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The Constitutional Referendum in Tunisia: Context, Results, and Implications

Unit for Political Studies

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Unit for Political Studies

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On 25 July 2022, the Tunisian people voted in a referendum on the draft constitution proposed by President Kais Saied to change the country's political system. The referendum day coincided with the first anniversary of Saied's "coup" against the 2014 constitution, and comes after a series of decrees abolished most constitutional institutions and bodies, and concentrating executive, legislative and judicial powers in the hands of the president. The legitimacy of the constitution and the general context in which it was drafted have come under scrutiny since the organising decree was issued and a new electoral commission appointed, with this controversy following the committee charged with drafting the constitution to the polls.

“Online Consultation” as a Source for the Draft Constitution

Five months after Saied's power grab, in a speech to the Tunisian people, on 13 December 2021, he announced a set of measures that he considered a roadmap for the new phase. This roadmap included holding an “online consultation,” selecting a committee to draft documents related to the political, constitutional and electoral system, and organizing a referendum on the constitution, leading to the organization of parliamentary elections in 2022.¹

The “online consultation,” which involved answering questions related to the political system and economic, social, cultural and educational affairs, launched on 1 January 2022, and continued until 20 March. Despite the mobilization of the media and the state's administrative apparatus, the opening of media, youth and culture centres, providing free access to the platform, and allowing the participation of minors, the consultation was met with a great deal of indifference, and no more than 5.9 percent of all adults 16 years and above participated. Even so, that number has still been subject to doubts given that it was not regulated by an independent body and was plagued by technical problems, including the possibility that one person could repeatedly participate by simply changing the SIM card that used to receive the pin code.

Despite the low participation, President Saied considered the consultation successful,² claiming the results would serve as the main reference³ for the “national dialogue” to draft the constitution. Participation in the dialogue will be limited to the parties that accept the reliance on these results as a reference⁴ and will be followed by the formation of the “National Consultative Commission for a New Republic,” to represent a framework for the “National Dialogue,” chaired by university professor Sadeq Belaid. Saied invited the heads of the parties supporting him, deans of law faculties, and representatives of the General Labour Union, the Union of Industry, Trade and Handicrafts, the

1 See: “Can Kais Saied Resolve the Crisis in Tunisia?” Situation Assessment, ACRPS, 21/12/2021, accessed on 25/7/2012, at: <https://bit.ly/30lr9UD>.

2 “President of the Republic Kais Saied's Supervision of the Cabinet Meeting,” Présidence Tunisie Facebook page, 24/3/2022, accessed on 25/7/2012, at: <https://bit.ly/3cHtLEF>.

3 President Kais Saied's Supervision of the National Security Council Meeting,” Présidence Tunisie Facebook page, 28/3/2022, accessed on 26/7/2012, at: <https://bit.ly/3OwyJS1>.

4 “President of the Republic Kais Saied's meeting with Brigadier General Sadiq Belaid”, Présidence Tunisie Facebook page, 20/5/2022, accessed on 26/7/2012, at: <https://bit.ly/3ox2GXw>.

Union of Agriculture and Fishing, and the Tunisian League for Human Rights, the National Council of Lawyers, and multiple political figures, to join this committee, but some of the important parties, such as the General Labour Union, the deans of law faculties, and others, boycotted the dialogue.

This was not a dialogue between the powerful social and political forces in Tunisia. The committee submitted the draft constitution to President Saied, amid great debate between a number of its members regarding Belaid's monopoly over drafting the constitution and their exclusion from the relevant consultations. However, President Saied published another draft that differs still from the draft handed to him by Belaid. This led to protestations from Belaid, who declared himself innocent of the "serious pitfalls and dangers," of the published draft that "pave the way to a disgraceful dictatorial regime."⁵

It is prudent to conclude, then, that the constitution was drafted unilaterally according to preconceived plans, and that the online consultation and the advisory committee were merely formalities.

The Electoral Commission and Customized Campaign

The process of creating the conditions necessary for holding the referendum included the President's issuance of a decree on 21 April 2022, dissolving the electoral commission — the constitutional body elected by the House of Representatives, dismissing the chair and most of its members, and instead forming a new council and appointing a new chair.⁶

President Saied's dissolution and replacement of the electoral commission, turns the clock back on ten years of democratic transition in Tunisia, paving the way for his seizure of power and co-opting of institutions to serve his project. Saied knows that the presence of an independent electoral commission would limit his interference in directing the two votes scheduled in the road map; The referendum on 25 July 2022, and the parliamentary elections scheduled for 17 December 2022. Moulding the electoral commission was not Saied's only challenge in preparing for the referendum. As with the online consultation, the electoral register also saw widespread apathy. To counter this, President Saied called on the appointed head of the commission to automatically register and consider all Tunisians aged 18 and over as voters, and give them the freedom to choose their polling stations on polling day.⁷

In contrast to other electoral processes since 2011, the opposition parties were prevented from conducting campaigns against the draft constitution, and the early television campaign and radio recordings were limited to a number of people, associations and loyalist parties — most newly formed and without parliamentary representation, with the exception of the People's Movement.

5 "Brigadier General Sadie Belaid to *Al-Sabah*: The Text of the New Draft Constitution is Irrelevant to the Text Prepared by the National Consultative Commission for a New Republic," Tunisian *Al-Sabah* newspaper, 3/7/2022, accessed on 26/7/2022, at: <http://bit.ly/3cJWwgk>.

6 Decree No. 22 of 2022, Official Gazette of the Republic of Tunisia, No. 45, dated 21/4/2022.

7 See: Présidence Tunisie Facebook page, 2/6/2022, accessed on 26/7/2012, at: <https://bit.ly/3BiM5OM>.

The campaign was limited to tents in some city centres and hanging pictures of President Saied on the facades of buildings, with no festivals or popular rallies.

The authorities confronted any anti-referendum movement with excessive violence. On 22 July 2022, a protest was organized by the Ettakatol Party, the Democratic Current, the Republican Party, the Democratic Modernist Pole, and the Labour Party, parties affiliated with the National Campaign to Abolish the Referendum on the New Constitution, and a number of journalists and civil activists. The protest was subjected to a violent attack by the security forces, who used batons and tear gas, and some of the leaders were dragged away by force and dozens were arrested.⁸ Journalists covering the events were also subjected to violent assault.⁹

Controversial Results

The polling stations opened their doors from 6am to 10pm on 25 July 2022. It is the first time that voting has extended a full 16 hours, rather than the usual 8 hours. The polling stations designated for voters residing outside Tunisia opened three days earlier.

It was clear early on that the turnout was very low. As the queues in front of the polling stations dwindled, there were no festivities or enthusiasm, and most voters were elderly. The press, including the media outlets backing the president, failed to take pictures of any crowds of voters.

Saied did not miss the opportunity to attack his opponents, whom he described as “traitors” and “thieves”. He branded them responsible for the low turnout, accusing them of distributing money to citizens to buy votes, inciting them to boycott the referendum, and cutting off water, electricity and food supplies, as if they were the ones running the country. He described the referendum as an “unprecedented leap in history,” pledging to hold to account and prosecute his opponents and recover the “thousands of billions” that they looted.¹⁰

Once polling stations closed, the Electoral Commission announced the preliminary results of the vote. According to the commission, turnout was 2,458,985 out of a registered 8,929,665 voters; that is, a turnout rate of 27.54 percent.¹¹ Meanwhile opinion polls questioned the publicly declared turnout, insisting that it was lower.¹² According to the same source, 3 percent of the polling participants voted against the draft constitution while 92 percent voted in favour.¹³

8 Basma Barakat, “Tunisian Security Forces Violently and Arrest Activists in a March Denouncing the Draft Constitution,” *Al-Araby Al-Jadeed*, 22/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3vjFLTt>.

9 “Statement,” National Syndicate of Tunisian Journalists’ Facebook page, 23/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3Jer4Xx>.

10 “President of the Republic, Kais Saied and His Wife Cast Their Votes in the Referendum on the New Constitution,” Présidence Tunisie Facebook page, 25/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3z7batj>.

11 “Total Voter Turnout for Monday, 25July,” Instance Supérieure Indépendante pour les Élections - ISIE Facebook page, 25/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3PAXGNJ>.

12 Walid Tlili, “Tunisia... Kais Saied Falls into the Trap of the Constitutional Referendum Ballot Boxes”, 26/7/2022, *Al-Araby Al-Jadeed*, accessed on 26/7/2022, at: <https://bit.ly/3RYvoyh>.

13 Ibid.

Voter turnout abroad, according to statements by election officials, ranged between 6 percent in Europe and 10 percent in Arab countries.¹⁴

Despite the very modest turnout, even according to the official results, the president considered the referendum a great success and an expression of a strong popular will to proceed with the establishment of a new political system. He pledged more measures to achieve what he described as “the will of the people.”¹⁵ The National Salvation Front, the largest component of the opposition, considered the results a symbol of “Saied’s failure and isolation,” demanding the President’s resignation, and calling for the organization of early presidential and parliamentary elections.

For their part, the parties affiliated with the National Campaign to Abolish the Referendum on the New Constitution questioned the results, describing the referendum as “orchestrated”, and vowing to “continue the resistance,” also calling on President Saied to resign.¹⁶

The voter turnout was decisive; the referendum was not preceded by a discussion in a representative body of any kind, nor a national dialogue, nor a consensus among societal forces. Despite being a referendum on the national constitution, and not just an ordinary electoral process, the turnout was much lower than the turnout in any elections that have been held since the 2011 revolution.

After the Referendum

The preliminary results of the referendum announced by the Electoral Commission showed that only a quarter of the voters went to the polling stations. This percentage signals the president’s failure to persuade the majority of Tunisians to participate in the vote, or to engage in and support his direction. In previous elections, turnout has not fallen below 55 percent.

The controversy over the low turnout is gaining more importance. Given the nature of this entitlement, a constitutional referendum differs from presidential, parliamentary, and municipal elections, as it is the establishment of a long-term legal reference and social contract that requires broad consensus and the involvement of multiple social, political and civic components. Despite this controversy and the widespread boycott of the referendum, President Saied continues to execute his plans to monopolise power. In the next stage, he will oversee the organization of the parliamentary elections scheduled for December 2022, and there are no indications that he will change direction or heed the opposition’s calls.

¹⁴ Basma Barakat, “70% of the Votes for the Referendum on Tunisia’s Constitution Have Been Counted,” *Al-Araby Al-Jadeed*, 26/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3oykAta>.

¹⁵ “President of the Republic Kais Saied touring Habib Bourguiba Street,” *Présidence Tunisie Facebook page*, 25/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3vklQDT>.

¹⁶ “Tunisia’s Referendum.. Saeed Talks about a New Era, the Salvation Front Demands Early Elections and Washington sends a Warning”, *Al Jazeera Net*, 26/7/2022, accessed on 26/7/2022, at: <https://bit.ly/3clQ8cp>.



The president is likely to go ahead with drafting an electoral law that excludes parties from participating in the parliamentary elections scheduled for late 2022, restricting them to individuals. This is a systematic process to marginalize all forms of political organization in society. However, most indicators suggest that his task will not be easy. Opposition on the street has greatly expanded compared to his coup last year, and the accumulation of his extensive economic and social failures, the deterioration of services and the standard of living, and the growing public debt of the state, have shown Saied's populist responses to be insufficient.

Conclusion

By organizing the referendum on the draft constitution, President Saied took another step towards dismantling Tunisia's democratic transition and establishing a new political system in which all powers would be confiscated. Despite creating the general context for the referendum by appointing a new electoral commission, harnessing the capabilities of the state, mobilizing the media, and banning opponents from campaigning against the referendum in the mainstream media, the declared results demonstrate a widespread boycott of the vote. However, Saied seems to be intent on completing the roadmap that he announced in a way that allows for the sorting of a new political scene that he can direct, at a time when the economic and living crisis is creating the conditions for a new wave of popular protests.