



Shall Tunisia Succeed in Becoming a Strong Democratic State?

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INTRODUCTION

Arab revolutions have sparked real hopes for democracy, but the situation varies from one state to another and change has taken various directions, with unpredictable outcomes in the future. In light of current events, most of these countries seem to have failed in their democratic transition and also face the dissolution of their state apparatus in bloody civil wars. This leaves the door open to interpretations associating democracy with chaos. In this view, preserving post-colonial states – authoritarian in most cases – is better than having no state at all. This partially justified the coup that took place in Egypt, where the ‘Deep State’ has recovered its capabilities in a dictatorial manner.

The Arab world thus faced an impasse: the state is either stable but authoritarian or democratic yet threatened with dissolution. The dilemma results in an impossible choice between stable dictatorship or freedom ending in chaos.

Tunisia seems to be the only country that managed to achieve a democratic transition while preserving the state institutions, to the extent that some observers talk about the "Tunisian exception". However, several indicators show that state weakness could be ascribed to the uncertain character of the democratic transition. Yet there seem to be more profound and serious reasons to fear for this transition. Is Tunisia really immune from the threat of state failure? How can this country take up the challenge of being a state that is at the same time powerful and democratic? From our perspective, the Tunisian state has historically been stable. It has always been a powerful state –meaning a state

BACKGROUND

able to penetrate society and implement its agenda. However, a deep concern remains: how can a democratic state reinforce the fundamentals of power on the one hand and address the challenges of disintegration on the other?

That Tunisia has historically been a powerful state may seem to be an exaggerated statement. Yet that is the truth. First, it is a state in as much as it is represented by an organised and institutionalised community that monopolises the use of constraint socially agreed to, over a territorial surface. For historians, the Tunisian state has historical depth that traces back to the Hafsid State, which lasted nearly three centuries (1236-1574), followed by the Al Muradi state which gave birth to the Hosseini State, which in turn lasted three centuries (1705-1956). This is not the case with most other Arab countries, with the exception of Egypt and Morocco. Second, the Tunisian state is a “police state”, a power state (Machtstaat), issuing laws and applying them to citizens, but not obeying the rule of law

(Rechtstaat), i.e., a state subject to the law. On this basis, and being a powerful administrative state, Tunisia proceeded in the nineteenth century with a series of modernising reforms similar to those introduced in Turkey, Germany and Japan. Perhaps the most important reforms were those introduced in the legal field, beginning with the Pact of Peace in 1857, which was inspired by the Turkish regulations, and with the adoption of the first constitution in the Muslim world in 1861. These key reforms were followed by numerous others initiated by Prime Minister Khayreddin Pasha between 1873 and 1877. They concerned the tax-payment system, endowments (waqf), the rationalisation of administration, the modernisation of education, the secularisation of justice and the redefinition of religious authority. Such reforms were not faced with any objections from the elites, nor from ordinary people. They were even endorsed by religious authorities, which demonstrates that the state did not rely on bare power (potestas) but rather on its authority (Auctoritas) – what Max Weber would identify as a legitimate authority. This is in contrast to other countries, some of which were put under colonial rule or simply did not exist back then, such as Iraq, Syria and Lebanon (Middle East countries) or the Gulf countries. It is worth noting that this is the main reason why Tunisia was considered as a protectorate and not a colony.

Thirdly, Tunisia is a powerful state. As such, it does not rely on violence, but rather is an “organic state” able of penetrate society. In the Middle Ages, the English state was considered as an example of a powerful state because it relied on the lowest possible number of apparatuses to run the state institutions (including the army, the security and justice) while giving freedom to society and the market. Conversely, the Ottoman state was considered weak despite its military staff, which burdened the state apparatuses. And that is exactly what happened in Tunisia after it gained its independence. Indeed, Tunisian elites are the only ones in the Arab region that were civilian (not military), urban (not rural), and secular (not scriptural). They renewed powerful state top-down reforms in an authoritarian manner, once again passively endorsed by society. As part of this program of modernisation from above, the state first introduced bureaucratic rationalisation through an arsenal of measures that were implemented directly and in a brief period (1956-1961). The state authority was now extended to the entire Tunisian territory, abolishing traditional territorial institutions such as Sheikhs (religious local authorities) and Caïds (administrative authorities), replacing them with delegates and governors. Secondly, secularising reforms put an end to religious authority, through the unification of the judiciary (i.e, abolishing religious courts), suppression of endowments (waqf), and abolition of basic religious schools (madrassa). At the same time, the postgraduate school of Al Zitouna Mosque was integrated in the non-traditional, free and compulsory official educational

system. Thirdly, gender relations were updated thanks to the Personal Status Code (1956) that changed the demographic structure of civil society and its culture. The Tunisian state was thus a powerful state, capable of displaying its authority without any notable objection from society. Part of it desperately rebelled without significant consequences. It was only in the 1970s that an Islamist revival against this historical political culture emerged.

These are the roots of a powerful organic state that later transformed into a police-state (not to assimilate to *Polizei Staat*) replacing passive loyalty by bare force, *forza nuda*. This fierce state collapsed on 14 January. But the state is broader than its apparatus. And one can ask whether the state collapsed or the regime; whether the system of values inculcated through history will resist or disintegrate. Indeed, the regime has changed, the state was weakened and the values were shaken

OVERCOMING DIFFICULTIES

after January 14. So how could a fledgling democracy maintain the state structure and maintain the system of values? Tunisia is capable of challenging the balance between freedom and security. It has enough capabilities to do so, provided that it manages to overcome difficulties.

Those who bet that the Tunisian experience shall fail give various reasons, the most important one being the economic situation, the weakening of the state and the threat of chaos. First, the deteriorating economic situation in Tunisia is innervated by the general context but equally related to the limited capacity of the state to control the course of events. In fact, the year 2012 witnessed an economic growth rate that averaged 3.5%, but this rate fell to 1% in 2014, versus approximately 5% under dictatorship. As for unemployment, rates averaged 16.7%, during the fourth trimester of 2013. Indeed in 2012, no less than 160 companies and factories closed down and 12370 workers got fired, while in 2013 two general strikes were organised following the assassination of two political figures. In addition to that, a number of sectorial strikes were called, most importantly the bakeries' strike and the port workers' strike, which caused an important part of import/export movements to be partially frozen. This wave of strikes continued in 2014 in the education sector and was carried on at the beginning of the 2015 school year. In addition to that, the proportion of the parallel economy in Tunisia has reached approximately 54% of the overall GDP. The smuggling system in Tunisia turned into a frightening reality confirmed by official figures and evidenced by daily facts. This is indicative of the state's incapacity to liberalise the economy. In fact, one of the most important factors that lead to the growing smuggling phenomenon are excessive tax rates, sometimes reaching 100% – which

prompted many traders to resort to anarchic street selling. According to statistics published by the Tunisian Ministry of Commerce, smuggling costs Tunisia an estimated at \$3.6 billion annually. Ironically, smuggling dealers have also integrated the system of revolutionary protest movements, just like any ordinary employees. Ben Gerdane city (close to Libya), the stronghold of smugglers, has had protests by smugglers on 29 October 2014 against the closing of the road leading to the southern entrance of the city. The state has thus shown its incapacity in playing its initial role as protector of the territory or finding a solution to the unemployment problem, especially among university diploma holders, despite the efforts made by the successive governments since the revolution. The most important results of this failure to address the unemployment issue are the unlawful migration waves where the number of immigrants surpassed 40.000 since the revolution. Most significantly, these immigration waves coincided with security chaos.

Despite their significance, these indicators are illustrative of any democratic transition process, generally characterised by initial instability. Admittedly, the dialectic relationship between wealth and democracy is a question to be addressed, given that democracy did not provide any direct tangible wealth for Tunisia, yet. Nonetheless, democracy can be a prerequisite for development, as confirmed by the Indian example. The specificities of the Tunisian example open the door to a new reality where democracy and prosperity might go hand in hand. The state is therefore under no imminent threat – unless this cohabitation takes a permanent character.

Secondly, there is the issue of the weakening state performance. The most important indicators are provided by public utilities and services that are characterised by poor quality, lack of discipline and increasing corruption. There are also issues relating to the politicisation of the state and partisanship attempts through public appointments based on loyalties, which had a negative impact on services. Indeed, as confirmed by Abdel Kader Labbaoui, President of the National Union for the Neutrality of the Administration "more than 70 percent of the total appointments in the 'troika' era have not been reviewed yet," insisting on "the need to scrutinize the 1200 appointments in the state institutions i.e., the ministries, public institutions with administrative character and public utilities".¹

¹ Abdelkader Lebboui, président de l'Union nationale pour la neutralité de l'administration et des services publics, Maghreb 1/08/2013.

The threat also comes from the same derogatory practices of the new majority. But despite these objections, appointments on the basis of loyalties – only partly given up – have not dismantled the administration, which remained bureaucratic and rational and that continues to assume its functions.

Thirdly, some elements contribute to the deterioration of the economy and the weakening of the state and they may even portend chaos. Since January 14, Tunisia has indeed been hit by frequent terrorist attacks, in different regions and with varying levels of success. The Tunisian state saw the first confrontation between the regular armed forces and the other armed forces on 18 May 2011. The year 2012 was marked by frequent and now expanding terrorist attacks. As for 2013, the number of terrorist operations increased in quantity and quality; terrorist operations doubled and two politicians were assassinated (Chokri Belaid on 6 February and Mohammed Braham on 25 July). In 2014, several other attacks were conducted, targeting, among others, the house of the Minister of the Interior Ben Jeddou in Kasserine on 27-28 May, while two simultaneous attacks with machine guns and RPGs on two military bases in Chaambi were perpetrated on 16 July. Terrorist operations continued in 2015 with two major attacks, one targeting the Museum of Bardo on 18 March, killing 23 people and injuring dozens of others, and another one targeting a hotel in Sousse on 26 June, which resulted in the deaths of 39 tourists, while 39 others had varying degrees of injuries.

In sum, terrorism does not represent a minor residual threat but rather a continuous one. After the terrorist operation against one of the hotels in the city of Sousse, even the President of the Republic said that the Tunisian state is in danger of collapse in the event of another terrorist attack. The attack urged him to declare a state of emergency, and this decision prompted several Tunisians to express their fear of relapsing in a situation that could be worse than under the Ben Ali regime, especially since the President referred to Law 1978, which was then used to quell protests. However, reality dispelled those fears, as the state of emergency did not prevent parties from organising a demonstration against the law on economic reconciliation that the presidency intends to issue.

Terrorism is in fact related to the overall context of the region. Arab countries are faced with a consistent worsening of the situation, especially with the emergence of Daesh (Islamic State in Iraq

and Syria). In Tunisia, the spawning of terrorism was marked by the shift from Ansar al-Sharia operations to the deadly threats of ISIS. While being an extremely serious danger, terrorism turned out to have no popular basis. Political parties, elites and ordinary citizens are in agreement that terrorism should be rejected and is alien to Tunisian society, which reputed to be tolerant. In addition to that, military forces have now taken the initiative of carrying out proactive operations. Mechanisms to address terrorism were equally strengthened through consensus in the form of the Law on Terrorism, which now reached an enforcement phase after a push-and-pull period that lasted almost three years. On 25 July 2015 the Law on Terrorism was approved with 177 yes-votes, 10 abstentions and zero objections. Despite some disapproval, this law is believed to strike a fair balance between two requirements: facing terrorism on the one hand and respecting fundamental citizen rights on the other hand. There remains however the question of the intellectual and ideological origins of terrorism. This was the subject of "The intellectuals' Conference against Terrorism" (August 2015) which brought together more than a thousand civil society activists that produced a statement and a study to which more than 35 intellectuals contributed with papers and action plans that covered all fields. The National Conference against Terrorism is expected to follow under the auspices of the government and with the participation of political parties and associations.

Several pillars allow the Tunisian state to tackle three fundamental challenges (economic collapse, state weakness and terrorism). Such pillars are the following:

1/ - Capacity of political parties to dialogue

From the beginning of the transition period, the National Dialogue represented an important asset. The 'political committee' identified as the Higher Authority for Realization of the Objectives of the Revolution, Political Reform and Democratic Transition (2011) has sought a consensus between political parties (from extreme left-wing to the Islamic Movement), civil society associations and political figures since the beginning of the transition process. The Authority developed an arsenal of laws, (including the electoral law adopted in the 2011 elections) and was committed to the principle of consensus and voting when required, which gave the Tunisian transition a consensual civil character – unlike the transition in Egypt, where the military dominated all the different steps of the transition period; as soon as the Islamists and secularists began to clash, the Egyptian army was

prompt to nip democracy in the bud in order to recover state authority. Conversely, Tunisian parties favoured dialogue and endeavoured to work out a roadmap to settle the crisis that was threatening the democratic process. In doing so, Tunisia managed to maintain both the state and democracy.

While not claiming to be a substitute for the Constituent Assembly, the National Dialogue aimed to reconcile electoral legitimacy with consensual legitimacy. Starting at the end of October 2013, the National Dialogue operated in a context characterised by a lack of trust and a grim outlook for democracy. This political deadlock was due to several complex reasons; firstly, there was the continuous delay in the adoption of a consensual constitution (four drafts, the last one being in June 2013). Secondly, the government was harshly criticised for its non-satisfactory performance in the economic field. Thirdly, the security conditions were perceived as continuously deteriorating, with a wave of violence led by hardline religious groups. Following Mohammad Brahmi's assassination (July 2013), a sit-in was organized in Bardo and lasted nearly the entire month of August, with sit-inners calling for the dissolution of the Constituent Assembly and the resignation of the government, knowing that the legitimate term of both institutions had already ended then according to the law.

The dialogue started in October, lasted three months and resulted in January 2014 in a roadmap that covered three axes (governmental, constitutional and electoral): accelerating the ratification of the constitution, establishing a new government of technocrats (under Mahdi Jumaa) and completing the election of the Higher Independent Authority for Elections (ISIE). While it got interrupted more than once, the National Dialogue eventually took the Tunisian state out of the bottleneck, and on 9 October 2015, the quartet running the dialogue, (i.e. the Tunisian General Labor Union (UGTT), the Tunisian Business Community Union (UTICA), the National Bar Association and the Tunisian League for the Defense of Human Rights) was honored with the Nobel Peace Prize for its successful management of the political crisis in Tunisia.

The quartet succeeded because dialogue is deeply rooted in Tunisian political culture. To some extent, it is an extension of the neo-corporatist state that was established during the struggle for independence, on the basis of four pillars (workers' organisation, employers' organisation, National Union of Tunisian Women and the National Union of Youth). These organisations monopolised the representation of their respective members in exchange for loyalty to the authoritarian state. This in

turn is in line with the historical bloc in Gramsci's code, founded during the national movement between the new Constitutional Party (the Destour, 1932) and the unions at the time, including the Labour Union (UGTT, 1946) and the Employers' Union (UTICA, 1947). Most of the national movement leaders and senior executives in the Tunisian state and in the opposition have a legal background. This makes the relationship between elites homogeneous and based in fellowship. As for the Tunisian League for the Defense of Human Rights, it is the first one in Africa (1978). Such a structure feeds a culture of concessions. The Tunisian state got accustomed to giving up on unpopular decisions that could lead to social unrest. Indeed, it backed away from a socialist solidarity policy in 1970 and the rising food prices in 1978, and even Ben Ali was preparing to back away from his repressive policy on January 13. Similarly, after January 14, the state regressed in various fields. This culture sneaked its way into the minds of the majority of stakeholders, including the Al Nahdha Party which accepted to turn down its radical ideological statements and political decisions, including its resolve to cling to electoral legitimacy during the 2013 crisis.

2/ - Homogeneity of the social fabric

The culture of consensus is informed by the homogeneous social fabric. The Tunisian state is indeed a state of a unified nation, unlike many of the democratic nations where the multiplicity of primary cleavages requires either multicultural citizenship such as in America and Canada, or a con-societal pact such as in Belgium and Switzerland. This is also what distinguishes Tunisia from other Arab countries where religious (Muslim/non-Muslim), ethnic (tribes and races) and sectarian (Shiite/Sunni) divisions have been used to justify dictatorship in the name of national unity or else to fuel post-transition civil wars. In fact, the Tunisian people count no ethnic (the majority of Tunisians are white) or tribal (tribal relations have been eroded as a result of forced modernisation) or religious (the majority are Muslims) or sectarian (all Sunni) or even sub-sectarian schools of thought on law (all Maalikus).

This significantly facilitated the political consensus process and avoided the kind of conflicts faced by other countries with multiple societal rifts.

Conversely, compared to other Arab states, there is an intensive and obvious differentiation between secularists and Islamists due to the prevalence of secular Western culture and its more significant impact on Tunisian elites. It happened that the National Dialogue filled the gap between different political cultures and eased the formation of secular-Islamists governments (Troika formerly and now Nida and Al Nahdha parties). In addition to that, the Al Nahdha movement was 'tunisified' as it was slowly incorporated in the moderate Tunisian Sunni Maliki Islam. One must not forget that the Al Nahdha movement initially refused to revive the national symbols of the Tunisian state, such as Bourguiba, the Republic Day (1957) and the Martyrs Day (1938). It is necessary here to distinguish between different types of loyalty. Indeed, loyalty to the group is loyalty to values, and loyalty to the government is acceptance of its electoral legitimacy, while loyalty to the state is loyalty to the system. And Tunisia is moving in this direction.

3/ - The neo-organic state

Despite the numerous upheavals that accompanied January 14, the Tunisian state did not collapse. What was challenged however was the loyalty to the government and to the cultural values that bring the community together and that had to be reconsidered. And they were. Conversely, social interests did not really change. This is the result of the historical updating that Tunisia has undertaken, which allowed democracy to evolve, unlike in Libya and Yemen, where the foundations of the state were missing. Definitely, the 'police state' as power state (Machtstaat), became a state obeying the rule of law (Rechtstaat) in 2014, which gathered consensus on the new values that bind society together. Thus, the role of the state has been amplified through multiple formats. The state is therefore held responsible for the protection of rights and the constitution enshrined such a responsibility in its provisions through the use of phrases such as "the State shall seek" or "the State shall ensure", or "The State shall guarantee", as if the state has now become everybody's haven.

Besides, the neo-corporatist state is still functioning on a liberal basis and on negotiations, while it used to be based on force. Overall, the organic state has had an in-depth impact on society. Indeed, democracy is the outcome of this multifaceted modernisation (relative prosperity, middle-class and educated elites). These ingredients significantly allow security, freedom and democracy to come together and pave the way for the building of a state that is democratic and stable at the same time.

This is contrary to what some would argue – i.e., that democracy has weakened the state and anticipated its collapse. One debatable issue on the way the organic power is at stake, is the draft law of economic reconciliation recently initiated by the president of the Republic. It is today the subject of controversy between its proponents (the parties in power, including Al Nahdha) and the opposition, which fears it is an opportunity for the Deep State to resurface and ruin democracy. The draft law contains three measures: amnesty for employees who are not sued by justice on charges of bribery; reconciliation on a case-by-case/deal-by-deal basis, following the request of the beneficiary from the bribery; and the transferring of deposits from foreign banks to Tunisian accounts (in convertible dinars). The draft law aims at making the business community regain confidence in investment, knowing that incomes from reconciliation shall be spent on disadvantaged areas.

FINAL CONSIDERATIONS AND RECOMMENDATIONS

Tunisia is singled out as the only country to have moved from democratic transition to consolidation. However, this movement takes place in the context of regional mobility that is fraught with danger. In its immediate environment, Tunisia finds itself surrounded by an authoritarian state (Algeria) and a collapsed state (Libya), which makes its borders vulnerable to terrorists and smugglers. Considering this impasse (returning to dictatorship or facing the collapse of the state), the Tunisian challenge becomes even more complicated. In fact, democracy cannot be sustained under economic collapse, excessive demands and faltering security. So unless the role of the state is redefined, there is no possible way out of this vicious circle. A solution could be achieved through the conversion of the National Dialogue into a permanent institution (expansion of the list of participants and redefinition of their functions). The chief role of such an institution would be to settle disputes and oversee the conclusion of a social contract between all active stakeholders, with a view to shift from political dialogue to a social covenant. Secondly, it is up to the state to keep the balance between security enforcement and respect for human rights in all solutions that could possibly be envisaged to address terrorism. This however is criticised by legal experts who are wary of seeing the security requirement becoming the overriding requirement in public opinion. Besides, there is a claim for a thorough review of the quality of education and culture so as to favour critical thinking and values and universal tolerance. Thirdly, the state must refrain from any neo-authoritarian attempt, especially after grievances expressed against security officers' behaviour, non-neutral judges during trials, and abuse practices affecting individual freedom. So confidence must be built anew between citizens and the

state through awareness-raising campaigns in the media, together with training sessions for security officers. A balance should furthermore be established between maintaining order and addressing abuses, and legal texts ought to be reviewed accordingly, so as to reach a balance between protecting security officers and respecting human rights. This equally applies to economic reconciliation, which should find a balance between economic growth and accountability of the corrupt. All of these procedures are eventually meant to balance between the state and democracy.