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Transition to democracy in Tunisia: Where to?

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The paper will try to assess Tunisia's transition and ponder the outcome of the period, as a whole. Before anything else, it is important to approach the issue in the context of the need to resolve the pending questions regarding the fate of the transition itself, and people's expectations of it. The turmoil we are witnessing today reflects major expectations that have become more urgent than any time before, prompting the need to embark on a process of major reforms.

Civil Society between politicised action and neutral activism

The country's civil society, just like its political society, is in a state of flux. While the political civil society's role is limited to applying pressure from time to time, joining the political fray could compel it to play the politicised game at the expense of its original role. However, although some civil society organisations and other civil groups, that are good at protesting, have tried to keep an unbiased and neutral discourse during a difficult transitional period, the question remains as to whether they will be able to achieve their objectives despite staying clear

out of politics, which is what professional organisations anxious to avoid being humiliated and co-opted should do.

To avoid bias and remain neutral, some civil society activists and researchers tried to avoid choosing sides in the wake of the October 2011 elections. The reason is that neutrality, on the one hand, needs a neutral activist who stands on a hilltop, watches what is going on and analyses it objectively and, on the other, should rely on a strong and organised Tunisian civil society that knows well that, in a dictatorship, its responsibilities could become politicised because it might have to use pressure to defend its principles. Civil

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society would be better off if it leaves politics to the politicians during the transitional period and, when only and necessary, take part in the political process, apply pressure here or there, or play the arbiter and the conciliator when it is clear that the political dialogue between the parties is going nowhere. In this context, although the Tunisian General Labour Union has tried to play this role, its proposal regarding the management of the national dialogue took it back to its historical role of playing politics. This could be due to the failure of the political class, until early 2013, to agree on a series of common positions regarding the roadmap that will eventually lead us to stable constitutional institutions, and put an end to the transitional period.

Human rights and cultural background

Human rights is a core issue because of its relevance to the constitution and the fact that it is a key demand of the revolution. It is important to draw attention here to the deep historical misconception based on the assumption that the Universal Declaration of Human Right is a Western product, when in fact it is not. It is worth noting in this context that Egypt, Saudi Arabia, Iraq and a number of Islamic non-Arab countries took part of the discussions that culminated in the final draft of the Declaration.

Not only is it inaccurate to say, as some do, that the notion of human rights is not rooted in our Arab-Islamic culture, it is also outright wrong. The issue has nothing to do with rooting notions here; what threaten the notion of human rights are the mistakes and violations perpetrated by states or international groups that some choose to focus on when they attack the principle. In

fact, all this unfolds within the framework of an ongoing and natural debate between the logic of force and hegemony and that of international law and justice. Does the failure to protect children's rights in Niger mean that it is a useless notion and should therefore be replaced by another more purely Nigerian?

In this day and age, though there is no longer need to reopen the issue of rooting notions in this or that culture, there is indeed a need to start working on reconciling between the Universal Declaration, the Cairo Declaration and the Arab Charter. What remains after that is more serious research on various issues in view of achieving two main objectives: the first is to examine the possibility of reconsidering various reservations, and the second is to make legislations easier to implement by rendering them more compatible with the prevailing mentality.

The human rights culture is both a demand and asset in the sense that its promotion will guarantee a more stable and less violent future for humanity. It is one of the conditions likely to consolidate Arab societies' path towards modernity, towards a human rights culture based on international conventions, instruments and charters, and towards more efforts to propel democracy forward. This goes hand in hand with reviving the religious reform movement and finding clear answers to questions that need urgent solutions, especially in light of the contradictory *fatwas* (religious edicts) by a number of religious currents that could eventually prove confusing to people in the Muslim world, particularly in the Arab world.

Human rights and the Tunisian constitution

Based on what we learned from goings on behind the scene at the committee meetings, it seems that some members close to the so-called democratic current have abandoned an important fight in the battle over principles, namely the precedence of the universal human rights reference over local legislation, though this needs to be confirmed by reviewing the meetings' minutes. There is so far no guarantee that the principles inherent in the new constitution will be in line with international conventions and charters, and it seems that civil society has to provide a plethora of examples based on various assumptions regarding what could eventually happen, and the problems that might ensue.

Civil society remains vigilant in monitoring all what is being discussed with the Council in terms of rights and freedoms, and sometimes intervenes in support of amending the wordings of a certain article to make it more compatible with international standards. The positive impact of civil society was clearly noticeable in the general sessions' final round of voting.

We need to remind everyone here that modern constitutions help guarantee international conventions and give them precedence over local laws, to make it easier for legislators and officials to align local laws with international standards, and come up with a participatory constitution and a social contract that respects everyone's rights.

Remains for civil society, after the new constitution has been ratified, to spread a civil and constitutional culture throughout the country, a culture that helps citizens understand and internalise major principles in the constitution. What good is a pioneering

constitution that bears the hallmark of legal genius if it does not absorb and reflect the Tunisian people's expectations, or if the Tunisians themselves do not embrace it? What stakeholders expect the most from civil society in the general debates is to apply pressure in order to:

- Codify public freedoms in the Constitution;
- Codify academic rights in the constitution;
- Codify union rights in the constitution;
- Codify freedoms, mainly of conscience and the media.

It is also important to start developing a national methodology and a formula to reform and restructure the judicial and security sectors, launch the transitional justice process and establish independent bodies to take charge, among other, of the media, the judiciary and elections.

The deepening political polarisation

If the aim is to make an objective assessment of the general political situation in Tunisia, the first remark should then be about the strong entrenchment of political positions and the divisions that preceded the elections; it was a time during which the country wavered between tense agreement and sharp polarisation. Today, a year after the elections, the country is once again experiencing divisions, centring this time round on a number of issues that change on a weekly basis, this week's being who will delineate the country's next roadmap.

Political divisions began to appear soon after the parties got involved in the post revolution issues in March 2011. Parties were divided

into two groups: the December 17 and January 14 Groups, in reference to the date of the beginning of the revolution or the day of its victory. Confrontation ensued between a number of conservatives and advocates of change. There is also a secondary level of polarisation involving a third element, namely the small Salafist *Jihadi* group. Some limit their political platform to announcing positions and holding onto them, which makes the political dialogue hostage to hard-line positions that are difficult to transcend towards a more mature level of dialogue that allows the parties to acknowledge one another and search for the common ground.

The political debate remained limited to political parties and politicians, and turned to become no more than a dual argument between the parties involved. In the meantime, the more important element in the equation, the Tunisian citizen, who was supposed to be the most active party, was in fact absent from the scene. In reality, the citizen began to look as if he was in turn hostage to a political class that neither listens nor talks to him, but is content to continue talking to itself. This does not mean that the political class does not care about the public good or the citizens; rather, it shows that it is itself hostage to a new reality that imposes on it the need to restructure itself again, in order for the opposition and the parties in government to graduate from a protest culture to a building culture. We need political parties that are as close to the citizens as they seem to be in the televised debates aired in Tunisia today.

The dialogue has remained hostage to the so-called “dialogue of positions,” i.e., a dialogue in which the participants do not move

forward, insist on their positions and accuse each other of causing the problem. This kind of dialogue will not help anyone move forward as long as it remains at the level of “us and them,” at a time when it would be useful to transcend the dialogue of positions to a stage where the stakeholders can think about bringing people together round common principles and interests.

At a certain stage, it is necessary for this sometimes emotional political dialogue to change, since it often appears in the form of a constricted political discourse that elicits excitement but fails to convince. Observers of the political scene in Tunisia believe that it has become imperative to move from the current angry dialogue to one that thinks collectively about the country needs and those of its people, especially the youth and marginalised groups who were instrumental in launching the protest movement.

The revolution’s youth and ghosts of the past

Over and above the political divisions, there is a gap between the youth and the political parties. In an article entitled “Expectations of the Tunisian Constitution – a Message to the Youth,” Italian philosopher and professor at the Sorbonne, Giorgio Agamben, referred to how the political elite predominated the process of defining Tunisia’s transition, and believed that it could weaken the active forces’ ability to innovate new ways to manage the next stage. It is obvious that active forces can be found in three pillars: an organised and effective civil society, the youth groups, and the victims of economic, social and cultural marginalisation in the

small towns, the countryside and the cities' peripheries.

What distinguishes this situation the most is the weak youth representation in the country's decision-making circles and the fact that some have retreated from public life. This is due to a set of objective reasons, including their limited financial resources, the fact that some are busy looking for a source of income, and a lack of positive new incentives and formulas to attract their interest and involve them more in the country's political life.

As an outcome of these divisions, Tunisian citizens find themselves, in front of a political dialogue akin to the dialogue of the deaf. Observers of political life in Tunisia have the impression that what we actually have here is a "society with two heads". Political parties do not speak the same language, and they operate in a climate rife with political divisions and endless discussions, declarations and statements that give the citizen the impression that we are at a dead end. It appears that the parties and their supporters among different social groups need a translator to help them agree on the rules of the new political game, and this includes both the opposition and the Troika.

The stalled national dialogue

There is a gap today between the parties' behaviour and their election pledges; for example, before the elections all the parties undertook, among other, to defend a civil state and human rights, and not to tamper with Tunisia's international and other commitments, including those related to human rights. They also undertook to allocate a period of one year, after the elections, for

finalising the new constitution. However, it looks that the current stage requires more time than expected. They also alluded to the possibility of bringing down the government; yet the stakeholders finally reached a tacit agreement on extending the term of the current government.

Some analysts say that we adopted a parliamentary system during this transitional stage and that, as a result, the situation was managed in different manner in which the electoral balance played a part.

So far, the parties have not made any final commitment to the roadmap that will be adopted in the next few months. For despite the initiative of the General Labour Union, and several others including the Troika's, discussions round ending the debate on the draft constitution are still ongoing. Though this could be acceptable, it requires that a deadline be set for ending the debate, which some say should happen by next spring.

In August 2012, the parliamentary committees submitted their first draft to the drafting committee to be reviewed both linguistically and legally, to avoid possible redundancies and to prevent one committee from encroaching on the other's domain of expertise. A second draft was submitted in December 2012 for discussion with civil society organisations in different regions of the country.

Will there be a Tunisian round-table?

Today, with the approach of the elections, it is necessary to start preparing to bring the Tunisian people round the same table, this year, for the good of the nation. The case of Bulgaria can be a singular example of the

spirit of political harmony and acumen with which the country's revolutionary groups negotiated with the Marxist forces, against whom the Bulgarian people had risen. At the time, the country's main parties convened round what was known as "round table," and several new parties were established including the Socialist Party among whose ranks were members of the old Marxist regime. In 1990, 400 representatives of the Bulgarian people met to discuss and adopt a new constitution, which only 200 members of parliament approved, with the rest remaining outside history, in the eyes of some, because they did opt for the country's official constitution.

The role of political mediation

There should be a neutral party to open and facilitate the channels of communication between the parties involved, away from the outbidding typical of election time. This neutral mediator must enjoy credibility with all the parties, needs to be skilled at managing debates and should take into account different parties' expectations. He should also know that he who brings people together will be at the receiving end of much criticism. The Bulgarian round table is still the object of debate today because some were dissatisfied with the outcome and the way the debates were managed. The mediator should also remind all the others of the ordinary people's expectations, namely the middle class and the poor whose lot is getting worse, as well as the youth and those who live on the periphery of large cities, whose feelings of marginalisation are increasing in the absence of tangible indicators that show that their conditions are improving.

The Tunisian formula or soft management of the transition

The past period in Tunisia was characterised by the soft management of the state and an absence of core reforms, not to mention the negative repercussions of an over-extended transitional period. Social security in the country is still fragile and there are signs that it is actually becoming more so. What is strange, however, is that the decision-makers took the easy road: they run the daily affairs without introducing any structural reforms or taking politically courageous measures. It is true that those in charge of managing the first transitional period chose to do it this way, which did not make matter any easier for the elected government; still, when it was the latter's turn to manage the second transitional period, it still did so without taking any strong decisions that indicate that it is serious about introducing fundamental and crucial reforms. The soft management of Tunisia's transition by the two governments that preceded and followed the elections made the economy even worse, and stoked the people's ire for failing to launch the reform process.

Transitional justice or the game of extorting the "old forces"

The issue of transitional justice is a complex one whose stages and mechanisms cannot be fully addressed in this paper. However, although in the first few months of 2011 people talked candidly about the strongmen and remnants of the old regime, spurred on by an honest revolutionary zeal, the tone rose sharply between April 2011 and today. The

political wrangling reached a point whereby different groups outbid and levelled accusations at each other, and caused divisions round the so-called “safeguarding the gains of the revolution law,” which is still the object of fierce debate today. Some of those who worked on Article 15, that banned some old regime officials from taking part in the elections to the Founding Council, expressed doubt on the law’s applicability in light of the chaotic electoral lists, some of which were non-existent while others were simply inaccurate. There is also the fear that this could lure the country into the trap of creating new Tunisian victims or persecuting others, just like the leftist and Islamists were once persecuted, and the possibility of those targeted by this law eventually coming together, and forming a new force to be reckoned with.

Tunisia’s political society has so far not agreed either on a clear path for the country’s transition or on launching major reforms; this is perhaps due to the fact that many of the unresolved issues that require courageous and candid decisions have not been addressed yet. These issues include the positions vis-à-vis the Bourguiba and “RCD” periods, and vis-a-vis the French colonisation and the ensuing positions that impacted directly on our relationship with the European countries, in general, and our economic partners, in particular.

If we choose to, we can go back to the precise time at which the revolution’s activists split into two: one group keen on preserving stability and the state’s continuity and advocates soft reforms, and the other calling for a clean break with the former regime. Both groups were sincere and had their

respective points of view, based on a particular interpretation of the revolution.

The first group called for continuity because it knows from experience that transitions do not succeed through violence, but through reform and the reintegration of some of the political and financial forces associated, one way or another, with the old regime, some of whom could potentially be unfairly treated in a process of settling accounts. Some call these forces *azlam* and *fulul* – remnants of the old regime, two harsh and general terms that are inappropriate to use by those who truly understand the conditions necessary for a successful political transition. Successful transition experiences recognised that dictatorships and one-party systems absorbed not only the entire administration but also the country’s entire power structure. Is it possible, with this in mind, to eradicate an entire population or cleanse an entire administration? This totalitarian and idealistic notion reminds us of the Fascist cleansing drive and the French Revolution, which subsequently evolved into a liquidation campaign among the revolutionary forces themselves. Even at that time some spoke about cleansing, a fearful word entirely dissociated from reality and political pragmatism.

Some observers believe that the delay in introducing major reforms, going back to the first transitional period, was a cautious and wise decision, although it lacked the extra will and determination to start reforming the sectors that needed it the most. The elected government followed that same cautious path. This delay in introducing reforms could mean that the country’s reform formula, especially in the development and economic sectors, has

not worked well for the Tunisians. In each of the two transitional periods, various stakeholders threw the responsibility on the shoulders of those who came after them, who were supposed to stay longer in government and operate according to the constitution and through stable institutions. The example of the Polish people is apt here since they adopted significant economic measures immediately after the revolution, thus choosing the path of development over the path of revolution, which could have taken a more radical turn. However, though successful transitions have held to account corrupt high-level individuals in each sector that requires reform, the targeted individuals were few in number, barely exceeding a few dozen. It is appropriate both for us and the political class to remember that it is giving the impression that it is actually extorting the “old guard” by delaying transitional justice, or political generalising it without going into specifics. Today, the Tunisians are in dire need of a transitional justice at the level of their values and ideas; they also need to start working on new texts, similar to those of the October 18 Committee, for a charter that delineates the differences as well as common values. While some cast doubt on the independence state and on the gains of the national state, others see them as a welcome lifeline, though neither offers a pioneering project that looks to the future with new dynamism. They yearn either for the recent or long gone past.

The period that Tunisia is currently going through is a trial balloon for several indicators, and the Tunisians should understand that it is a period full of confusion due to the increasing complexity of certain

issues, including the financial corruption and judicial reform files. Are the Tunisians capable of overcoming the difficulties and admitting their failure, if only partially, to manage the transitional period with sufficient determination?

The trial balloon of the current transitional period, stretching from the elections of October 2011 to finalising the constitution, has revealed the very slow pace with which major reform issues, such as reform of the justice system, are being dealt with. However, this slow pace is due to the fact that the transitional government that led Tunisia to the latest elections has failed to start down the road of reform process. We are not passing judgement here because the period was not long enough to introduce large scale reforms, though there was enough time to draw up the initial broad lines of the process. The slow pace is also due to the complicated reform agenda, and lack of candid political will to start thinking about the mechanisms of reform. The question is, however, is it a matter of political will or a brand of Tunisian “wisdom” that wants reform to happen only when new constitutional institutions are well and truly in place?

In brief, there is dismemberment and divisions in Tunisia’s political life today, as well as delays in launching the reconciliation process. This is due to a number of complex reasons including the ill-will associated with building a symbolic capital and stoking public opinion’s emotions in this or that directions, in the context of preparing for the upcoming election campaign. There are also delays in launching the process of accountability, on the one hand, and in being frank and open with the people, on the other. These delays

have been exhausting to the Tunisian people, despite being perhaps necessary and indicative of the way things are done in our society. Stability is vital for the country's new constitutional institutions and for the balances of power during the next stage; it is also important that the next elections produce a new crop of legitimate forces in the country.

The paper has tried to assess the transitional process, in general, and ponder the outcome of the present period. What we came out with is that the situation in Tunisia is still in flux, and wavers between fragility and solidity.