

# **An Open Letter from Hizb ut Tahrir in Tunisia to the Judges There is No Way to Achieve Judicial Justice Except by Islam**

(Translated)

## **Honourable Judges,**

Assalam Alaikum Wa Rahmatullah Wa Barakatuh,

The Media Office of Hizb ut Tahrir / Wilayah of Tunisia presents you this open letter, putting in your hands a political and media position on ensuring a judiciary free of corruption and discrimination, that preserves people's rights and is firm in holding the rulers accountable.

## **Honourable Judges,**

The country has lived under the tyranny for decades that exhausted the people and left in the hearts difficulty and oppression that led to their uprising and revolution. What stood out in people's minds is the manifestations of authoritarianism, injustice, and the loss of rights throughout the previous decades. Today, after the experts of politics have fabricated a dictatorship that they have wrapped up in a false collective and consensual appearance under the guise of the "national interest," which requires, according to their malicious claim, to rely on colonialism and waste the country's wealth and suffocate every revolutionary soul that yearns for emancipation and real change. The rulers, after July 25th, are following the path of their predecessors by creating side issues; concentrating the policy itself by burdening the country and the people with debts that perpetuate colonialism. They seek to perpetuate their tyranny by using an arsenal of exceptional laws under the pressure of frightening circumstances and contexts to impose a fait accompli. They do not lack the reasons and justifications, once under the guise of "fighting terrorism" and once under the name of "economic reconciliation", and once under the title of "fighting Coronavirus", and once under the name 'The Third Republic'.

Moreover, political experts want the judiciary to be just a means that the authority exploits on the basis of the exception, rather than the original requirement to generate a new tyranny, which guarantees their continuity in light of the catastrophic failure of their intellectual and political choices to convince people or bring about change.

## **O Honourable Judges,**

A group of elites within the political leadership are securing their interests and those of their colonial masters through the judiciary. Democracy allows them to decide what should be allowed and what should be prohibited, and then the judiciary's role comes to impose the will of the elite!

These politicians, some of whom are known to cling to their interests, and some who are loyalty to foreign agendas, want to burden judges with their sins by legalizing injustice. It is well known that the application of the laws inherited from the time of the tyrant and the implementation of the new laws that are controlled by foreign agendas and dark room plots will have complex ramifications, loose ambiguities and countless dangerous effects. If these are legalized and are implemented, they will one day be described as injustice and tyranny, and the body responsible for this before the people will be the judicial system.

Then, after a new revolt, uprising, or revolution, politicians dressed as preachers come to talk about the necessity of purifying the judiciary, even though they themselves instructed the judges to codify the laws they want! These politicians who have no principle are nothing but seekers of interests and power, and they will later find people who will remove the dust off them

to present them again in the political market as reformers, knowledgeable and experienced people with clean hands, and there is no way to reform and rescue without them!

Is it reasonable for the judges to be fooled by this deception and plot even though they are the most knowledgeable of what is behind-the-scenes of these rulers, and how they were appointed to such positions and, and who are the colonial authorities that sponsor them and bet on them in order to extend influence and control over this country?!

### **O Honourable Judges:**

You know that a crime is the ugly act that violates the system and requires punishment, i.e., it is the act that violates the custom of the group, or the abnormal act, or the forbidden act from the point of view of a man-made law or divine legitimacy, which requires a punishment in this world or the Hereafter. Accordingly, the ugly act that violates the system from an Islamic point of view is committing a forbidden act that the Shariah forbids and as a consequence has punishment or is a sin. So, by your Lord, which systems are more suitable for man: the system of the Creator or the system of the created?

The system of Islam contains laws related to crime, the rulings of evidences and the parameters of punishments, all of which are in their origin from Allah (swt), and Allah (swt) is the One who created the creation and He Knows Best what is right for them and their condition. ﴿أَلَا

**“Does He who created not know, while He is the Subtle, the Acquainted?” [Al-Mulk: 14]**

Islam is a system that includes a set of legal rulings to take care of people’s affairs, and it must be applied through the judiciary without the slightest favoritism or discrimination on the basis of influence, position, or any other issue. It stipulates guaranteeing the rights of the weak, regardless of their race, gender, sect or religion. The Messenger of Allah (saw) warning the Muslims, said: «... إِنَّمَا أَهْلَكَ الَّذِينَ قَبْلَكُمْ أَنَّهُمْ كَانُوا إِذَا سَرَقَ فِيهِمُ الشَّرِيفُ تَرَكُوهُ وَإِذَا سَرَقَ فِيهِمُ الضَّعِيفُ أَقَامُوا عَلَيْهِ الْحَدَّ: **“O people, those who have gone before you were destroyed, because if any one of high rank committed theft amongst them, they spared him; and if anyone of low rank committed theft, they inflicted the prescribed punishment upon him. By Allah, if Fatima, daughter of Muhammad, were to steal, I would have her hand cut off.”** [Narrated by Bukhari].

There is no immunity for any ruler, whether he is a prince or a minister. It was stated in the Introduction to the Constitution for Hizb ut Tahrir in Article No. 87: **“The judge of the Court of Injustices (Madhalim) is appointed to remove all injustices which have been inflicted upon any person who lives under the authority of the State, irrespective of whether the person is from the subjects of the State or not, and irrespective of whether the injustice was committed by the Khalifah (caliph) or anyone below him from the rulers and civil servants”.**

### **O Honourable Judges:**

Your mission is one of the noblest and most valuable missions. The judge is not merely obedient to his master, blindly obedient to his master, or a false witness who have no choice but to apply the law by power of the law; and why not, and you know that on the Day of Resurrection, the judge will face from the reckoning with such horror that he will wish he had not divided a date between two people! And you have a major role in saving this country after it was exhausted by politicians, from whom the people saw nothing but disappointment after disappointment and helplessness after disability.

We warn you that these politicians are seeking to transfer their downfall to your field, and they want you to base half of your judiciary cases on worn out legal texts and others that have

been legislated in dark rooms, and to submit the second half of them to the frightening contexts that are being planned for the country which the mobile media policies blow it up on demand, and this is itself above injustice; it is slander and oppression. Ahmad and Abu Dawud narrated from the Hadith of Abu Talha al-Ansari and Jaber bin Abdullah, may Allah be pleased with them, on the authority of the Prophet (saw) who said: «مَا مِنْ أَمْرٍ يَخْذُلُ أَمْرًا مُسْلِمًا فِي مَوْطِنٍ تَنْتَهَكَ فِيهِ حُرْمَتُهُ وَيَنْتَقِصُ فِيهِ مِنْ عَرَضِهِ إِلَّا خَذَلَهُ اللَّهُ فِي مَوْطِنٍ يُحِبُّ فِيهِ نَصْرَتَهُ. وَمَا مِنْ أَمْرٍ يَنْصُرُ مُسْلِمًا فِي مَوْطِنٍ يَنْتَقِصُ فِيهِ مِنْ عَرَضِهِ وَيَنْتَقِصُ فِيهِ مِنْ عَرَضِهِ إِلَّا خَذَلَهُ اللَّهُ فِي مَوْطِنٍ يُحِبُّ فِيهِ نَصْرَتَهُ.» **No (Muslim) man will desert a man who is a Muslim in a place where his respect may be violated and his honour aspersed without Allah deserting him in a place here he wishes his help; and no (Muslim) man who will help a Muslim in a place where his honour may be aspersed and his respect violated without Allah helping him in a place where he wishes his help.”**

In the fiqh of Islamic jurisprudence and other legal rulings, there is enough for our Ummah to be as Allah (swt) intended for it: «خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ» **“You are the best nation produced [as an example] for mankind.”** [Aal-i-Imran: 110].

And we will have a state as the Messenger of Allah (saw) has given its glad-tidings: «خِلَافَةً» **“Khilafah on the method of Prophethood.”** عَلَى مِنْهَاجِ النَّبِيِّ

So, the rights are safeguarded for all, and they are not affected by the exception, and the unfairness does not come close to them even a little. Rather, the rulings are applied with justice upon the ruler and the ruled, the weak and the strong, without the slightest discrimination, so people in it are like the teeth of a comb. «لَا فَضْلَ لِعَرَبِيٍّ عَلَى أَعْجَمِيٍّ وَلَا لِعَجَمِيٍّ عَلَى عَرَبِيٍّ وَلَا لِأَحْمَرَ عَلَى أَسْوَدٍ وَلَا لِأَسْوَدَ عَلَى أَحْمَرَ إِلَّا بِالتَّقْوَى» **“There is no superiority for an Arab over a non-Arab, nor for a non-Arab over an Arab. Neither is the white superior over the black, nor is the black superior over the white -- except by piety.”** as the Messenger of Allah (saw) said.

So be careful, O judges, because there are politicians who tempt you to enact unjust laws that contradict the law of Allah (swt), and there are some who want to use you to consolidate their authority. As for us in Hizb ut Tahrir, we invite you to rule by Islam, which is the justice that Allah (swt) has commanded. «إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا» **“Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing”** [An-Nisa: 58].

So, respond to the command of your Lord, and you will attain the glory of this world and the Hereafter

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**Media Office Hizb ut Tahrir  
in Wilayah Tunisia**