

ARAB CITIZENSHIP REVIEW N. 3



DEMOCRACY AND CITIZENSHIP IN NORTH
AFRICA AFTER THE ARAB AWAKENING:
CHALLENGES FOR EU AND US FOREIGN POLICY
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TUNISIA

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This series of policy briefs provides a regular update of debates concerning key rights issues in three Arab states, Morocco, Egypt and Tunisia. In a first round of briefs on the three countries, we provide background on these debates since the beginning of the Arab spring.

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INTRODUCTION

Both political freedoms and socio-economic rights were at the heart of the revolution in Tunisia. The slogans that have dominated debate since late 2010 are related to a quest for freedom and dignity.

Since January 2011, political developments in Tunisia have been intense. The country has experienced a first phase of the transition, during which politicians have sought, through consensus and within the framework of the High Commission for the Achievement of the Objectives of the Revolution, to convince the Tunisians of their good intentions and their desire to establish a pluralistic and participatory democracy in which rights and freedoms will be guaranteed and accessible without any obstacle. Liberalism, encouraging the freedoms of association and expression, characterized the legislation during this phase. The High Commission for the Achievement of the Objectives of the Revolution set up an independent body for the elections which, with the support of the government, organized elections for a National Constituent Assembly. The elections to the Constituent Assembly, which took place on 23 October 2011, were free and fair, and the Assembly was entrusted with a mandate to draft a new constitution and appoint a new President of the Republic and a new government.

Then a new phase of the transition started, characterized by the dominance of a new majority power. The Assembly is dominated by the Islamist party Ennahda with 41 per cent of the number of seats. There is today an absence of dialogue on national issues and a systematic confrontation around key issues that divides Tunisian society between secular modernists and Islamist traditionalists. This phase is also characterized by the feeling that rights and freedoms are threatened and that regression in this domain is plausible.

Compared to Egypt, attempts at dialogue and consensus have been more notable in Tunisia. This has produced what appears to be a more liberal advancement on key rights questions. Regime restrictions on liberal rights are fewer than in Morocco. However, there are evident differences that increasingly surface today over rights definitions and the future of political reform in Tunisia.

WHAT HAS CHANGED FOR CITIZENSHIP RIGHTS

The political change that took place in Tunisia opened unprecedented opportunities for increasing respect for freedoms and human rights in the country. Earlier restrictions on the freedoms of the press, expression, assembly and association during the 23 years of dictatorship of Ben Ali were largely lifted. The population has benefited from new freedoms, especially in terms of political participation during the run-up to the first open, inclusive and democratic elections in the country and participation in these elections. From the first weeks of the fall of the former regime, politicians and exiled human rights activists returned to the country, political prisoners have been released and civil society and human rights activists have begun to conduct their activities without interference or intimidation from the government.

For the first time in Tunisia significant advances in freedoms have been implemented. They concern in particular the freedom of association, with the creation of more than 150 political parties since January 2011 and more than 5000 associations, as well as the realization of trade union pluralism notably by the foundation of two new unions for workers and a new one for employers. This expansion of the freedom of association is due to the liberal practice of the previous legislation adopted by the former regime, and due to the decrees suggested by the High Commission for the Achievement of the Objectives of the Revolution and adopted during the first phase of the transition. The will to break with the practices of the former regime has pushed the new legislators to remove all barriers concerning the creation of a political party or any other organization. Informing the competent authorities is the only condition to meet in order to exist. The Ministry of the Interior is absent from this procedure and the task of monitoring of the associative life and of political parties is now the responsibility of the head of the government services.

For the freedom of the press, two high commissions were established to examine existing legal codes that stipulated which topics the media could cover and provided sanctions against offenders. The first temporary government established the Committee on Reform of the Media and Information, an independent body in charge of media reform. After consultations with the

government, the Committee has issued recommendations for a legal framework for the licensing of radio and television. It also proposed the establishment of a new public broadcasting service to disseminate information and facilitate the formation of informed public opinion. After the elections of October 23 2011, an independent high authority for audio-visual communication was established with its main task being to ensure freedom and pluralism in audio-visual production.

The new press code has abolished the criminalization of defamation of State institutions and the publication of offensive content concerning the president. At the same time freedom of access to the Internet became effective, with websites no longer being blocked. The government took several measures during the first year of transition to put an end to official censorship on the Internet. This freedom is rejected by some who, on the grounds of concerns over morality, have attempted to restrict free access, including asking for the filtering of internet sites considered contrary to morality. But the state has not imposed any such censorship yet.

On another level, the fall of the dictatorship put an end to the arbitrary arrests and detentions and cases of violence or torture, which is no longer systematic. Less concrete but still obvious, is the will of the judiciary to be independent. More than two years after the revolution and more than a year and a half after the election of the Constituent Assembly, an independent higher authority of the judiciary was finally established.

Regarding women's rights, it was agreed between all the political actors not to reverse the legal achievements in favour of Tunisian women and their status within the family and in the society as being the equal of men. In terms of political participation no law prohibits women the right to vote or to participate in political life on an equal footing with men. In an effort to include more women in the electoral process, the government has adopted a law of parity of gender for candidates, which requires that political parties include an equal number of male and female candidates on electoral lists. They must also comply with the alternation of the names of male and female candidates in order to increase the probability of female candidates being chosen. An impressive 26 per cent of the 217 elected members of the Constituent Assembly are women.

Within the ANC, the ambiguity of the wording of certain articles of the first draft of the constitution introduces some doubts concerning the true intention of the majority group in the

Assembly. Indeed equality between man and woman was not clearly marked and the use of terms such as 'complementarity' between the man and the woman suggests that there is a desire to change the status of women. Criticism and pressure from civil society forced them to backtrack and to inscribe equality clearly in the new draft, which also insist that all citizens (the feminine and the masculine in the Arabic text) are equal. The new draft also added that the State guarantees all legal aquis in favour of women since the Personal Status Code of August 13, 1956.

Concerning minority rights, in a general way there is no legal discrimination between different ethnic, racial, or religious groups; all are Tunisian citizens and have the same access to the different freedoms and rights. In terms of political participation no law prohibits those groups the right to vote or to participate in political life on an equal bases with other citizens. In an inclusive effort, the constituents suggested the adoption of a quota system in favour of Jews but this suggestion was refused by the Jewish community, considering that there is no need for such positive discrimination. However, on a specific political rights matter, a problem of discrimination remains. Jews cannot be candidates in the presidential elections; this is indeed an exclusive right for Muslims. Despite all the criticism, this discrimination has not disappeared in the draft of the upcoming constitution.

WHAT HAS NOT CHANGED FOR CITIZENSHIP RIGHTS

The two pillars of the Tunisian revolution are freedom and dignity: much has changed for freedom, while little has changed regarding dignity. This is linked to the need for the establishment of better social justice that is slow to come about.

The previous regime was based on an implicit 'social contract': the state was oppressive but committed to providing jobs and growth. Seen this way, many argued that economic decline had set in already before the revolution so that the regime was no longer able to keep its contract concerning food prices and jobs, and for the top segment of society corruption at the hands of Ben Ali's supporters increased frustrations. As a result of breaking its side of the contract with these different sections of society, the regime was forced out. As yet, however, the foundations of a new social contract have not been put in place.

The government and the opposition have expressed different views on the future of the country. Yet, they have been able to converge on basic procedural and institutional questions. The shifting alliances and counter-alliances in discussing the constitution foreshadow the likely dynamics to come when putting in place the democratic framework and carrying through the necessary economic, judicial and administrative reforms.

While the constitutional process originally foreseen was scheduled to take one year only, now nearing the end of its second year there is still no official deadline in sight, nor a call for next and first proper political parliamentary and presidential elections. Even worse, local government reform and elections have barely made it onto the transition's political agenda. As such the current government is an interim- or care-taker government and it has been reluctant and unsuccessful even when it has been willing to develop policy and take action on the socio-economic agenda.

Even more worrying is that there is no sign of progress on a new socio-economic social contract. In the new constitution it is expected that little will be oriented to this topic as the discussions seem to focus on traditional constitutional democratic structure and governance matters, followed by cultural identity and religious issues. Even if the constitution does highlight some basic positions on social policy and the economy, it will provide little direction for the development of actual implementable policies.

An end to poverty and insecurity, access to employment, reducing marginalization and increasing access to all economic and social rights are currently at the heart of the concerns of the ordinary Tunisian people. The voters have been largely attracted by the political party programmes that have made campaign promises answering economic and social demands as a main axis, even when it comes to electing a Constituent Assembly.

WHO IS PUSHING FOR/OBSTRUCTING CHANGE

In this context of social tensions, continuous protest, absence of achievement of the objectives of the revolution, inability of the government to find solutions for anything and in the absence of a clear and precise political roadmap, change does not have the same meaning for all. Some, such as the Islamists of Ennahda, want to take the opportunity to gain power and become the dominant power in the long term; others such as Salafists seek to change society comprehensively and some are even prepared to use violence to do so. Other sectors remain unaffected by the change. For instance, the public administration is headed by a bureaucratic caste that is efficient but operates to the rhythm of the old regime and despises the new reality and therefore creates a lot of barriers. The forces of order (police and other bodies), the guarantors of the security, without which nothing can be accomplished, defend themselves against change and try to continue to use the same old repressive methods, while calling for a new status and a new image in the society. There were expectations that the new power, as a legitimate, democratically elected power, should in principle correspond to the aspirations of the people of the revolution, and should adopt reforms, especially in the form of a constitution that respects rights and freedoms of all Tunisians. Yet these expectations have not been met in reality and there is a sense that this has been a wilful failure.

This could be explained by the strong polarisation between Islamists and secularists, each bloc trying to protect its future in the Tunisian political scene, even if this results in almost total inertia in the accomplishment of change or the undermining of a plural, open and tolerant Tunisian society.

This state of affairs explains why debates on human rights seem to pit supporters and opponents of the recognition and realization of the universal nature of human rights, which are part of the modernist-secular political trend, against each other. The supporters of the realization of what some consider as a traditionalist conception of the Arab-Muslim identity, operating on behalf of a cultural exception, oppose the universal character of human rights.

It also explains why an agreement on the freedoms within the Constituent Assembly is also elusive. Traditionalists have an obvious problem with freedom. They cannot design freedom without important limitations, thus within the ANC they sometimes adhere to the consensus around the realization of some rights, but maintain differences at the level of their precise formulation. This sometimes serves to deny the meaning of the right. This includes freedoms of establishment of political parties, of associations, of protest, of expression, of opinion, conscience, and so on.

Some civil society institutions are invited to debate the constitutionalization of rights, in order to support the modernist-secular forces that seem too weak in their role as the opposition to thwart the Islamist project. This is the case for the Labour Union (UGTT) which, along with other associations, defends the constitutionalization of several rights and freedoms in addition to the civil (non-religious) character of the State.

CONCLUSIONS

The polarization between Islamists and secularists is a serious threat to the transitional process in Tunisia. It has already led to two high profile political assassinations, the first of their kind in the history of independent Tunisia.

The hope that Tunisia was advancing towards a more liberal concept of rights, and on a more consensual basis have been dealt some serious blows. The country is seen to have reformed more than Egypt or Morocco. But understandings of rights are still contested, and many sectors hold illiberal views which could filter into a more fraught political process. There is much fluid debate still to be resolved on political, civil and social rights in Tunisia.

The most extreme of the Islamists advocate violence to change, by force, a society that they consider is made up of unbelievers; Jihadists are organized in groups, hiding and training themselves in the mountains in the centre of the country and challenging the army, which has tried to dislodge them without success. After the June 3013 events in Egypt even the more moderate Islamists are threatening those who call for recreating the Egyptian scenario in Tunisia.

Violence, although condemned by a broad spectrum of political and civil society in Tunisia, remains serious and very dangerous and it is the process of change which will pay the price. This political violence is accompanied by unprecedented social tension because the daily lives of millions of Tunisians who live in poverty have not changed. The inexorable rise of unemployment, economic recession and high inflation rate is likely to exacerbate the socio-economic demands. The fear is that this situation will lead to a second revolution, which would be bloodier than the first one and may lead to another dictatorship.