

# THE TUNISIAN DEMOCRATIC TRANSITION: A CRITICALLY THREATENED PROCESS

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## INTRODUCTION

Eight years after initiating a wave of mass social protests that later came to be known as the Arab Spring, Tunisia remains the only hope for a democratic transition in the Middle East and North Africa (MENA) region. The path the country has been undertaking since 2011 guaranteed some important achievements, notably a peaceful transfer of power, political pluralism, free and transparent elections, freedom of speech, and progress on individual rights. Yet, challenges to democratization remain significant. Tunisia's lack of democratic experience combined with an administrative system tailored to authoritarianism will evidently not be utterly transformed in a matter of years. However, the purpose of this paper is to evaluate the factors that might be deviating the lengthy process of democratization towards a disguised return to authoritarianism. The country is holding its second, post-revolution round of parliamentary and presidential elections this year. This ballot intervenes in a rather tense social, political and economic context. Thus, it is useful to examine the recurring deficiencies hampering the democratization process, and the consequent major threats to Tunisia's fragile transition.

Since 2011, democratic institutions were created, ambitious laws were enacted, a few figures of the former

## AT A GLANCE

- Tunisia is at a crossroads, and risks sliding back into authoritarianism. Moving forward, inconsistent application of democratic norms would likely enhance existent equalities between the north and the south, coastal and non-coastal towns, men and women, and different social classes, etc.
- The upcoming government's priority ought to be a sustainable plan for an economic recovery that does not entail further indebtedness. This requires negotiations with different intervenors, and consultations with the UGTT that do not posit previous ultimatums from both parties.
- As the latest polls indicate the increase popular disengagement from politics, it is the duty of political and civic actors to restore hope in a democratic, economically prosperous society.

regimes were trialed and condemned, and the political and civic landscapes have transformed. Yet, Tunisia is not a democracy yet, rather a hybrid system allying democratic features with persistent authoritarian practices.

Economic crisis is rampant, with an employment rate at an all-time high, a massive trade deficit and a crumbling national currency. Successive governments have attempted to maintain a delicate balance between popular demands and the imposed austerity by international financial institutions, yet results are rather negative.

The political landscape has also been consistently unstable. The main feat of the post-2011 political scene, namely the ability of ideological adversaries to form alliances in order to govern within the new semi-parliamentary system, is fading away. The alliance between the secular Nidaa Tounes and Ennahdha's Islamists has crumbled, the decisive blow having been the open struggle between the country's president, supported by Nidaa Tounes, and the head of government, who has long been supported by Ennahdha. Considering the nature of the political regime will remain unchanged, at the least until the upcoming elections, it is unlikely for any winning political formation to govern alone. Additionally, internal struggles have been consuming parties, further enhancing the crisis of confidence among Tunisians and pushing for abstentionism. Amidst this representation vacuum, figures of Ben Ali's regime managed to organize within political parties and are capitalizing on nostalgia towards authoritarianism. Tunisia might pay the price of choosing not to ban them from the political sphere in the future.

Locally, decentralization is slow, considering Tunisia's long tradition of extreme centralization. Although an ambitious Local Government Code has been adopted in 2018 and municipal elections occurred that same year, local governance is yet to be implemented. International pressure to accelerate the process is fomenting resistance from senior officials. Yet, decentralization has not been particularly empowering local elected officials principally due to a lack of funding, the severity of the economic crisis, the persistence of tenants of the old regime, and the fact that public services barely exist in some regions.

Moreover, the newly independent institutions created by the 2014 Constitution, designed as the safeguards of the revolution, remain fragile and underfunded. Their functioning is routinely subjected to political considerations as well. The two most notable cases are the Truth & Dignity Commission and the Constitutional Court. The first, tasked with the transitional justice process, was actively boycotted by State officials until the end of its term. The second is yet to be established due to an absence of consensus regarding the election of its members. The failure to consolidate the mandates of the aforementioned institutions is fragilizing democratization.

Additionally, cases of human rights abuses remain routinely reported, perpetuating a culture of impunity and *hogra*<sup>1</sup>. Notably, the eventuality of a second reconciliation draft law set to hamper the mandate of the transitional justice's specialized chambers and grant amnesty to human rights abusers under the former regimes, would severely cripple the constitutional principles of accountability and equality before the law.

Hence, although not exhaustive, Tunisia's present challenges to democracy-consolidation can be diagnosed as such:

- A structural economic crisis ;
- Political instability;
- A slow decentralization process ;
- The absence of a constitutional court;
- A hampered transitional justice ;
- A failure to consolidate individual liberties and end impunity.

The present analysis will primarily rely on interviews conducted with Tunisian experts and civil society leaders working on the aforementioned issues. The journalist Mohamed Samih Beji Okkez is an expert in economics and has been collaborating with the electronic newspaper Nawaat since 2013.<sup>2</sup> Amine Thabet is a research professor of public law at the university of legal, political and social sciences in Tunis. He has been a consultant for numerous organizations such as Lawyers

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<sup>1</sup> Widely used expression for public officials' disdain towards average citizens.

<sup>2</sup> <http://nawaat.org/portail/author/mohammed-samih/>

Without Borders (ASF), the United Nations Development Programme (UNDP) and Democracy Reporting. Chaima Bouhlel is a well-known civil society activist that focuses on decentralization and local governance. She is the former president of Al Bawsala<sup>3</sup>, an influential Tunisian NGO that assumed a significant role in monitoring parliamentary and governmental work, as well as the implementation of municipalities. Salwa El Gantri is the head of the Tunisian office of the International Center for Transitional Justice (ICTJ). El Gantri is a key expert of the Tunisian transitional justice process. She has notably collaborated with the Arab Institute for Human Rights and the Egyptian Initiative for Personal Rights. Halim Meddeb is a human rights lawyer that holds an extensive record of defending victims of State abuses. He worked with the World Organization Against Torture, the National Commission for the Prevention of Torture (INPT) and is the current legal advisor of ASF in Tunisia.

## A WORSENING ECONOMIC CRISIS

It is worthy to note, amidst the initial 2010 protests that led to the overthrow of Ben Ali's regime, economic demands preceded political slogans. Demonstrators primarily demanded better living conditions, and the slogan "Employment, Freedom, Dignity" has become emblematic in Tunisia's disenfranchised regions. Eight years later, freedom might be the unique tangible outcome of the uprising.<sup>4</sup> Undoubtedly, the structural economic crisis remains the most crucial challenge Tunisia ought to face as to ensure both stability and people's commitment to democratization.

The country's economic problems are multiple and interconnected. They also date back to decades ago, yet have been enhanced by critical mismanagement and political discontinuity post-2011. The 2019 unemployment rate has been registered at 15.5%, with a rate of 33.4% among the youth according to the Tunisian National Institute for Statistics (INS), fomenting ever

growing social unrest. Unemployment has worsened since 2011 as it was registered at 13% the year preceding the revolution. Women are particularly vulnerable as they are almost twice as affected by the lack of economic opportunities as their male counterparts.<sup>5</sup> The inflation rate is continuously increasing, estimated at 7.3% in February 2019, directly linked to the increase in prices of edible goods. The country's trade deficit is leading to a rapidly decreasing national currency, with the dinar losing more than 16% of its value compared to the Euro and more than 24% compared to the Dollar, in 2018 alone.<sup>6</sup>

According to the Tunisian journalist, Mohammed Samih Beji Okkez, a specialist in economics, the main problem pertains to the absence of a clear plan to tackle the economic crisis. However, no single entity should be held accountable for this ascertainment. The responsibility ought to be shared between the main intervenors in the economic cycle: the successive governments, private actors and the Union Générale Tunisienne du Travail (UGTT). Okkez estimates the State bears the most significant share of responsibility as post-2011 governments have been adopting a short-term, electoral vision. Although not exclusive to Tunisia, this approach is deeply problematic considering the gravity of the crisis.

*"The post-revolution electoral campaigns have been highly deceptive. No political party had the courage to present an authentic evaluation of the economic state, and announce sacrifices should be made by the national community to attempt to overcome the crisis. Thorough reforms were never conducted as programs were short-sighted and populist."*

Mohammed Samih Beji Okkez

Okkez considers that Tunisia's main weakness is an economy that produces very little, thus importing very little, combined with massive public expenditures, mainly oriented towards the wage bill. In this sense, the ministries' budgets in the past years are quite revealing: development expenditures did not exceed 15%

<sup>3</sup> <https://www.albawsala.com/>

<sup>4</sup> <https://www.voafrique.com/a/la-libert%C3%A9-mais-pas-la-dignit%C3%A9-huit-ans-apr%C3%A8s-la-r%C3%A9volution-tunisienne/4740924.html>

<sup>5</sup> <http://www.emploi.gov.tn/fr/observatoire/statistiques/population-en-chomage/>

<sup>6</sup> For further information see: Akrimi, "Tunisia: How Economic Mismanagement Continues to Undermine the Democratic Process," *Brussels International Center*, 2019, <https://www.bic-rhr.com/research/tunisia-how-economic-mismanagement-continues-undermine-democratic-process>.

and management expenditures monopolize budgets.<sup>7</sup> The equation is quite straightforward: in the aftermath of the revolution, popular demands for employment were pressing and the successive governments failed to design durable solutions. Considering the country's limited resources, the State resorted to borrowing considerable loans from foreign institutions as the International Monetary Fund (IMF) and the European Union (EU). The vicious circle is self-sustaining: loans are directed towards management expenditures, mainly salaries, which means the State repetitively needs to request further credits.

Tunisia's economic problems did not appear in 2011. The former regime left the country with a consequent debt and a fragile, inegalitarian economy. Yet the parameters were different. The repressive nature of the governance rendered it possible to organize the State's budget unilaterally, without popular or syndicate resistance. The government utterly controlled the market's dynamics, chose when to open public service's recruitment, when to raise wages, or when to lower the prices of goods, etc. The revolution also unveiled a dangerous practice: the regime falsified development indexes to minimize the weight of the economic and social crisis. This is evidently not possible today as major international organizations are based in Tunisia and access to information is transparent.

Amidst this critical condition, voices in favor of increased privatization are mounting. The current negotiations with the EU surrounding the Deep and Comprehensive Free Trade Agreement (DCFTA) are set to instigate an unprecedented level of privatization.<sup>8</sup> Beside wide opposition from the majority of the country's social and political actors, privatization in itself might be

counter-productive and risks to aggravate the economic precipice.<sup>9</sup> As Okkez explains:

*"Privatization requires a healthy investment environment based on transparency and fair competition. The country's corruption issue is an open secret (placing it since 2018 on the EU's list of countries at high risk of money laundering and terrorism financing<sup>10</sup>). Without a long-term, daring plan to tackle corruption, privatization would most likely allow private parties to take control of the State."*

Mohammed Samih Beji Okkez

A scenario in which the State is incapable to perform its most basic social and economic duties should not be dismissed. The indebtedness cannot be unlimited and State bankruptcy might be a scenario as in the inability to pay salaries per instance, estimates Okkez. Between 2010 and 2015, public debt increased by 21.1 %<sup>11</sup>, to reach 70% of the GDP in 2018<sup>12</sup>. This alarming threshold has been estimated unsustainable by international financial institutions.<sup>13</sup> Social unrest could follow.

Questioned about possible alternatives as the social solidarity economy, an experience that proved efficient in the southeastern city of Jemna<sup>14</sup>, Okkez considers it would be hardly viable on a State-level as the approach exclusively comprises basic sovereign functions, precluding the State's international engagements and the reality of the liberal market.

## POLITICAL INSTABILITY

Tunisia is consistently cited as an example of a bloodless transition from dictatorship to the premises of a

<sup>7</sup> [http://www.finances.gov.tn/index.php?option=com\\_content&view=article&id=298&Itemid=449&lang=ar-AA](http://www.finances.gov.tn/index.php?option=com_content&view=article&id=298&Itemid=449&lang=ar-AA)

<sup>8</sup> Tunisia and the EU already have an association agreement dating back to 1995 that stipulates tariff free trade in industrial goods as well as some agricultural goods. However, the new agreement is far wider in scope covering agriculture, services, and vast regulatory guidelines covering everything from intellectual property to public procurement procedures to food health standards.

<sup>9</sup> <https://www.jeuneafrique.com/774103/economie/accord-de-libre-echange-avec-lue-laleca-renforcera-la-dependance-de-la-tunisie/>

<sup>10</sup> <https://www.tunisienumerique.com/le-maintien-de-la-tunisie-dans-la-liste-noire-de-lue-des-pays-nonchalants-avec-le-financement-du-terrorisme-entame-la-credibilite-du-pays-expert/>

<sup>11</sup> <http://www.bsi-economics.org/752-bilan-eco-tunisie-postrevolution-fb>

<sup>12</sup> <http://afrique.le360.ma/tunisie/economie/2018/08/17/22457-tunisie-la-dette-augmente-de-pres-de-230-depuis-la-revolution-22457>

<sup>13</sup> [https://www.lemonde.fr/afrique/article/2018/01/13/en-tunisie-la-crise-economique-et-sociale-s-eternise\\_5241281\\_3212.html](https://www.lemonde.fr/afrique/article/2018/01/13/en-tunisie-la-crise-economique-et-sociale-s-eternise_5241281_3212.html)

<sup>14</sup> The inhabitants of the small provincial town have been collectively exploiting the oasis since 2011. Its turnover has exploded: the 2016 harvest has been estimated at around 700.000 euros.



democracy. Indeed, the evolution of the country's political configuration since 2011 is remarkable. Elections have been deemed transparent by local and international observers and the political sphere has spectacularly enlarged. Yet, with this newly acquired diversity came instability. Tunisia has known seven heads of government since 2011. The political landscape is constantly changing and there is little continuity in the programs implemented, and little time allowed to each minister to initiate long-term reforms.

Nidaa Tounes, the victorious political party of the 2014 legislative elections, is crumbling after successive defections and an open struggle between the head of State, Beji Caid Essebsi, and the head of government, Youssef Chahed. The latter recently announced the formation of a new political party, Tahya Tounes, revolving around the same ideas that constituted Nidaa Tounes a few years before. This resulted in a lengthy paralyzing setting, in which the head of State, openly siding by his son Hamed Caid Essebsi – Nidaa's long-time *de facto* leader – was the first opposing force to Chahed's government.

The latest Nidaa Tounes's Congress further instilled confusion within the political landscape. After months of fratricidal struggles and contradictory declarations, Beji Caid Essebsi announced he does not wish to be a presidential candidate, a decision that was obviously a surprise for his own party. He rather called for Youssef Chahed to reintegrate Nidaa Tounes and run for office on behalf of the party.<sup>15</sup> Essebsi's decision, although logical considering his age, further compromised the legitimacy of the latest elections' winning party. Currently, the latter is divided into two opposing factions.<sup>16</sup> It even presented two opposing lists under the same appurtenance in the municipality of Bardo, which

the Independent High Authority for Elections (ISIE) deemed inadmissible.<sup>17</sup>

Additionally, the government of national alliance, previously composed of a coalition between Nidaa Tounes and Ennahdha based on the Carthage Agreement, is no longer viable. The upcoming electoral campaign is igniting the same polarizing themes as the previous one, focusing the debate on an opposition between seculars and Islamists, thus further enhancing social tensions.<sup>18</sup>

Another troubling phenomenon is the rise of populists, some of whom openly endorse the former regime<sup>19</sup>, have a known record of corruption<sup>20</sup>, or oppose progressive reforms<sup>21</sup>. The latest opinion polls<sup>22</sup> have indicated the increasing popularity of candidates who adopt an "anti-system" narrative to market themselves as ethical outsiders who thoroughly understand people's concerns, a familiar populist approach. This is facilitated by the general distrust towards the current ruling class, particularly the components of the former national coalition government. This "*dégagisme*"<sup>23</sup> – by now entrenched in the Tunisian mindset and fueled by years of deceptive promises and increasingly harsh living conditions – is reviving the need for a strong leadership in the form of an authoritarian regime that would undermine the very basis of democratization.

Indeed, political discourses still channel the narrative of the man of Providence<sup>24</sup>, with quasi-unanimous references to the country's first emblematic president, Habib Bourguiba. This deceptive reasoning implies Tunisia's problems can be solved by one strong leader who would concentrate all powers, a rather hazardous approach for a country that still lacks an entrenched democratic culture. This political reconfiguration also risks to further disrupt the features of the political

<sup>15</sup> [https://www.lepoint.fr/afrique/tunisie-sous-le-soleil-de-bourguiba-essebsi-renonce-a-la-presidentielle-07-04-2019-2306245\\_3826.php](https://www.lepoint.fr/afrique/tunisie-sous-le-soleil-de-bourguiba-essebsi-renonce-a-la-presidentielle-07-04-2019-2306245_3826.php)

<sup>16</sup> [https://www.huffpostmaghreb.com/entry/nidaa-tounes-clan-hafedh-caid-essebsi-expulse-sofien-toubel-ons-hattab-abdelaziz-kotti-et-adel-jarboui-du-parti\\_mg\\_5cc9520ce4b0d123954c50f9](https://www.huffpostmaghreb.com/entry/nidaa-tounes-clan-hafedh-caid-essebsi-expulse-sofien-toubel-ons-hattab-abdelaziz-kotti-et-adel-jarboui-du-parti_mg_5cc9520ce4b0d123954c50f9) ; [https://www.huffpostmaghreb.com/entry/nidaa-tounes-clan-toubel-decide-de-suspendre-l-adhesion-de-hafedh-caid-essebsi\\_mg\\_5cc8ae3ee4b0d123954bd238?utm\\_hp\\_ref=mg-hafedh-caid-essebsi](https://www.huffpostmaghreb.com/entry/nidaa-tounes-clan-toubel-decide-de-suspendre-l-adhesion-de-hafedh-caid-essebsi_mg_5cc8ae3ee4b0d123954bd238?utm_hp_ref=mg-hafedh-caid-essebsi)

<sup>17</sup> <https://www.jeuneafrique.com/776876/politique/municipales-partielles-en-tunisie-nidaa-tounes-presente-deux-listes-concurrentes-au-bardo/>

<sup>18</sup> See : Akrimi, "Tunisia."

<sup>19</sup> <https://www.jeuneafrique.com/mag/749576/politique/tunisie-abir-moussi-portrait-dune-benaliste-convaincue/>

<sup>20</sup> <https://www.jeuneafrique.com/341314/politique/tunisie-groupe-nessma-collimateur-dune-ong-anticorruption/>

<sup>21</sup> [https://www.shemsfm.net/amp/fr/actualites\\_shems-news/210371/kais-said-le-coran-a-tranche-dans-la-question-de-l-egalite-dans-l-heritage](https://www.shemsfm.net/amp/fr/actualites_shems-news/210371/kais-said-le-coran-a-tranche-dans-la-question-de-l-egalite-dans-l-heritage)

<sup>22</sup> [https://www.huffpostmaghreb.com/entry/sondage-elka-consulting-nabil-karoui-en-tete-talonne-par-kais-saied\\_mg\\_5ce290e2e4b09e0578080781](https://www.huffpostmaghreb.com/entry/sondage-elka-consulting-nabil-karoui-en-tete-talonne-par-kais-saied_mg_5ce290e2e4b09e0578080781)

<sup>23</sup> Expression that gained popularity with the Tunisian revolution. Refers to a general rejection of the ruling class.

<sup>24</sup> <https://nawaat.org/portail/2019/03/22/quand-youssef-chahed-entonne-le-vieux-refrain-de-lhomme-providentiel/>

scene and undermine already fragile alliances.

## THE FAILURE TO ESTABLISH A CONSTITUTIONAL COURT

The 2014 Constitution provides for the creation of five independent instances as well as for the establishment of a Constitutional Court. These institutions have been designed as the guardians of the democratization process, and the basis of the rule of law. The implementation and functioning of the instances have known difficulties since 2011<sup>25</sup> yet they managed to assume a significant role in democracy-building. However, the Constitutional Court, undoubtedly the most important institution, remains notoriously absent.

Amine Thabet, professor of Public Law at the University of Carthage, estimates the failure to reach a consensus over the composition of the Constitutional Court is an intrinsically political blockage, at the image of the fractured political landscape. The third parliamentary plenary session for this matter failed to elect the three remaining members of the Court, highlighting the impossibility to reach a consensus among the influential political actors<sup>26</sup>. The Court will thus not be functional at time for the 2019 elections.

It must be noted the Court's role is primordial as it is the primary guarantor of the rule of law. Among its most significant attributions are to ensure the legality of constitutional amendments, as none can modify non-revisable dispositions. It also ought to monitor the respect of the modalities and procedures of any constitutional revision.<sup>27</sup>

The Court handles litigations regarding the *a priori* and *a posteriori* constitutionality of laws as well. The latest is crucial as it allows citizens to assume a direct role in monitoring the respect of the constitution. Indeed, a

party in any proceeding has the right to claim the law relied upon by the judge is unconstitutional. The trial is thus interrupted and refereed to the Constitutional Court for examination. Naturally, this disposition raises the problem of the workload imposed on the Court. As Amine Thabet stated:

*"The Tunisian judge is obliged to refer the matter to the Constitutional Court, as opposed to other countries where the magistrate has the prerogative to examine the seriousness of the request for non-conformity to the constitution beforehand. The law provides for the creation of an internal commission composed of constitutional judges tasked with filtering requests. But this only displaces the issue of the volume of requests from national courts to the said commission."*

Amine Thabet

An illustrative example of the importance of the Court is the recurrent prolongation of the state of emergency since 2015.<sup>28</sup> Although Caïd Essebsi announced it will most probably be the last extension, voices arose at numerous instances, notably among parliamentarians, to denounce the banalization of this measure. After it was prolonged by seven months in 2018, the longest period since 2011, and considering the decision was taken by the National Security Council, a restrained organ controlled by the Head of State, representatives denounced the unconstitutionality of the decision. Article 49 of the constitution provides limitations to freedoms and liberties should intervene in the framework of a law. This is not the case for the state of emergency, still applied in conformity to a 1978 decree.

The context in which the decree itself was implemented is problematic. It was proclaimed by Bourguiba amidst confrontations between authorities and demonstrators during the 1978 general strike launched by the UGTT, a bloody account of State repression. This gradual shift towards a security state is consequential on Tunisia's democratic aspirations. Since 2011, the

<sup>25</sup> "Endiguer la dérive autoritaire en Tunisie," Crisis Group, January 11, 2018, <https://www.crisisgroup.org/fr/middle-east-north-africa/north-africa/tunisia/180-endiguer-la-dérive-autoritaire-en-tunisie>.

<sup>26</sup> <http://kapitalis.com/tunisie/2019/03/06/tunisie-limpossible-election-des-membres-de-la-cour-constitutionnelle/>

<sup>27</sup> [https://democracy-reporting.org/wp-content/uploads/2018/04/DRI-TN-Rapport-Cour-Constitutionnelle\\_2015\\_fr.pdf](https://democracy-reporting.org/wp-content/uploads/2018/04/DRI-TN-Rapport-Cour-Constitutionnelle_2015_fr.pdf)

<sup>28</sup> <https://www.jeuneafrique.com/699667/politique/tunisie-dans-un-contexte-tendu-letat-durgence-prolonge-pour-la-derniere-fois/>

country has lived 78% of its time under a state of emergency.<sup>29</sup> Furthermore, the exclusion of parliamentarians from the decision-making process is a red flag. Thus, even considering its expected deficiencies, the Constitutional Court remains an essential component of a viable democracy.

Meanwhile, the Instance Provisoire chargée du Contrôle de la Constitutionnalité des Projets de Loi (IP-CCPL), an interim authority created in 2014 as a temporary alternative to the Constitutional Court, did not assume a significant role in monitoring the possible deviations of the executive power. The unique prerogative of this Court is to examine the constitutionality of draft laws before their promulgation, a factor that certainly impeded a greater role in supervising the executive. Yet, beyond its restrained prerogatives, the IP-CCPL demonstrated its refusal to weigh into important national issues. Per instance, during the tumultuous debates over the administrative reconciliation law, a recourse was introduced before the court by thirty-five parliamentarians.<sup>30</sup> Instead of adjudicating on this historical case, the Court preferred to remain neutral, evoking the equality of votes between those who were for and against the conformity of the draft law to the Constitution.

It should be noted the law regulating the functioning of the IPCCPL itself permits this type of loopholes. Regarding equality of votes, the Court president's vote cannot settle the matter. The same absence of a deciding vote in case of equality has been transposed to the Constitutional Court's legislative framework.<sup>31</sup> The decision is thus referred to the Head of State. In the case of the administrative reconciliation law, a decisive legislation in the country's transitional justice process, Beji Caid Essebsi naturally approved it as it were his proposition in the first place. The incoherence of the Head of State being both judge and party to a case is evident.

Amine Thabet estimates the IPCCPL's jurisprudence has been weak as it failed to uphold any notable

precedent. It equally failed to assume the role of a system of checks and balances to the executive's power.

*"In some cases, there was a blockage as in the administrative reconciliation draft law, which is a de facto refusal to adjudicate. In others – as the appeal against the High Council of Judges and Prosecutors – the Instance's decision was contrary to consecrated jurisprudences worldwide as it interpreted the article 62 of the Constitution<sup>32</sup> in a way that would forbid parliamentarians to amend the government's draft laws. Yet, the right to amend draft laws is a sacred right of representatives in democracies."*

Amine Thabet

This demonstrates how dangerous the absence of a Constitutional Court is as it allows an authoritarian drift to happen, and eventually dictatorship to return in the absence of an efficient counterweight. With the recent declaration of Beji Caid Essebsi on his intention to propose a constitutional amendment as to limit the Head of Government's prerogatives<sup>33</sup>, the same scenario could repeat itself, further weakening the democratization process. Particularly when these decisions serve partisan interests.

## THE WEIGHT OF REGIONAL DISPARITIES AND A PERILOUS DECENTRALIZATION

Tunisia's current administrative organization is inherited from French colonialism. Characterized by extreme centralization, the two post-independence authoritarian regimes ensured important decisions were taken in Tunis and very little agency was allowed for mayors and governors. Local authorities were designated by the central power and had to report to the Ministry of Interior.<sup>34</sup> Since 1956, the country has been

<sup>29</sup> <https://www.jeuneafrique.com/540772/politique/tunisie-polemique-sur-la-prolongation-de-letat-durgence/>

<sup>30</sup> <https://nawaat.org/portail/2017/10/06/reconciliation-administrative-decryptage-du-recours-de-lopposition-pour-inconstitutionnalite/>

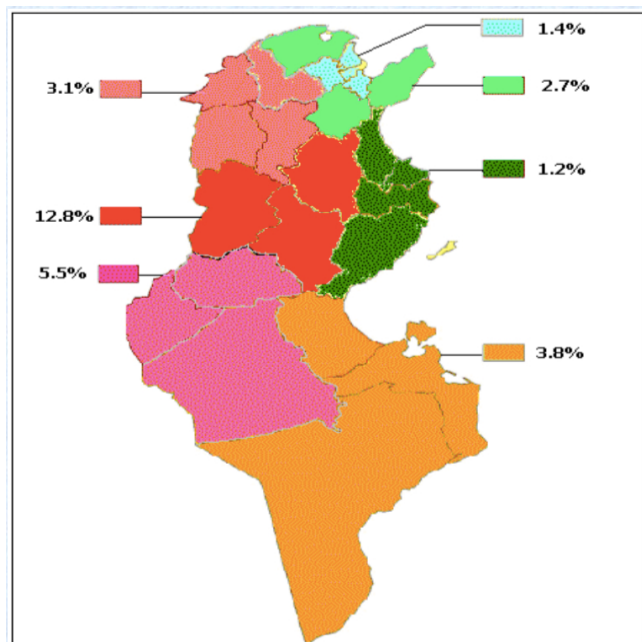
<sup>31</sup> <http://www.businessnews.com.tn/les-denis-de-justice-constitutionnelle-en-tunisie,526,77696,3>

<sup>32</sup> <http://www.legislation.tn/sites/default/files/news/constitution-b-a-t.pdf>

<sup>33</sup> <https://www.reuters.com/article/us-tunisia-politics/tunisian-president-wants-to-amend-constitution-to-dilute-pms-power-idUSKCN1R11R2>

<sup>34</sup> Belhedi, "Disparités Régionales En Tunisie".

relying on two major trends: coastalization and the metropolization of Tunis. In 2005, the INS estimated that 3.8% of Tunisians were living in extreme poverty. Yet, this seemingly low rate eludes wide regional disparities: 12.8% in the country's central western governorates compared to only 1.4% in the Greater Tunis area.<sup>35</sup>



*Map of Tunisia highlighting regional disparities in unemployment pre-2011*

(Béchir, Ounalli, Sghaier, and Miloud/2011)

The regional imbalance between Tunisian governorates and the territorial disparities among delegations were amidst the greatest revelations of January 2011. The south was the first to revolt between 2008 and 2010. The 2008 six-month long strikes of the mining basin in the country's south-western governorate of Gafsa are still considered as the premises of the revolution. Two years later, the south-eastern city of Ben Guerdane in the governorate of Medenine protested against the sudden shutdown of the Ras Jedir border post with Libya, thus jeopardizing the livelihood of the majority of the region's inhabitants.<sup>36</sup> The State's

brutal repression of aforementioned pacific social movements has only aggravated resentment.

Indeed, and for decades, the development of the coast-line in Tunisia has been prioritized as the expense of the country's west. Road infrastructures were built primarily to connect the capital to the coastal regions of the east, in particular the center-east and greater Tunis, where high value-added industries (tourism, textiles, etc.) and job creators are concentrated. As for Tunisia's west, activities are mainly oriented towards agriculture, severely limiting job creation. This has favored the exodus of large portions of the population towards the east and the capital.<sup>37</sup>

The pre-revolution unemployment rates are indicative of this striking imbalance between western regions and coastal areas. At the end of 2010, Gafsa registered the highest unemployment rate in the country at 28.3%, more than double the national rate estimated at 13%. Tataouine recorded an unemployment rate of 23.6%, and Kasserine, 20.7%. With regard to the unemployment rate of young Tunisian graduates, the governorate of Gafsa remained in the last position with 47.4%, nearly double the national rate estimated at 23.3%. The following cities were Jendouba (40.1%), Sidi Bouzid (41.0%), Gabes (39.4%), Tataouine (39.1%) and Gasserine (38.9%). Apart from Gabes, the totality of these cities are non-coastal areas.

The latest numbers pertaining to social protests in the first trimester of 2019 indicates the historically-disenfranchised governorates still hold the highest number of demonstrations. According to the Tunisian Forum for Economic and Social Rights (FTDES), Gafsa (216), Kairouan (364), Sidi Bouzid (172), Gasserine (127) and Jendouba (189) are among the governorates that witnessed the highest number of social protests. Gafsa is also the governorate that witnessed the highest number of suicides and attempts of suicide in the country (11) this year.<sup>38</sup>

<sup>35</sup> Béchir, Ounalli, Sghaier, Miloud, Laboratoire d'Économie et Sociétés Rurales, Institut des Régions Arides Médenine, Tunisie.

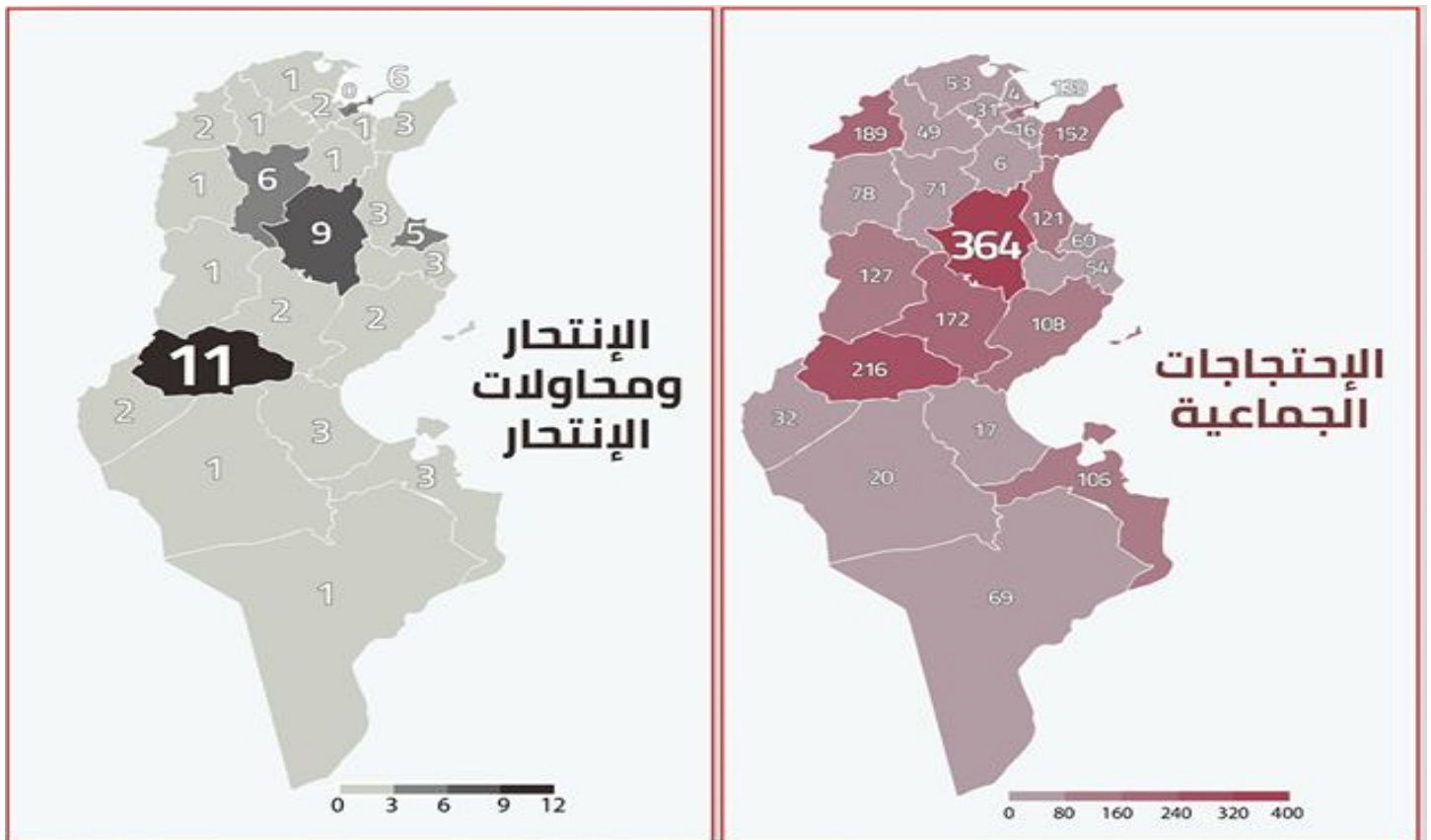
<sup>36</sup> <https://nawaat.org/portail/2010/10/03/victoire-de-la-population-a-ben-guerdane/>

<sup>37</sup> Béchir, Ounalli, Sghaier, Miloud, Laboratoire d'Économie et

Sociétés Rurales, Institut des Régions Arides Médenine, Tunisie.

<sup>38</sup> Rapport du mois d'Avril 2019 des mouvements sociaux, suicides et violences, FTDES. See : <https://ftdes.net/rapports/fr.avril2019.pdf>





Map of Tunisia showing on the right, the concentration of social protests in the country's central towns and on the left, the correlation between the country's interior cities and suicides or attempts of suicide<sup>39</sup> (FTD)

In the aftermath of the revolution, decentralization has been interpreted as a major component of democratic transition. The demand for decentralization was indirect. The initial popular desideratum was ending disenfranchisement, marginalization and inequality between regions. This implies central authorities consistently failed to address citizens' concerns equally. Reconciling people with the decision-making process by allowing more autonomy to municipalities is the underlying logic of decentralization. Consequently, the EU and the World Bank heavily invested on local governance programs<sup>39</sup> and the civil society adopted the approach as one of its major battle horses. Chaima Bouhlel, civil society activist and former president of Al Bawsala, explained:

*"The World Bank sponsored a decentralization program in Tunisia a few years before the revolution and the way local governance was to be implemented is drastically different from the way decentralization has*

*been shaped after 2011, thanks to pressures from the newly constituted civil society. The revolution made the process the property of citizens, not exclusively the State."*

Chaima Bouhlel

Bouhlel estimates international actors, especially the EU, could benefit greatly from a thorough decentralization in Tunisia. Decentralization entails more agency to local administrations thus easier economic negotiations. International economic actors could relatively circumvent centralized bureaucracy at the State level, especially for small investment projects. In addition:

*"If decentralization is implemented correctly, Tunisia would have 350 strong municipalities that would be able to choose the way they want to spend their budget and freely negotiate contracts."*

Chaima Bouhlel

<sup>39</sup> "Décentralisation en Tunisie : consolider la démocratie sans affaiblir l'Etat," Crisis Group, March 26, 2019, <https://www.crisis-group.org/fr/middle-east-north-africa/north-africa/tunisia/198->

decentralisation-en-tunisie-consolider-la-democratie-sans-affaiblir-letat.

The Local Government Code was adopted on the 15th May 2018. Yet, as denounced by civil society's organizations, the implementing decrees are constantly delayed, initially scheduled to be published on the 15th February 2019.<sup>40</sup> It should be noted the adoption of the Code itself was a lengthy process that was faced with considerable resistance from central authorities. A great victory was to ensure the Code entered into effect prior to municipal elections.

*"The decentralization process has been controversial because there is a widespread belief that foreign donors have shaped it. That is inaccurate. Until 2014, authorities were hesitant between amending the already-existing law regarding the organization of municipalities, or draft a new version. Civil society organizations assumed a significant role in the decision of creating a whole new legal framework, and the project has been modified nineteen times. It was one of the few laws that went through consultations – both from organizations and citizens – across the country, and these recommendations were taken into consideration.<sup>41</sup> Unlike some other laws, the Code is the result of a participative process."*

Chaima Bouhlel

Yet, a legislative framework is only a first step. The effective implementation of municipalities' prerogatives is the real challenge. Especially considering the unequal capabilities of different districts. The issue is twofold: cooperation from central authorities and autonomy. The State's willingness to share prerogatives is not evident as decades of hyper-centralization are not easy to shift and State officials remain reluctant to share prerogatives. One indicative example is the executive's tardiness to publish decrees that would clarify certain dispositions of the Local Government Code. Additionally, municipalities' internal organizational weaknesses

and lack of resources also hinder their effective autonomy.

Another considerable challenge to decentralization, and democratization as a whole, is the country's corruption epidemic. In this sense, some consider decentralization will aggravate the phenomenon by spreading it, what came to be known as the 'decentralization of corruption'.<sup>42</sup> However, Bouhlel argues decentralization might prove to be the most efficient strategy to tackle corruption. As the overall resources are shared between 350 local communities, it considerably weakens the possibility of the totality of municipalities being corrupted. Moreover, a human-scale monitoring is possible regarding the work of districts and the use of public funds. Locally, decisions are taken in open sessions and transcripts are available, while at the State-level very little transparency is possible. Accountability thus becomes the matter of everyone, not just a small portion of society involved in politics. As Bouhlel frames it:

*"I perceive decentralization as a mitigation factor for corruption. In a centralized framework, one would have to hope for a non-compromised government while decentralization allows to bet on 350 localities."*

Chaima Bouhlel

The low turnout during the May 2018 municipal elections at 33.7%<sup>43</sup>, is a troubling indication of the profound crisis of confidence between citizens and their representatives. Decentralization is a double-edged sword that could either allow Tunisians to re-engage in the public domain, at least on a local level, or enhance the existent crisis by further deceiving high expectations. It is hence crucial to ensure it serves to alleviate inequalities between regions and become a model of participatory democracy.

<sup>40</sup> <https://www.jeuneafrique.com/743677/politique/code-des-collectivites-locales-en-tunisie-le-ministre-mokhtar-hammami-sexplique-sur-les-retards/>

<sup>41</sup> Al Bawsala recorded the entire process of public consultations pertaining to the Local Government Code. Available at <http://bala-dia.marsad.tn/uploads/documents/%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%20%D8%AD%D9%88%D9%84%20%D8%A7%D9%84%D8%A7%D8%B3%D8%AA%D8%B4%D8%A7%D8%B1%D8%A9%20%D8%A7%D9%84%D8%AC%D9%87%D9%88%D9%8A%D8%A9%20%D8%AD%D9%88%D9%84%20%D9%85%D8%B4%D8%B1%D9%88%D8%B9%20%D9%85%D8%AC%D9%84%D8%A9%20%D8%A7%D9%84%D8%AC%D9%85%D8%A7%D8%B9%D8%A7%D8%AA%20%D8%A7%D9%84%D9%85%D8%AD%D9%84%D9%8A%D8%A9%20%D9%85%D8%B9%20%D8%A7%D9%84%D9%85%D9%84%D8%A7%D8%AD%D9%82.pdf>

<sup>42</sup> "Décentralisation en Tunisie."

<sup>43</sup> <https://www.lalibre.be/actu/international/tunisie-faible-participation-aux-premieres-elections-municipales-libres-5aef657ecd70c60ea6d6ba7c>

# AN UNSATISFACTORY TRANSITIONAL JUSTICE PROCESS:

In December 2013, the National Constituent Assembly (NCA) passed a comprehensive transitional justice law<sup>44</sup> aimed at investigating grave past human rights violations, securing compensations for the victims and prosecuting the perpetrators. The Truth and Dignity Commission (TDC)'s official mandate started in December 2014. Its main task was seeking truth pertaining to State-led human rights abuses that have occurred from 1955 to 2013, which covers Bourguiba and Ben Ali's regimes, and the two first post-revolution years. Headed by the controversial Sihem Ben Sedrine, emblematic former journalist and human rights activist, the Commission has been entangled in successive political crises that effectively impeded the successful conduct of the transitional justice process. The parliament refused to extend its mandate for a fifth year, impeding the successful completion of a historical process.<sup>45</sup> The State's representatives were not present during the presentation of its final report, which implies its recommendations are likely to be ignored.<sup>46</sup> For the record, the official list of the revolution's injuries and deaths in the Official Journal of the Tunisian Republic (JORT) has not been published to this date, although several civil society organizations have requested the Head of State to do so several times.

The 2014 arrival to power of Nidaa Tounes, ending the rule of the Troika which was composed of historical opponents to the former regimes, has greatly complicated the process as the party itself was composed of numerous figures that assumed leadership positions among the dictatorships. Per instance, its emblematic leader and current head of State Beji Caid Essebsi has been pointed to in a rapport by the TDC for allegations of torture during his mandate as a minister of interior under Bourguiba's regime.<sup>47</sup> The Commission's members mentioned the difficulties it has faced during its

work at numerous times, pertaining mainly to the reticence of cooperation of State agencies. Among others, this hindered the access to crucial information, with notably the scandal pertaining to the ministry of interior's archives.<sup>48</sup>

Salwa El Gantri, head of the International Center for Transitional Justice's Tunisia office (ICTJ), estimates the process has been highly controversial due to a mixture of internal and external factors to the TDC. The way in which commissioners were appointed in 2014 resulted in controversies about their political and ideological affiliations, shifting attention from the Commission's actual work to marginal, sterile debates. In contrast, Tunisia has managed to select members of newly created institutions in a more consensual manner in the past, notably members of the High Authority for Elections (ISIE). Moreover, the original draft of the transitional justice law has been modified by the NCA as the selection committee used to encompass the heads of parliamentary groups to become a representation of political groups based on proportionality. Additionally, the short deadline of fifteen days given to applications drew heavy criticism from observers as it sanctioned applicants who lived far from the Capital. It also vehiculated the impression the selection process lacked transparency and was scorned. As a matter of fact, two civil society organizations questioned both the process and the constitutionality of the transitional justice law before the administrative court at the time.

Furthermore, four commissioners resigned in the first months of the TDC's work and a fifth one was dismissed. This further weakened public's trust towards transitional justice and jeopardized any possibility to reach a consensus around the mandate of the Commission. The latter's absence of a clear communication and outreach strategy in addition to its prioritization of internal struggles over effectively processing complaints at times have also limited public's engagement and sympathy towards its mission. Victims equally complained about the TDC's lack of communication with victims, notably regarding the expiration of the 15<sup>th</sup>

<sup>44</sup> <https://www.ilo.org/dyn/natlex/docs/SERIAL/95319/112171/F-313159060/TUN-95319.pdf>

<sup>45</sup> <https://www.jeuneafrique.com/546008/politique/tunisie-le-re-fus-de-proroger-le-mandat-de-linstance-verite-et-dignite-deja-conteste/>

<sup>46</sup> <https://www.jeuneafrique.com/754890/politique/tunisie->

<linstance-verite-et-dignite-a-rendu-public-son-rapport-final/>

<sup>47</sup> <https://www.theguardian.com/world/2019/mar/26/tunisian-president-accused-of-complicity-in-torture-report>

<sup>48</sup> [https://www.huffpostmaghreb.com/2014/12/28/archives-ivd-otim\\_n\\_6386458.html](https://www.huffpostmaghreb.com/2014/12/28/archives-ivd-otim_n_6386458.html)

June 2016 deadline for the reception of files. In addition, the absence of an inclusive and representative dialogue about the possibility of implementing an institution tasked with the duty of remembrance after the achievement of the Commission's mandate is problematic.<sup>49</sup>

On a national level, El Gantri estimates the non-transparent nominations of commissioners sent a negative message to the general public and the TDC was rapidly categorized pro-Islamists. Furthermore, post-revolutionary Tunisia has made a risky choice not to ban figures of the former regimes from public service. Naturally, a number of them gained legitimacy with the 2014 elections albeit they were in the accused dock for human rights violations. It was thus not in their interest to allow the Commission to carry out its mission. Victims were also demonized as there was a general suspicion about their Islamic affiliation, particularly amidst the unprecedented rise of jihadism and terrorist attacks the country has witnessed after 2011. The concept of reparation has also been limited to monetary compensations by the influent political parties although numerous victims expressed their desire to see the perpetrators tried before specialized chambers and condemned.

El Gantri argues the Tunisian transitional justice process, a first in the region, has resulted in undeniable historical *acquis*, mainly public auditions, the implementation of specialized chambers and their effective functioning, the general public's awareness of major human rights violations committed under the former regimes, and youth engagement in the transitional justice process, notably through the movement Menich Msemah<sup>50</sup>. However, these *acquis* risk to crumble in the light of the recent regain of legitimacy of former Ben-Ali era officials. One tormenting example is the initiative of the Ministry of Relations with Constitutional

Authorities, Civil Society and Human Rights to replace the specialized judicial chambers by administrative commissions which threatens to rip the foundation of transitional justice as no judicial judgment will be rendered in cases related to torture.<sup>51</sup> Although not official yet, civil society organizations believe it is an indicator of an upcoming draft law, a resurrection of the old intention of the State to bypass accountability for crimes of torture and exactions.<sup>52</sup>

Transitional justice has been recognized as an essential component of national reconciliation and democratization in the aftermath of a crisis. However, a process that fails to hold accountable State officials for abuses committed when in office alienates the population and further undermines confidence in State institutions. Although reconciliation is an important step of the process, it should be the outcome of four precedent stages: truth-seeking, justice-seeking, reparation and the guarantee of non-repetition. Seeking reconciliation without addressing the factors that fomented the crisis in the first place simply perpetuates impunity and bolster further grievances.

## HUMAN RIGHTS AND INDIVIDUAL LIBERTIES: AN ARDUOUS JOURNEY

Since 2011, the country has been undertaking a remarkable path towards further individual rights, the consolidation of already existing *acquis*, and a greater respect of human rights. Three important laws have been voted in this respect: a law to eliminate all forms of violence against women in 2017<sup>53</sup>, a law for preventing and combating human trafficking in 2016<sup>54</sup>, and a law condemning all forms of racial discrimination in

<sup>49</sup> Rim El Gantri, "Tunisia in Transition: One Year After the Creation of the Truth and Dignity Commission," *International Center for Transitional Justice*, September 28, 2015, <https://www.ictj.org/publication/tunisia-transition-one-year-after-creation-truth-dignity-commission>.

<sup>50</sup> Meaning "I will not forgive" in Tunisian dialect, Menich Msemah is a non-partisan movement created in 2015 to oppose the reconciliation law proposed by Beji Caid Essebsi.

<sup>51</sup> <https://www.huffpostmaghreb.com/entry/il-n-y-a-pas-de-vo-lonte-politique-pour-renforcer-le-systeme-judiciaire-en-tunisie->

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<sup>52</sup> [https://www.middleeasteye.net/news/tunisias-reparation-project-peril-say-truth-and-justice-commissioners#disqus\\_thread](https://www.middleeasteye.net/news/tunisias-reparation-project-peril-say-truth-and-justice-commissioners#disqus_thread)

<sup>53</sup> <http://www.legislation.tn/sites/default/files/news/tf2017581.pdf>

<sup>54</sup> <http://www.legislation.tn/sites/default/files/fraction-journal-officiel/2016/2016F/066/Tf2016611.pdf>



2018<sup>55</sup>. These undoubtedly represent important legislative milestones towards a more egalitarian and free society. However, the implementation of these legislations remains a challenge, as financial constraints and lack of political will are recurrently evoked as obstacles.

Some other crucial initiatives have been undertaken as well, although they have not exceeded the conceptual stage so far. On the 13<sup>th</sup> August 2017, corresponding to International Women's Day, the president of the Republic announced the creation of a Commission for Individual Liberties and Equality (COLIBE) tasked with preparing an extensive report on necessary legislative reforms regarding individual liberties in accordance with the 2014 constitution and international human rights norms.<sup>56</sup> The COLIBE was primarily composed of progressive intellectuals and legal experts. It was headed by Bochra Belhadj Hamida, a long-time secular human rights lawyer and a parliamentary on behalf of Nidaa Tounes, Caid Essebsi's political party.

However, what really emerged from the president's speech on Women's day was his intention to reform the heritage law. It should be noted this is a particularly sensitive topic within the society as the disposition is an emblematic law that dates back to Bourguiba's era. It represents one of the former president's most significant tradeoffs with the most conservative portion of society in the post-independence era, and is thus viewed as a sacred *acquis* for religious people. The heritage law is still subjected to Quran's rule of one man's share of inheritance equals that of two women. Expectably, the intended reform divided public opinion for months, as some considered it a step towards consecrating gender equality and others, an attack on Tunisia's Muslim identity.

Nevertheless, the political dimension of this proposal should not be overlooked as Essebsi's initiative intervened in a tense environment of political paralysis and of crumbling popularity for him and his party. Some also interpreted it as a way of placing Ennahdha in an

uncomfortable position in which it would have to choose between its progressive wing or its more conservative grassroots, a dilemma the Islamists have been constantly dealing with since their assumption of power.

On the 8<sup>th</sup> June 2018, the Commission handed its final report to the president, a comprehensive and thorough study on all the current legislative deficiencies impeding the full respect of individual and human rights in Tunisia, from LGBT to rural working women's rights.<sup>57</sup> To this day, the only proposition that has been concretized is the law against all forms of racial discrimination. Regarding the draft heritage law, Bochra Belhadj Hmida has recently declared it will not be voted during this parliamentary mandate.<sup>58</sup>

The country still has to undertake a long path to ensure all the constitutional dispositions regarding individual liberties are translated into reality. Especially during this Ramadan month, freedom of conscience and religion should be discussed more often as authorities still occasionally crackdown on restaurants and cafés where non-fasting people gather. Some café owners are even prosecuted.<sup>59</sup> Moreover, the debate over LGBT rights is quasi-inexistent and article 230 of the penal code, criminalizing homosexuality, is still used to legitimate coercive anal tests.

In the domain of accountability regarding human rights abuses, the country's history is far from being a thing of the past as evident in the analysis of the deficiencies of transitional justice. Police abuses remain banalized and some cases have led to the death of the victim, as for Omar Labidi, a nineteen-year-old football supporter that was allegedly pushed into a river by police officers in March 2018. Although strong evidence against suspected perpetrators have been presented by Labidi's defense team, there has been no condemnation to this day. Human Rights Watch estimates that no tangible action has been undertaken by authorities to break the code of silence that characterizes police blunders.<sup>60</sup>

<sup>55</sup> <http://www.legislation.tn/sites/default/files/news/tf2018501.pdf>

<sup>56</sup> <https://www.jeuneafrique.com/615101/politique/tunisie-beji-caid-essebsi-tranche-en-faveur-de-legalite-dans-lheritage/>

<sup>57</sup> [https://www.huffpostmaghreb.com/entry/rapport-de-la-colibe-un-enjeu-historique\\_mg\\_5b717b84e4b0530743cba3a4](https://www.huffpostmaghreb.com/entry/rapport-de-la-colibe-un-enjeu-historique_mg_5b717b84e4b0530743cba3a4)

<sup>58</sup> <http://www.businessnews.com.tn/bora-belhaj-hmida--je-suis-convaincue-que-le-projet-de-legalite-successorale-ne-passera-pas->

<pendant-ce-mandat,520,87830,3>

<sup>59</sup> <http://www.businessnews.com.tn/pour-avoir-ouvert-pendant-ramadan-un-proprietaire-de-cafe-devant-la-justice,520,87966,3?fbclid=IwAR27Jn4isCpjrBd8v32Nb-GSpA8mE-raxpO6Mwh1JYuls6ZSqliXiiABlr1A>

<sup>60</sup>

Moreover, the various police unions that have burgeoned after the revolution are exerting increased pressure on judges, refusing to secure audiences and lobbying for repressive laws<sup>61</sup>.

Human rights lawyer and legal advisor to Lawyers Without Borders in Tunisia, Halim Meddeb believes the country's downward curve to end impunity of State officials and ensure greater respect of human rights can be explained by a non-independent judiciary.

*"No one can deny the revolution resulted in unprecedented rights for Tunisians. Progressive laws, freedom of speech, and an active civil society are among the country's most notable achievements since 2011. However, a crucial process has been eluded: the justice system reform. This induces a great number of figures from the former regimes were neither prosecuted nor excluded from public office. A lot of them were even promoted and continue to assume responsibilities within public administrations, including in the judiciary branch and among the police. Some people with a record of human rights abuses are today either in office or running for important positions."*

Halim Meddeb

These concerns have been echoed by Raoudha Karafi, the honorary president of the Tunisian Magistrates' Association (AMT) which declared there is no political will to reinforce the judicial system as to allow it to assume its role in the fight against torture.<sup>62</sup>

With different intervenors agreeing on the historical role of civil society organizations, as Sihem Ben Sedrine declared it is henceforth the responsibility of organizations to carry on transitional justice<sup>63</sup>, Meddeb estimates civic activity is subjected to increased constraints.

*"The most efficient counter-power today is the civil society. Yet, it is being targeted through numerous*

*legislations. Per instance, the state of emergency law allows the State to freeze the activities of civil society organizations. The latest reform to the decree of organizations as well as the counter-terrorism law directly target the civil society. Moreover, the law on the business register of companies burdens organizations with heavy procedures. Associations that do not conform to its terms risk serious consequences, including penal repercussions for legal representatives. This could be detrimental to civic activity as only highly-structured, international organizations would survive in the long run."*

Halim Meddeb

## CONCLUSION

Tunisia is at a crossroad of its history and can either choose to become a fully democratic country or shift back to authoritarianism. The country could also morph into an in-between system in which democratic practices would be marginal and inconstant. Moreover, this would most likely enhance existent inequalities between the north and the south, coastal and non-coastal towns, men and women, different social classes, etc.

Tunisians should seize the opportunity of the 2019 legislative and presidential ballot to elect political representatives that hold a strong commitment to consolidating democracy, notably through instigating a justice system reform, carrying out the transitional justice process, investing in local governance and reinforcing independent institutions. However, the aforementioned reforms will not have any popular echo if the living conditions of citizens continue to deteriorate. The upcoming government's priority ought to be a sustainable plan for an economic recovery that does not entail further indebtedness. This necessarily requires lengthy negotiations with different intervenors, and consultations with the UGTT that do not posit previous ultimatums from both parties. The union's narrative would gain credibility if, rather than systematically opposing

<https://www.amnesty.org/en/latest/campaigns/2019/04/tunisia-where-running-from-police-can-be-deadly/?fbclid=IwAR0q58MPVRxbUT5CkrvuiCODS9MHsPGRedsx-NhK2plw8TTU7J05Ms8roU>

<sup>61</sup> <https://nawaat.org/portail/2017/11/17/new-security-draft-law-portends-return-of-police-state-in-tunisia/>

<sup>62</sup> <https://www.huffpostmaghreb.com/entry/il-n-y-a-pas-de->

[volonte-politique-pour-renforcer-le-systeme-judiciaire-en-tunisie-deploire-raoudha-ka-rafi](https://www.middleeasteye.net/news/tunisias-reparation-project-peril-say-truth-and-justice-commissioners#disqus_thread)

[mg\\_5cd313a6e4b0a7dffcd05cb1?fbclid=IwAR1aQSxC6mm1fJ42ms8qgN7dH2Ury2RI\\_xDrV0GIUS9owEjLexFBx41cveE](https://www.middleeasteye.net/news/tunisias-reparation-project-peril-say-truth-and-justice-commissioners#disqus_thread)

<sup>63</sup> [https://www.middleeasteye.net/news/tunisias-reparation-project-peril-say-truth-and-justice-commissioners#disqus\\_thread](https://www.middleeasteye.net/news/tunisias-reparation-project-peril-say-truth-and-justice-commissioners#disqus_thread)

governmental initiatives and declaring strikes, it collaborated with the government on a joint-proposal to tackle the crisis.

As the latest polls indicate the increase popular disengagement from politics, it is the duty of political and civic actors to restore hope in a democratic, economically prosperous society. However, this is far from

being evident as populist candidates are well-positioned and might win the elections. This scenario would most likely lay to rest any hope for democracy in Tunisia, and perhaps, in the entire region.

## RECOMMENDATIONS

### **To the Tunisian government :**

- To urgently orient its efforts towards battling corruption as it is draining massive resources, undermining the confidence of citizens and setting an unhealthy environment for both local and foreign investors.
- To reconsider negotiating the DCFTA in the light of the country's fragile economic fabric, the population's impoverishment and the weakness of public services.
- To invest in strengthening the internal structure of municipalities through capacity-building of decision-makers, as well as financial and human resources. Annual budget laws should include decentralization as an immediate objective.
- To take into account the Truth and Dignity Commission's final recommendations, notably guaranteeing the independence of judges as well as creating an independent institution tasked with the duty of remembrance.
- To use the dispositions of the COLIBE as a guideline for future legislative reforms as to concretize the measures inscribed in the 2014 constitution.
- To initiate a thorough justice system reform in order to ensure the principle of accountability and entrench equality between citizens before the law.
- To subject police unions to increased monitoring and a clear legislative framework as not to allow them to transform into a space in which officers accused of grave human rights violations could seek impunity.
- To implement the Dignity Fund forthwith while taking into account the reality of public deficit as the amount provided in the 2019 finance law is unrealistic.

### **To Civil Society Organizations working in Tunisia:**

- To continue exerting pressure on the parliament to implement the Constitutional Court.
- To lobby international funders as to include the implementation of the Constitution Court as a condition to grant Tunisia loans and privileges.
- To pursue awareness-rising campaigns regarding the importance of a bottom-up approach to democracy-building.
- To oppose any eventual reconciliation law that would attempt to hinder the mandate of the specialized chambers as well as impose reconciliation in the absence of accountability.

### **To Tunisian Political Parties:**

- To adopt a frank narrative about the reality of the country's economic crisis and include constructive dispositions in their programs that refrain from unrealistic electoral promises.
- To avoid committing the same mistake as 2014 by promising a government that would exclude Ennahdha as this alienates a significant segment of the population and further increases the crisis of confidence among voters.
- To pay attention to the rise of populists, particularly the Parti Destourien Libre (PDL) and its leader Abir Moussi that openly rejects all the acquis of the revolution and markets a return to authoritarian practices.
- To place the implementation of the Constitutional Court on top of the agenda of every political program during the electoral campaign.

The BIC is an independent, non-profit, think-and-do tank based in the capital of Europe that is committed to developing solutions to address the cyclical drivers of insecurity, economic fragility, and conflict the Middle East and North Africa. Our goal is to bring added value to the highest levels of political discourse by bringing systemic issues to the forefront of the conversation.



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