

Ghazi Jeribi

Abstract:

Jeribi's law studies in France, his background as a basketball player and coach, and his involvement with various juridical institutions made him uniquely placed to be a leader in the transitional government. He speaks at length about the role of various groups in this process, about certain legal and constitutional procedures, and about the work environment cultivated by Jomaa during the transitional government.

Detailed Summary:

Jeribi was an active participant in certain events. Having been a career judge since 1984, he was the first president of the Administrative Tribunal and was at the head of this court in January 2014. This entity is responsible for all government litigation and also acts in an advisory capacity for the government, so all required texts and decrees are submitted to this body in order to receive its opinion. There are also optional consultations, according to which the government and public authorities may consult the Tribunal concerning any question that poses an interpretive difficulty, which is being raised for the first time, etc.

In 2001 Jeribi had been named President of the Council for Competition, a position which he occupied until 2007 when he became the first President of the Administrative Tribunal; he remained in that office until September of 2011. As part of his duties he was a member of the Constitutional Council, and following the events of January 14, Article 56 of the constitution (of 1959) was activated because the former president had departed without warning. This article allowed the Prime Minister to replace the president provisionally. Thus, there was still a juridical possibility for the president to return, which provoked a reaction from the people, from civil society, as well as from various political parties. Following this reaction, on January 15, the Constitutional Council met to enact the legislation that would definitively end Ben Ali's presidency (using Article 57, which invokes a definitive vacation of office). With this act, the President of the National Assembly was provisionally installed as the President of the Republic until the organization of elections.

The pressure and tension to enact a definitive vacation of office for Ben Ali was so enormous that the decision of the Constitutional Council was practically unanimous to enact Article 57. The group had to organize quickly in order to pass this legislature, but there was very little discord since the council felt it was doing what it had to do given the popular consensus. Since Ben Ali left suddenly without a trace, it did not make sense to use Article 56, which presumed an eventual return of the president; the country could not be left in this state of anarchy--a definitive

action needed to be taken. The nine professional jurists of this council were all in agreement on this point; juridically, this action needed to be taken, even if the vague possibility of the president's return could have resulted in consequences for the individuals making this decision; they had to prioritize the needs of the country given the situation at hand.

Although the political class seemed to affirm that the revolution was unforeseen, a surprise, Jeribi sees the ingredients for change as having already been prepared. The mining strikes in 2008, for example, were part of the process that slowly weakened the regime. At that point the country was not ready for a general upheaval, but the various contestations worked together to produce the major changes that took place later on. Conversations about the possibility of a regime change had certainly begun among intellectuals in the country. The situation was driven not only by the lack of liberty and the dictatorship, but by other elements: corruption, poor management of government affairs, social unrest resulting from wealth disparities, etc. There was a consensus not only among the popular elements but also within the intellectual class, a refusal to accept the current state of affairs. He would often hear spoken the phrase: "Tunisia deserves better." In particular the family and entourage of the president were overspending to an extent that no one could accept. Only a small circle of those close to the power center of the regime profited from its perpetuation; it was isolating itself little by little.

The Administrative Tribunal was in fact one of the rare institutions to remain widely respected after the revolution, since it had contributed to protecting the legal system and those who opposed the government. In particular, many of the president's decrees between 2007 and 2011 were annulled by this court. The Tribunal supported many important opponents of the government: Mustapha Ben Jaafar who presided over the constituent Assembly after the revolution, Moncef Ben Salem who was Minister of Higher Education after the revolution, Ali Ben Salem who was a leftist nationalist opponent, also the unionists, the Islamists, and others. The Tribunal also protected certain militants who were prevented from obtaining a passport and traveling, prevented the president's family from unfairly confiscating certain agricultural lands and buildings. In general, the court played a very positive role before the revolution and thus continued to be respected after 2011 and was granted control of the elections.

Returning to February 2011, one month following the revolution, the country was in total flux and the Tribunal had an important role to play. The 1959 constitution remained in application, as did all of the authoritative bodies. They did not know how to proceed. There was protest in the streets, the occupation of the Casbah Place where Ben Ali's Prime Minister Ghannouchi was still in power, which was unacceptable to the people. Security was the foremost problem, so the Minister of the Interior was in control, and the army was at the power center of the country. It was the Minister of the Interior who contacted Jeribi in order to ask the Tribunal to provide a solution for how to manage the country at the institutional level. This was before Béji Caïd

Essebsi occupied the position of prime minister, before the constitution and the protection of the revolution, etc. The old institutions were still in place. The Administrative Tribunal thus developed the first vision and conception of the country's juridico-political situation. They drafted a response, over a series of meetings, to the Minister of the Interior who, along with General Ammar, was in charge of national security. This process took 48 hours and was completed on February the 23rd; the court thus had conceived the first text concerning the organization of public powers. This text was at the origin of the idea to suspend the National Assembly and the 1959 constitution, to make a provisional proclamation. This document resembled a similar one created at the moment of Tunisian independence in 1956, which had organized a constituent Assembly that took three years to prepare a constitution. The Administrative Tribunal was the first entity to have the idea that the elections in Tunisia would be entrusted to an independent authority, not to the Minister of the Interior. It also requested that the President of the Republic (Fouad Mebazaa, who received this response along with the Minister of the Interior) address himself to the people--and drafted a speech for this occasion. It was decided that the elections would be held that year and from there on out on July 25, the Holiday of the Republic, although it was changed to the 24th for this particular year since the 25th fell on a Sunday. The Tribunal chose to organize the elections with a proportional representation to give weight even to minor political parties. This was decided since the creation of the constitution needed to be the fruit of all the country's forces, even those that represented only 1%. A majority might become necessary later, they reasoned, but in order to form the constitution--and not govern--the proportional model seemed ideal. This model was in fact retained for the second round of elections.

Later Jeribi was named president of the High Committee for Administrative and Financial Control, which was comprised of a group of experts in constitutional law selected by the President Moncef Marzouki. This committee worked on several projects and altered several provisions on a technical and political level, working to balance the powers of the President and of the prime minister. The constitution had already been modified in 2004 via a successful referendum issued by the President of the Republic at the moment of the elections. This was essentially still a dictatorial action, since there was only one dominant political party and thus no competition, no resistance. Jeribi says that democracy is not formed during the fifteen days around an election; it comes into being when there is a true emergence of other political parties, when all candidates have an equal opportunity for representation.

Jeribi did his higher education in law in France and afterwards joined the Administrative Tribunal. When he became its president in 2007, it already had the reputation of having done a great service to the people and for opponents of the government. Thus, at the moment of the revolution, Jeribi's name was well known within the old and new governments, in the press, etc., and had been called upon by certain parties to head the government. When he was named

president of the High Committee of Financial and Administrative Control, he passed from the rank of Secretary of State to the rank of Minister. He already had the remunerative and other privileges of the latter before becoming part of Mehdi Gommaa's government. His name was in circulation so to speak at the moment when Jommaa was called to power, and he received a call from the latter to go meet with him at the Ministry of Industry. As he was well respected among lawyers, academics, and judges, Jommaa proposed that Jeribi take on the role of Minister of Justice. Jeribi was hesitant to become involved with a government that might not make any lasting difference to the country. He had already begun work on a project for which he had acquired the approval of the President. He reminds us that the failure of the regime was not due merely to the dictatorial government but to widespread corruption and poor management of financial and administrative affairs. He had prepared an intervention which he thought would end up having a powerful reformatory effect on the government infrastructure, and he confessed that he was not willing to leave this work unless it was to take on a greater project, an even more important one. However, he soon realized that he and Jommaa were very much on the same page, that he had finally found someone who saw things as he did and reasoned as he did. Jommaa said that he was not considering anyone else for the role of Minister of Justice after their initial interview, and Jeribi accepted the position. Soon after he became part of the small group charged with reformulating the government, devising its plans, the inauguration speech before the Assembly, etc. Jeribi at first did not want to join this group--he says that it is in his nature not to go towards others easily--but was convinced by Jommaa and others, and ended up participating actively in this committee of four or five which would meet practically every day during the period leading up to the inauguration.

Then there was an unexpected change of events, and Jommaa asked Jeribi to become the Minister of Defense. Jeribi had already done significant preparation for his role as Minister of Justice, particularly with judicial matters, and he was well prepared also to deal with financial, administrative and military justice. Defense was a new territory for him, but he had passed through many different posts during his career and had developed a conviction that if a certain method and rigorous logic were followed, and if one listens and tries to understand rather than being superficial, one can be successful in any sector. Indeed, he says that he does not regret his decision to accept this position, and that with his group he was able to achieve great things for the interests of the region, for national and international peace.

Jeribi says that he saw himself as wearing two hats, taking care of his own departmental concerns but also remaining aware of and invested in the activities and decisions of other ministries that would affect the government as a whole. When asked whether this situation was similar under Ben Ali's rule, Jeribi reminds us that he was not part of that government. The institutions with which he worked published their work for public records, were mostly contentious and oppositional in their orientation to the government, and did have certain positive

effects in keeping the dictatorship in check. The latter, however, had established a sort of parallel government at Carthage with a president-appointed counselor for each division of the government who oversaw and could overrule decisions made by various administrative entities in order to serve the interests of the President and his family. Among these counselors some have gone into retirement, some have returned to university posts, and others have ended up in prison for their complicity in the former regime's corruption.

In the transitional government, about half of the officials came from abroad and the other half from the Tunisian administration, the university, etc. Jeribi knew some of them already; two other members had entered from the Administrative Tribunal: Abderrazak Ben Khelifa and Karim el Jamoussi. Primarily Jeribi knew the jurists and magistrates who were involved with the new government; he also knew the Minister of Culture, but that was about it--most people were meeting each other for the first time right at the moment of the inauguration.

Jeribi gives a lot of credit to Jomaa, who knew how to assemble a government of individuals who were largely unknown to each other but whose strengths were complementary. He cultivated an atmosphere that was warm, not consisting of closed professional relationships. He inspired mutual confidence and organized Sunday meetings in casual attire where the various groups could enjoy themselves and be productive at the same time. Jeribi comes from a family of successful basketball players, had an international career with the sport and was a successful coach also; he's an athlete at heart, so he greatly appreciated the way that Jomaa brought people together to play soccer: members of all ministries, men and women participated. A photo was taken of the Minister of Religious Affairs and the Minister of Tourism playing soccer together; this was considered to be the image of Tunisia itself, of what the country could be and was becoming. Jeribi says that the cultivation of this team spirit meant that there was virtually no tension among his colleagues; of course there were disagreements on a technical level, but these are necessary and productive, and the friendships generated by the informal meetings and soccer playing helped to make people more open to collaboration and constructive criticism. Because Jomaa was such an excellent manager of human resources, it was always easy to arrive at a compromise and avoid a crisis.

The greatest challenge was related to terrorism. Terrorist acts constantly threatened the country's stability and the promise of the elections. These terrorists represented the worst anarchic tendencies of the region and essentially hoped to stop the elections and the prospect of establishing a democratic model in Tunisia; this was of course the great aspiration of the transitional government, to help the country arrive at the moment of the elections and lay the foundation for a new government that would endure. Jeribi says that Jomaa's government inspired a certain confidence and support among countries in the region and abroad who were committed to peace. He speaks of the urgency of eliminating the terrorist and fascist elements

that were essentially no different from the Nazis. The latter were very much distinct from the German nation and people, and this is an idea that needed to come across with respect to the Arab and Muslim world, that the terrorists needed to be differentiated from Arabs and Muslims and not conflated with those identities as a whole. Jeribi said that it was this point that they tried to get across, and to convey that Tunisia's interests were not different from those of the peace-seeking international community. This was the message that needed to come across, while still respecting the sovereignty and liberty of the nation. Support from other nations was key in terms of managing terrorism, and relations with neighboring countries also improved, especially with Algeria. Even if there were superficial political accords with the latter, the actual border relations and solidarity between troops had never been so strong as under Jomaa's government. This harmony was very effective in fighting terrorism. Also, for a long time there had been a divide or isolation between the army and the internal security forces. Jomaa's government established in the region of Chaambi, Kasserine, a joint force of the army, the National Guard, and the police all under military direction. All of this enabled the transitional government to run the elections without any conflict.

When asked about the role of the army in the revolution, Jeribi explains that Tunisia is an exception within the Arab world because of the way that its army has remained, since independence, outside the realm of politics; it has never had an ideological culture. Thus, even at the outbreak of the revolution, the army remained faithful to its republican and legalist principles; it protected the people without ceding to any temptation of involving itself in politics.

In discussing his background, Jeribi mentions the significance of his teaching and of maintaining contact with former students and with other departments, sectors, or ministries. He says that in arriving at a new institution he requires a transitional period of investigating all of the details of that entity, examining even the documents and affairs that are considered relatively insignificant and should never concern the minister or leader. Jeribi had spent the years of 1978-1984 in France. He says that the education one could have in Tunisia even at this time was relatively on par with France; the formation was about equal, but the experience of living abroad in a free country, a country of human rights, etc. was very significant for him.

He also explains that the Tunisia of independence and even of today were not an accidental production, that the exceptional liberties associated with his country have a long history. He speaks of Tahar Haddad, for example, who in 1926 wrote a book in favor of women's rights, against polygamy and the hijab, etc.--which was strongly contested by the older, conservative generation. The geography and maritime culture and history of the country has also shaped its specificity. Fast-forwarding to the 60s and 70s, Jeribi says that there had been a counter-cultural movement developing for some time. For despite all its reforms, Bourguiba's regime was harsh in many ways. There were positive aspects of the regime, such as the politics of education and

the fight against illiteracy, but there were no great liberties. There were subsequent chances for greater democratization, but the country seemed only to continue hardening, and the elections of 1981 were falsified. The transition with Ben Ali's election in 1987 seemed positive, a source of stability that would save the country from its crumbling economy. Before long it became clear that things were moving towards a dictatorship and that there was no turning back, although at first even the political left had been supportive of and hopeful about Ben Ali's installation as President.

When asked what he thinks about the fate of the present government, Jeribi says that he and the other members of the Jomaa administration never wanted to sign anything that would hinder the future government. However, the current government has complained about certain decisions on the part of the transitional one: if they had signed this, we would not have this problem with the unions, etc. Jeribi affirms the contrary. Jomaa's government sought to create a foundation for social and economic stability. Even so, the country has been in crisis since the revolution: closed factories, increased unemployment rates, etc. Economic activity needs to get restarted. After that, the government can concern itself with the redistribution of wealth, but at present there is no production to speak of. Jeribi insists that the Jomaa government left no negative legacy to its successors. Of course it is the right of the unions to protect salaries, but it was their right to protect the national budget.

After the transitional government, Jeribi was called upon by several leaders and parties to lead the government. However, he was only interested in doing this under the condition that he be permitted to hand pick the members of his cabinet, so he ended up declining to take the position. He has returned to his specialty, law, and continues to work as an attorney in the private sector, not going back to any of the previous institutions he was involved with (and it had been stipulated by the Administrative Tribunal that no one involved in the provisional government would present himself for the elections). Jeribi provided the names of several other individuals who could comment on the post-transitional government state of affairs.