



INTERNATIONAL LAW AND HUMAN RIGHT IN THE NEW CONSTITUTION OF TUNISIA

This article analyses the provisions on the new Tunisian Constitution, approved on 29 January 2014, which regards International Law and Human Rights Law.

Firstly, It has to be underlined that the new constitution does not contain any reference to international customary law. Anyway, the author does not consider It a serious omission, because it is generally recognized that customary laws are applicable to all states despite their constitutional laws.

About Treaty Laws, artt. 65 and followings contains rules which can raise interpretative problems. Generally, the ratification laws can be recommended only by the Chief of the Government, but the Constitution recognize also the possibility to arrange a referendum, which anyway has to be approved by the President of the Republic.

The most interesting article is surely art. 20 which states that the specific typologies of listed treaties, after the their approval by the Assembly and the ratification, are superior to law and “infra-constitutional”. This provision recall the interpretation given by the Italian Constitutional Court on art. 117 of Italian Constitution and its explanation of “norme interposte”

Another interpretative concern is about a residual category of treaties which are not contained in the above list and that are called technical treaties. These kind of treaties are not approved by the Assembly but only by the Chief of the Government. The doubt is about those treaties that do not fit in a specific category listed in the constitution and that cannot be considered neither as technical.

Regarding the part which contains norms on human rights, the constitution is influenced by the Islamic view on this point. In particular it has to be underlined that even if is affirmed the principle of secularity, the constitution recognizes that Islam is the State religion.