pursuit because of their use of the force leading to death.

[23] Draft law No. 25/2015 related to deterring prejudice to the armed forces

Article 18 of the draft law exempted members of the security forces from criminal responsibility in the event of injury or death to any person, including during raids targeting homes, vehicles, and private property, where it says: "No criminal liability will arise from the assistance of the armed forces that caused, when paying for one Attacks ....., in the injury of the aggressor or in his death, if this act is necessary to achieve the legitimate aim to be achieved in order to protect lives or property, and the means used were the only means that would ensure the response to the attack and the response was proportional to its gravity.

The project also criminalizes any violation of the reputation of the armed forces with the aim of damaging public order, under penalty of imprisonment for up to two years and a fine of 10,000 Tunisian dinars.

Articles 5 and 6 of the draft law also provide for 10 years imprisonment and a fine of 50,000 dinars in the event of leaking or publishing national security secrets. On the other hand, the draft does not stipulate any provisions that protect whistle-blowers and journalists.

This project violates the requirements of the constitution, which guarantees the right to life, and constitutes a serious threat to freedom of expression and information and the right to access information.

It emerges periodically, despite the registration of several NGOs, including Amnesty International, Human Rights Watch, the Tunisian League for the Defense of Human Rights and the Tunisian Organization for prevention of Torture, and on a regular basis to the violations committed and condemned by the security forces, in the context of an emergency, including torture and arbitrary detention, which threatens the democratic transition in the country, according to these organizations, which indicate that most of these violations go unpunished. This situation has created a pervasive situation of impunity, as the

security forces have considered themselves above the law and are not afraid to pursue.

-2- The Organic Law on the Protection of Personal Data

In an effort to enshrine the requirements of Article 24 of the Constitution, which established the right to protect personal data, the Ministry of Relations with Constitutional Bodies, Civil Society and Human Rights, in cooperation with the National Authority for the Protection of Personal Data, began preparing this project since the beginning of 2017 and endorsed by the Council of Ministers on March 8, 2018.

The project aims to compensate the current National Authority for the Protection of Personal Data with the Authority for the Protection of Personal Data and to review its composition, methods of functioning, budget and powers, which, according to the project, are:

- Judicial jurisdiction as a primary-level judicial body that issues administrative financial penalties that are appealed to the Appeal Administrative Court in Tunisia
- Reporting authority, which consists in preparing recommendations and issuing decisions as an amendment authority in the field of protecting personal data, and its various decisions are appealed, except for the judicial ones, on the grounds of violating the authority before the Administrative Court of First Instance in Tunisia.
- Consultative authority in the same field.

The project also includes reducing the penalties depriving of liberty and making them limited to serious crimes that affect the public security or national defense.

And this project raises a number of criticisms and fears, as some considered it a retreat from the constitutional principle embodied in Article 32 of the Constitution, which states: “The state guarantees the right to information and the right to access information. The state seeks to guarantee the right to access communication networks.

Also, some of its provisions appear to contradict the provisions of the Organic Law No. 22 of 2016 related to the right to access information and its applied texts, which prompted the body to access the information to describe it as a dangerous project.

The most important controversial aspect is the upcoming composition of the body to protect personal data and the manner in which its members are appointed. The text of Article 85 of the project stipulates that the Council of the body is composed of a president and two members who are appointed and can be exempted by governmental order, which deprives the body of its independent nature and places it in a strong dependency to the executive authority, as the controversy relates to a number of its powers that appear to be in competition with the powers of the Information Access Authority. There are also a number of shortcomings in the areas of transparency and accountability in relation to the disposal of public facilities and the risks it opens, in particular Article 4 of the project, mainly blackout and striking transparency under the cover of protecting personal data.

The project also suffers from not distinguishing between personal data that is important to the private life of the individual and personal data that are important for the conduct of public affairs and related to public life in a way that threatens the principle of access and thus the press function, as well as the absence of compromise between protecting personal data and preserving access to information.

-3- The organic law related to the state of emergency

This project was prepared and submitted by the Presidency of the Republic in the recent period and was referred to Parliament. This draft law aims to set the measures aimed at regulating the state of emergency in the Tunisian countries and to compensate for the order No. 50 of 1978 dated January 26, 1978 related to organizing the state of emergency on the basis of Article 65 among the new constitution, which stipulates that it should take the form of organic laws, texts related to freedoms and human rights. And it becomes clear from reading this project that it represents a clear retreat and contrary to the liberal spirit of the constitution. It can be said that it contains provisions that threaten public rights and freedoms and allow broad powers for the Ministry of Interior and the Governor without taking into account the sanctity of persons, and in apparent weakness and even the absence of guarantees that protect rights and freedoms. It was stated in Article 6 of the project that it is " The Minister of Interior may, during the entry into force of the state of emergency, issue decisions to evacuate or isolate some areas and organize transportation in coordination with the competent authorities, and he may make use of persons and property to facilitate the proper functioning of public facilities and activities of vital interest to the country." For its part, Article 10 of the draft law added that, "With the exception of the headquarters of sovereignty, the Minister of the Interior, after informing the concerned representative of the republic, can issue a decision to search shops during the day and night in the areas subject to the emergency, in the event that there are serious data about the presence of persons inside it related to them on suspicion of carrying out an activity that threatens public security and order, and the decision includes in particular the date, hour and place of the inspection."

Article 13 of the Organic Law related to the regulation of the state of emergency is also devoted, in contrast to Ordinance No. 50 of 1978, the intervention of the national army when necessary with the aim of supporting the internal security forces in protecting public order or restoring security, as this article states that "After the deliberation of the National Security Council, the President of the Republic authorizes the intervention of the army forces when necessary with the aim of supporting the internal security forces in protecting public order or restoring security, by securing sovereign headquarters, sensitive installations, and joint patrols throughout the national territory during the application of the state of emergency."

And it can be said that the draft represents a setback even for the ordinance No. 50 of 1978 regulating the state of emergency, as this ordinance stipulated the extension of the state of emergency for one month only, while the new organic law provides for the possibility of extension thereof up to 6 months.

Thus, this project represents a serious threat to a number of rights and freedoms, especially to media freedom.

It requires coordination to ensure consistency between its provisions and the provisions of the draft Code of Criminal Procedure.

In addition to its shortcomings and limitations, Tunisian legislation in its application faces an unfavorable context, marked by the persistence of the old authoritarian culture and inconsistencies in inconsistent judicial jurisprudence, not to mention the desire to weaken the power of the regulation.

The second section - a context full of obstacles

The implementation of the new legal framework faces stiff resistance from various political forces and the continuation of the old authoritarian administrative mentality.

Regarding access to information, we note practices that reject transparency and refrain from publishing the information.

There are also several violations of the law and a frequent violation of freedom of expression and the media. The periodic reports of some organizations, such as the National Syndicate of Tunisian Journalists, Amnesty International, Human Rights Watch, the Tunisian League for the Defense of Human Rights and Reporters Without Borders, carry a lot of examples and cases of violations of these freedoms.

Also, the public authorities are still following journalists under the Military Judiciary Law, the Criminal Code, and other laws, except for Decree No. 115 of 2011 related to freedom of the press, printing, and publishing.

In the beginning of 2017, the government tried to circumvent the journalists 'right to information by issuing a publication that prevents officials in contacting ministries and public administrations from making any statement or publishing any official information or document through the media without the prior and explicit approval of their superiors. This illegal memo prompted the Ministry of Higher Education to include three media outlets on its blacklist and prohibited them from dealing with them under an internal memorandum. Faced with strong pressure from journalists, the media, and national and international civil society bodies, the government was forced to announce the withdrawal of this publication in late February 2017.

During the annual examination of the human rights situation before the United Nations Human Rights Council in May 2017, Tunisia made 10 recommendations urging it to clearly define responsibilities regarding violations committed by the public forces.

In its annual report for the year 2018 issued mid-January 2019, Human Rights Watch considered that the year 2018 was marked by slowdown and even stagnation in the field of promoting freedoms and related reforms, and it came at the beginning of this report that Tunisia "in 2018 stopped reforming repressive laws and establishing key institutions to protect human rights, although freedom of expression was generally respected, and independent media organizations were able to operate freely, but the authorities continued to try expression that they considered an attack on "public morals" or "good morals" (..... ...) The Tunisian authorities continued to try civilians before

courts Sugar based on the chapters of the "Journal of Military Procedures and Penalties" (.....)

The authorities also continued to use the articles of the “Criminal Code” and other laws criminalizing freedom of expression, despite the adoption of “Decree No. 115 relating to freedom of the press” in November 2011, which liberalized the legal framework applicable to the media, and thus it appears that the regulation of the media is still fragile, while distortions characterize the media landscape in Tunisia. This fragility is caused by several factors, including the continuation of the inherited laws from the previous regime, such as the penal code, in addition to new laws such as the Organic Law No. 26 of 2015 of August 7, 2015 related to combating terrorism and money laundering, in addition to the project Special protection forces carrying weapons law.

All these texts and projects, in light of a context overshadowed by terrorist threats and security concerns, are factors that may constitute a threat and a source of fragility to the freedom of the media and the marginalization of its futur regulation, which today exists at a crossroads.

The media regulation in Tunisia faces a wide range of obstacles with various levels, sources and dimensions that are interrelated, perhaps the most important of which are:

- The heavy legacy of employment, domestication, and stifling freedoms
- The lack of a culture of regulation and self-adjustment in the Tunisian media sector and in the culture of governance and the conduct of public affairs in Tunisia in general
- A group of partisan and financial lobbies, especially the owners of a number of the most important television channels, obtaining licenses during the era of ousted President Ben Ali (Nessma and Hannibal) and some of the switched channels because of their affiliation with balanced parties on the current political scene (Zaytouna TV) and facing the temporary regulatory body and represented by the High Independent Authority for Audiovisual Communication.

Since its creation, the commission has been facing stiff resistance and an explicit challenge, especially by the two private channels that obtained the license during

the regime of Ben Ali and who refused to sign the specifications. The Zaytuna channel went so far as to split the text of a decision issued by the authority live. In clear violation of the law, some channels are run by politicians who hold leadership positions in their parties. During the legislative and presidential elections, these channels have led campaigns in favor of their owners (Al Janoubia for the benefit of their owner and manager during the presidential elections) or for the candidates of parties in which they hold leadership positions within (Nessma). The authority also suffers from weak government support, sometimes due to interpretations of the law that are not credible, Where the prime minister twice exempted the president, the general manager of public television, although the appointment was made after the issuance of an identical opinion of the authority, without consulting the latter or paying attention to its opinion, striking with a wall display the principle of parallel versions and procedures.

The authority was also subjected to a series of defamation campaigns led by channel managers that were established during the old regime and who refuse to settle their status under the new legal framework. All these pressures and resistance show that the culture of regulation is still not established in Tunisia.

Thus, it appears that freedom of the media is still fragile, while distortions characterize the media landscape in Tunisia. This fragility is caused by several factors, including the continuation of the laws inherited from the previous regime, such as the penal code, in addition to new laws such as the organic Law No. 26-2015 of August 7, 2015 related to combating terrorism and money laundering, in addition to the draft law to protect the armed forces.

Such behaviors and practices express a rejection of independent regulation and a gross weakness of the dimension related to professional ethics and this embodies the profound moral crisis in the country as a whole.

- Spreading downward and shallow media in search of raising the viewership rates, and behind them the advertising revenues.

- The issue of media financing, whereby financiers who contribute directly to capital or through advertisement seek to influence the contents and direct news to serve their own interests at the expense of objectivity, credibility, and democracy.
- The emergence and spread of institutions and processes of sounding opinions without legal framework and no references or censorship, which would affect the behavior of the viewer, the listener or the reader at the level of follow-up to the media, especially influencing his choices and electoral behavior
- Deviation from the democratic transition process towards superficial and spectacle democracy

According to the set of these obstacles and data, it is not possible to suffice with a legal vision that is necessarily unilateral and partial to amend the media. Rather, it is required to put this vision and the proposed reforms within its framework in the historical, economic, social and especially the national cultural context. In this context, it seems very important to work on defining the culture of independent and external regulation, and on its simplification and consolidation among the interventions of individual journalists and organizations, media institutions, civil society organizations and in society in general. This requires submitting a set of suggestions and recommendations.

Section 3: Recommendations

To overcome shortcomings and weaknesses, reduce the factors of fragility that threaten freedom of expression and the media, confront threats and avoid fragmentation of texts, some suggestions and recommendations can be made for the various parties concerned:

Section 1: General recommendations

1- Preparing, adopting and issuing the new organic laws that will replace decrees 115- and 116 of 2011 as soon as possible, in a participatory framework in which all stakeholders are involved.

2- In a context in which the media is strongly moving towards convergence, it is necessary to work to avoid the fragmentation of texts and to unify them, in an approach that seeks to coherence, simplification, clarity and effectiveness of the legal framework.

3- Issuing an accurate legal framework that sets clear and strict controls on opinion polls and measuring the levels of viewing and listening, which reduces the risks of directing, bribery and paid surveys, and deepens the crisis of confidence in this activity and the institutions operating in it.

4- Establishing a comprehensive legal framework for advertising and its various forms and areas.

5- Work to strengthen the independence and impartiality of the judiciary in order to resist pressure and attempts to exploit judges

Take into account the developments made in the field of media in any future text, especially meeting them. Is it necessary, in this sense, to consider issuing a unified law?

Section 2: Recommendations related to the written and electronic press

6- In order to develop this press, the decree No. 115 of 2011 must be reviewed in depth, in order to redress the gaps and eliminate contradictions, competition and collision with other penal texts, chief among them the penal code.

7- Progress must also be made in establishing mechanisms and structures for self-adjustment, such as the Press Council, and the circulation of the

conciliator or media broker plan, which is considered one of the most influential tools for self-adjustment within the media institution. Among its most important functions is to link bridges of communication with the audience of viewers or listeners, and develop a mechanism that enables it to receive their observations and criticisms and their answer. Its main tasks are to interpret editorial decisions, clarify the professional standards of the institution, verify the accuracy and integrity of what has been broadcast, and assist the press institution to become more open to the public and more responsible towards it, to become more credible and to raise the degree of media professionals' awareness of everything related to The public's concerns and concerns, and discussion of press standards with workers in the production sectors within the organization.

8- Mainstreaming ethical codes for the press, which is a set of guidelines, that outlines the rights of the reader, journalist, and people interviewed. It also defines the basic principles that guide journalistic work, such as honesty and objectivity. Media organizations can establish a system of their own ethical guidelines. Each of the different media can also have their own codes, for example a separate code for the press and for television or for online media. However, the basic principles remain the same, regardless of country or media.

9- Establish a legal framework for digital journalism by adding an entire section in the new press law that will replace Decree No. 115 of 2011.

Section 3: Recommendations related to the audiovisual communication

- 1 With regard to the law referred to in the last paragraph of the Article No 125 of the Constitution: review and verify the method of appointment to

ensure the involvement of all parties concerned and reduce the risks of politicization while establishing the principle of separation between the proposal and election or appointment powers.

The reform and establishment of a free, pluralistic and balanced media scene requires the launching of an integrated vision of the regulatory function and its categories (self and external) and its bodies and their characteristics.

The privacy of the regulatory bodies is mainly represented in their organic and functional independence. Independence is a condition for ensuring impartiality, fairness and equality in the regulatory process and ensuring its credibility and to avoid conflicts of interest. And it follows that;

A -At the organic level

- The members of the organizations enjoy a high degree of independence through:
- Collective composition
- Methods of appointment, conditions and procedures. In this regard, it tends to separate the bodies that submit nominations, and the party sorting, evaluating, arranging and deciding them, with the necessity of explanation and respect of opposition and defense rights.
- Membership duration: long and not renewable
- The principle of immunity
- Non-isolation and exemption, except in rare and specific cases, with explanations and guarantees of defense rights and the principle of confrontation

  This independence also justifies the principle of efficiency and specialization

  Efficiency requires bodies with a collective composition consisting of specialized and varied experiences with the involvement of sector actors

involved in the regulation, which means representativeness, expertise, specialization and diversity.

B – At the functional level: job privacy, diversity of powers and means

- Establishing the balance of the media sector concerned, as well as the balance between private interests and the public interest
- To ensure the prosperity of the regulatory sector
- The production of trust, and this is a very important job in the media, especially in a moving environment, through its independence, impartiality, the stability of its positions, decisions and jurisprudence.
- Avoid conflicts of interest and incompatibility
- Transparency of procedures, decisions, attitudes and opinions
- Judicial oversight, where all the decisions of the regulatory body are subject to appeal before the judiciary, but that is a difficult condition that assumes a specialized and rapid judiciary.

Powers

The powers of the regulatory body are very diverse, including:

- A special statutory authority is the issuance of general, abstract, and binding rules: Regulation means setting rules that frame and guide behavior, and this necessarily requires that the regulatory bodies have a regulatory authority.
- Consultative powers and the power to issue recommendations related to competence and expertise, which gives it the power of expertise and influence
- The power to impose penalties, as an regulation also means forcing the intervening to follow a certain behavior where it is not sufficient to set the rules, but the regulation also assumes the imposition of respecting them, which requires that the regulatory bodies enjoy the power of punishment.

- The power to settle disputes related to the application of the rules that have been issued, and this means enabling the regulatory bodies to have a quasi-judicial function, with the dispute resolution being subject to confrontational principles and respect for defense rights.

Section 4: Recommendations related to the public media

1) A special focus must be placed on the function and principles of the public utility, and in particular the principle of neutrality

2) Working to democratize public media institutions

3) Defining the role and the implications of the board of directors of the public radio and television facility in accordance with international standards, and after seeking successful examples in this field in democratic countries,

4) Adopting the criteria of expertise, competence, integrity, independence and belief in the mission of the public utility in selecting members of the council through a transparent and fair mechanism,

5) Reviewing the organic laws of public audiovisual institutions to ensure that a global reform of all components of the audiovisual public facility is included,

6) Ensuring a balanced representation of the various components of society away from narrow political, sectional and sectoral accounts, whether in the composition of boards of directors or in programming

7) Adopting a mechanism to ensure that the opinions and aspirations of the audience and viewers are taken into consideration, because the goal of the public utility remains to serve the public interest.

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