



المركز العربي للأبحاث ودراسة السياسات
Arab Center for Research & Policy Studies

POLICY REPORT

August, 2022

Tunisia: From the July 2021 Coup to the July 2022 Constitutional Referendum

Unit For Political Studies



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Introduction

After an emergency meeting with security and military leaders on the evening of Sunday, 25 July 2021, Tunisian President Kais Saied declared that he would take measures necessary “to save the state and society” after consultations with the prime minister and the speaker of the parliament. He announced his decision to suspend Assembly of the People’s Representatives and lift parliamentary immunity for all members, take charge of the Office of the Public Prosecutor, and assume executive power with the assistance of a government headed by a prime minister appointed by himself. He also announced his decision to “immediately relieve Prime Minister Hichem Mechichi of duty” and invited another person to assume the office, clarifying that the new prime minister would answer directly to the president, who would himself appoint the members of the government and the prime minister. Saied promised that “anyone who encroaches on the state and its symbols and any person who fires one bullet” would be met with “a hail of bullets,” accusing his opponents of “hypocrisy, treachery, and banditry.”¹

Following Saied’s speech at the meeting, the presidential office published a set of decrees that made the president the acting head of the Public Prosecution and froze the powers of parliament for 30 days. The next day, Saied dismissed the minister of defence and the acting minister of justice, as well as the prime minister, suspended the operation of public authorities for two days (subject to extension), declared a one-month night curfew, and banned gatherings of more than three people.²

To justify his decisions, Saied invoked Article 80 of the constitution, which states that “the president of the republic, in the event of an imminent threat to the nation and to the security and independence of the country that renders the normal conduct of state impossible, may take measures necessitated by this exceptional situation, after consulting the prime minister and the speaker of the Assembly of the People’s Representatives and informing the head of the Constitutional Court.”³ The same article states that the parliament “shall be deemed permanently in session for the duration of this period” and that “in such a case the president of the republic may not dissolve the Assembly of the People’s Representatives, nor may a motion of censure against the government be submitted.” Saied clearly violated the text of Article 80: instead of consulting the prime minister and the speaker of the parliament, he dismissed the former and froze the operation of the latter. Moreover, the article contains no provision for the president to take charge of the Public Prosecution, which effectively brought the judiciary under his control.⁴

In the absence of the Constitutional Court which, under Article 80, is empowered to rule on the continuation of the state of emergency within 30 days, Saied extended the emergency measures for another month on 23 August 2021.⁵ Although he promised on 25 July to appoint a new prime minister, he did not do so. Rather than swiftly presenting a roadmap in keeping with the conditions set forth

1 “The President of the Republic Chairs Emergency Meeting of the Military and Security Leaders,” Tunisian President Facebook Page, 25/7/2021, accessed on 27/7/2021, at: <https://bit.ly/3zhtlyW>.

2 “Context and Projected Outcome of the Presidential Coup in Tunisia,” Situation Assessment, 28/7/2021, accessed on 23/8/2022 at: <https://bit.ly/3R3fRMd>.

3 See: “Tunisia’s 2014 Constitution,” constituteproject.org, 27/4/2022, accessed 2/8/2022, at: <https://bit.ly/3RKXM6M>.

4 For more, see: “Did Kais Saied Violate the Tunisian Constitution? ... Here Is Article 80 on Which He Based His Decisions”, *Al Jazeera Net*, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3aWhr2V>.

5 The President Issues a Presidential Order Extending the Exceptional Measures Taken Pursuant to Presidential Order No. 80”, Presidency of the Republic of Tunisia, 23/8/2021, accessed on 25/7/2022, at: <https://bit.ly/3n14Xed>.

in Article 80 for a return to constitutional normalcy, he extended the state of emergency. In fact, he repeatedly expressed his intention to amend the Tunisian constitution, in effect admitting that he was engaged in a coup against the constitution and that the invocation of Article 80 was a mere cover. On 9 December 2021, for example, Saied said, “The problem in Tunisia today is constitutional, because the 2014 constitution has been proven to be no longer viable. It cannot continue to operate [as a framework] because it has no legitimacy.”⁶ The president made no argument to demonstrate the illegitimacy of the constitution, though his own actions lacked any legitimacy whatsoever.

Using the term ‘coup’ to describe the measures of 25 July — whether we call it a presidential coup, a constitutional coup, or a coup against democracy — conforms to a long tradition in the literature on democracy and democratic transition. More precisely, it is what the literature calls an *autogolpe*, or a self-coup, a type of coup in which the president, having entered office democratically, denies the legal mechanisms that brought him to power. In such cases, the president suspends the constitution, assumes legislative and judicial authorities, and continues to rule by presidential fiat pending a referendum and new legislative elections to approve broader executive powers.⁷ The measures taken by Peruvian President Alberto Fujimori on 5 April 1992 are exemplary of an *autogolpe*. Less than two years after reaching power through democratic elections,⁸ Fujimori suspended the 1979 constitution, dissolved the congress, and ruled by presidential decree until November 1992, when the Democratic Constituent Congress was elected. That new body oversaw a referendum for a new constitution in October 1993. The period of Peruvian politics following the 1992 coup saw a dangerous concentration of power in the hands of the president, the armed forces, and the intelligence establishment. Together these three bodies “turned the executive branch into a parallel legislator, a judge of judges, and a force above the law.”⁹ In another context, the US witnessed a debate over whether President Donald Trump (2017–2021) attempted a self-coup, especially after the assault on Congress in January 2021.¹⁰

Saied’s coup against Tunisia’s nascent democracy and its constitution is therefore not a unique case.¹¹ Less than three years after assuming office in democratic elections, and a year after announcing a spate of emergency measures — including measures prohibited by the constitutional article he cited to institute them — Saied changed the country’s constitution via popular referendum, transforming the system of government into a presidential system and concentrating absolute authority in the hands of the president absent any constitutional controls. This is despite the fact that some political actors, such as the Tunisian General Labour Union (UGTT), proposed early parliamentary elections to elect a new legislature that would discuss the new constitution.¹²

6 “Tunisian President Kais Saied: The 2014 Constitution is no Longer Valid,” *Al-Araby Al-Jadeed*, 9/12/2021, accessed on 25/7/2022, at: <https://bit.ly/3PTuCKs>.

7 Maxwell A. Cameron, “Self-Coups: Peru, Guatemala, and Russia,” *Journal of Democracy*, vol. 9, no. 1 (January 1998), pp. 125 - 139.

8 Like Saied, Fujimori was a politically unknown university professor, and his victory in the July 1990 elections came as a surprise, after his election campaign had exploited the Peruvian public’s disillusionment with the traditional political parties and the difficult economic conditions in the country at the time.

9 Cameron, p. 125.

10 See for example: David Pion-Berlin, Thomas Bruneau & Richard B. Goetze Jr., “The Trump Self-Coup Attempt: Comparisons and Civil–Military Relations,” *Cambridge University Press*, 7/4/2022, pp. 1-18, accessed on 25/7/2022, at: <https://bit.ly/3Oy7Hdd>

11 Data prepared by the Institute for Politics and Strategy indicates that the world has witnessed 148 attempted self-coups since 1946, of which 110 occurred in authoritarian regimes and 38 in democracies. See: David Nakamura, “With Brazen Assault on Election, Trump Prompts Critics to warn of a Coup,” *The Washington Post*, 5/1/2021, accessed on 25/7/2022, at: <https://wapo.st/3OtysjI>

12 “Kais Saied wants a Constitutional Amendment in Contradiction to Parliament, So Why Does He Seek to Do So through a Referendum and Not New Elections?,” *Arabic Post*, 12/9/2021, accessed on 25/7/2022, at: <https://bit.ly/3OxAhes>.

This six-part report discusses Saied's constitutional coup, from his declaration of a state of exception on 25 July 2021 to the popular referendum on a new constitution on 25 July 2022. Part one takes up the political crises (political polarisation and the predilection for a strong presidency), economic crises (economic contraction, debt, declining foreign support), and health crises (the Covid pandemic) seen in Tunisia before July 2022. Together these fostered a public mood amenable to exploitation by a populist politician. The second and third sections review the positions of local, regional, and international actors on the coup. Part four discusses the steps taken by Saied to consolidate the coup in advance of the referendum on the new constitution (the issuance of Presidential Edict 117, which concentrated legislative and executive power in the president's hands; the appointment of a government with limited prerogatives; the dissolution of Parliament, which made the president both legislator and chief executive; the dissolution of the Supreme Judicial Council and the dismissal of opposition judges; and the organisation of the electronic consultations around the new constitution). Part five spotlights the context in the run-up to the referendum (the dismissal of members of the Independent Election Authority and their replacement with new appointees, the call for a conditional national dialogue with participation limited to coup supporters), as well as the protests seen in Tunisia against Saied's measures and the crackdown on them. The final section looks at the circumstances surrounding the referendum on the new constitution and the results of the poll.

I. The Road to the Coup

Crises often act as an avenue to undermine or wholly subvert democracy. They create an environment conducive to populist discourse and challenges to democratic mechanisms and institutions, as well as enabling the passage of legislation that curtails rights and freedoms. This section looks at the political, economic, and health crises that paved the way to Saied's coup against Tunisia's nascent democracy.

1. Political Crisis: Political Polarisation and the Inclination for a Strong Presidency

There was no consensus among observers of Tunisia's post-revolutionary period on the likelihood of the political transition smoothing the way to the consolidation of democracy¹³; the road was fraught with obstacles from the outset. The legacy of decades of tyranny and the distortion of political and social structures cast a dark shadow on every corner of the Tunisian landscape. Signs of political crisis became apparent in the post-revolutionary transitional period, and sharp political polarisation was the main driver of the crisis. Multifaceted disagreements between various political and social forces ended up prolonging the foundational phase, and it took two full years to draft the constitution.¹⁴ During this period, divisions deepened between the various political currents, and even within parties themselves.

The partisan fragmentation in Tunisia, which was reflected in the operation of political institutions, is typical for newly democratic countries. The constitutional order in the new phase is often aimed

¹³ See: Abdellatif El Hanachi, *Tunisia: From the Lost Revolution to the Difficult Democratic Transition* (Tunisia: Sotimedia Publishing, 2019).

¹⁴ The Constituent Assembly was elected on 23 October 2011, with a year to finish the task, but the ratification of the new constitution was delayed until 26 January 2014.

at avoiding the pitfalls of the political experience that preceded the democratic transition, but the success of the arrangements in strengthening democracy and achieving the economic and social aims of the revolution remains dependent on the maturity of political actors and their willingness to bargain and make concessions to make the transition successful.

For example, it was believed that the parliamentary system based on proportional representation would ensure representation for most political groupings, including small ones. But this system made it extremely difficult to form stable, harmonious governments, particularly since it was clear from the outset that no single party was capable of winning a comfortable majority. As a result, since the adoption of the constitution in 2014, six governments have been formed, in addition to the transitional governments, all of them too short-lived to achieve their goals. The lack of an electoral threshold also facilitated the proliferation of small parties and made it easy to move from one party or bloc to another, which led to further partisan fragmentation as parties were easily formed and easily split. A sort of partisan opportunism and “party tourism” emerged in parliament.¹⁵

Political actors in Tunisia realised early on that dialogue and consensus were the only way to ensure an irreversible transition process. The national dialogue sponsored by the UGTT, the Tunisian Union of Industry, Trade and Handicrafts (UTICA), the Bar Association, and the Tunisian Human Rights League from October 2013 to January 2014 played a major role in overcoming the political deadlock in Tunisia generated by the delayed constitution, economic difficulties, and deteriorating security conditions.¹⁶ Nevertheless, the Tunisian system of political consensus suffered from a clear defect: the consensus ended as soon as agreements were signed with no follow-up on agreed upon items. Controversial issues were also continually postponed for later consideration, making it impossible to establish a political project capable of instituting change.¹⁷

The strong presidential tendency that underlays President Kais Saied’s politics was not a new feature of Tunisian political culture, but has deep roots in the experience of post-independence governance. Both President Habib Bourguiba (1957–1987) and his successor Zine El Abidine Ben Ali (1987–2011) possessed absolute authority, as enshrined in the 1959 constitution and subsequent amendments. The shape of the post-revolutionary political system was one factor exacerbating political rivalries in and out of the National Constituent Assembly (NCA). There were two major competing visions: the first sought the establishment of a purely parliamentary system in which the prime minister, elected by the parliamentary majority, is chief executive, with a president exercising symbolic powers; the second supported the continuation of the presidential system, with expanded prerogatives for parliament in legislation and oversight.

The desire to curtail the power of the president and his authorities, with the goal of preventing any new turn toward authoritarianism, led the NCA to choose a quasi-parliamentary system, with power divided between the parliament, prime minister, and president. But these constitutional arrangements, which emerged out of a difficult consensus, resulted in political paralysis and ongoing disputes over the powers delegated to each of the three offices, given the continued absence of the

¹⁵ Azmi Bishara, *Understanding Revolutions: Opening Acts in Tunisia* (London: I.B. Tauris, 2022), pp. 275 - 280.

¹⁶ See: Hamadi Redissi, “Tunisia: Strengthening Democracy and Unravelling the State,” *Siyasat Arabiya*, No. 18 (January 2016), pp. 5 - 13.

¹⁷ Haitham Slimani, “Political Accord in Tunisia: Milestones and Pitfalls,” Case Assessment, Arab Center for Research and Policy Studies, 29/3/2017, accessed on 25/7/2022, at: <https://bit.ly/3t1pOPj>.

Constitutional Court, which would be empowered to resolve disagreements over the interpretation of constitutional provisions.

Even before Kais Saied ascended to the presidency, the election of President Beji Caid Essebsi, the leader of the Nidaa Tounes Party, on 21 December 2014 shifted the centre of gravity within the executive branch from the prime minister to the president. Article 89 of the constitution did not give the president the authority to appoint the prime minister, but rather to “task” the candidate of the party or the party coalition with a parliamentary majority to form the government. But since Essebsi was both the president and the head of the majority party, he was able to effectively choose the prime minister.¹⁸

Nevertheless, Essebsi and Prime Minister Habib Essid were soon engaged in a power struggle. The fight grew fiercer with the arrival of Prime Minister Youssef Chahed, who sought to claim authorities independent of the president, though it did not devolve into an all-out war that disrupted the functioning of the state apparatus. Ultimately, both Essebsi and Chahed confined themselves to the powers granted to each of them by the constitution. Although Essebsi took advantage of his long experience in statecraft and Chahed’s comparative inexperience to claim certain powers, he backed down when Chahed resisted.¹⁹ The confrontation led President Essebsi in March 2019 to call for amendments to the constitution that would give the president more powers than the prime minister.²⁰

Saied has repeatedly expressed his dissatisfaction, with the 2014 constitution and sought to appoint an easily influenced nonpartisan figure. First came the Elias al-Fakhakh government that was dismissed on corruption charges, to be followed by Hichem Mechichi, whose government met a similar fate to that of Youssef Chahed’s under Essebsi²¹. The rivalry ended with Saied dissolving the government and freezing parliament on 25 July 2021.

This drawn-out dispute between the two executive authorities has served as a major obstacle to the enactment of economic and social policies, which require time and cooperation, with successive governments patching up problems with quick fixes and false promises. Sometimes those promises were intended merely to mitigate social outcry. In addition, these governments leaned on domestic and foreign debt, without any serious commitment to subsequent conditions, especially those set by the IMF.²² Further, the rivalry between the parties has contributed to the emergence of a populist discourse that prevents unpopular reforms, and Tunisian democracy has given the UGTT and other social forces the ability to block such reforms.

2. Economic Crisis: Deflation, Debt and Dwindling Foreign Aid.

Figures reveal that Tunisia’s GDP contracted by 8.8% in 2020, despite the budget law having predicted a 2.7% growth. This contraction came as a result of the large increase in supply, which negatively affected many sectors, with a sharp drop in household demand due to low income and health

¹⁸ Éric Gobe, “La Tunisie en 2015: La présidentialisation de l’impuissance politique ?,” *L’Année du Maghreb*, no. 15 (21/12/2016), accessed on 25/8/2021, at: <https://bit.ly/38uJqSu>

¹⁹ “The Political/Constitutional crisis in Tunisia: Context and Prospects”, Situation Assessment, Arab Center for Research and Policy Studies, 27/4/2021, accessed on 25/8/2021, at: <https://bit.ly/3clnNtk>.

²⁰ “Tunisia: Essebsi Calls for Amending the Constitution to Limit Chahed’s Powers,” DW Arabic, 20/3/2019, accessed on 25/7/2022, at: <https://bit.ly/3DA25La>.

²¹ Mohamed El-Haddad, “Tunisia and its Political System: Between Inevitable and Impossible Review,” *Al-Faisal*, No. 533 - 534 (March-April 2021), p. 58.

²² Ibid.

measures in the wake of the Covid-19 pandemic.²³ The manufacturing sector, which is considered the backbone of Tunisian economy, declined by 9.3%. An 80% drop in the number of foreign visitors led to a decline in tourism and transportation services. Data also indicates that nearly a quarter of public companies (23.6%), especially in the service sector, had closed temporarily or permanently by the end of 2020. This had a negative impact on the unemployment rate, which soared to 17.4% by the end of 2020, in contrast to 14.9% in the pre-pandemic era.²⁴

The Tunisian economic system made a partial transformation in the post-revolution era, with an increase in the scope of social considerations in public economic policy, seeking to alleviate social differences²⁵. Between 2011 and 2021, successive governments have made regional development a national priority in rhetoric, but segregation between coastal and inland cities has persisted in terms of access to public resources and public services. The western centre, which encompasses states of Sidi Bouzid (the cradle of the revolution), Kasserine, and Kairouan, recorded the highest poverty rates in the country (29.3%, compared to 6.1% in Tunis, the capital)²⁶.

Kasserine, which saw the highest number of casualties during the revolution, is still home to the three most underprivileged districts in the country, where 50% of the population are living in poverty. Between 2016 and 2020, only half of the projects programmed to tackle underdevelopment in the Tunisian interior were put into action, with limited scope and results. To add insult to injury, unemployment among the young is still soaring a decade after the revolution. Figures show that in Kasserine city alone, 43% of individuals between 18 and 34 years old are jobless.²⁷

Tunisia has also been in the grip of a vicious circle of debt. From 2011 to 2019, foreign debt climbed from 15 to 23.9 billion dollars — an increase of 20.9%. While debt was equal to 40% of GDP in 2011, it jumped to 73% in 2019, finally exceeding 100% of GDP in September 2020.²⁸ This increase in debt against GDP is the result of governments shying away from reforms to cut down on expenses and increase in individual income while seeking loans and sitting back as GDP declines. The increase in debt can be also attributed to the depreciation of the Tunisian dinar, adding figures to the external debt portfolio where the euro and the dollar are the fundamental currencies. In 2018, 52% of total external public debt was calculated in EUR and 30% in USD.²⁹

Since Ben Ali's regime was overthrown, Tunisia has signed two agreements with the IMF to implement a structural adjustment plan. According to the first agreement of July 2013, the Fund secured a loan of \$1.74 billion to Tunisia that was followed by another \$2.8 billion in May 2016 for 2016 - 2020. In April 2020, the IMF Executive Board approved a US\$745 million disbursement to Tunisia to address the COVID-19 Pandemic.³⁰

23 PNUD/MDICI, "Impact économique du COVID-19 en Tunisie," 2020, accessed on 25/7/2021, at: <https://bit.ly/2WJrllF>.

24 World Bank, *Tunisia's Economic Update*, April 2021, accessed on 25/7/2022, at: <https://bit.ly/3jxMhQQ>.

25 See: Fouad Sabbagh, "Study on the Tunisian Economic Situation," March 2017, accessed on 25/7/2022, at: <https://bit.ly/3KErEC1>.

26 Olfa Lamoum, "La révolution tunisienne a 10 ans: Les braises persistantes de l'esprit de révolte," *Le Monde Diplomatique*, Janvier 2021, pp. 6-7, accessed on 25/7/2022, at: <https://bit.ly/3zwOthn>.

27 Ibid.

28 Anaïs Carton, Lamine Benghazi & Nathalie Janne d'Othée, "Tunisie en crise: Le poids de la dette," Juillet 2021, accessed on 25/7/2021, at: <https://bit.ly/3mOKoBl>.

29 Ibid.

30 "Tunisia and the International Monetary Fund: Negotiations with an Empty Hand and Another with Nothing in It," Center for Mediterranean and International Studies, 5/5/2021, accessed on 25/7/2021, at: <https://bit.ly/3BvIT06>.

A round of talks between the IMF and the Tunisian government commenced in May 2021 to obtain a loan of approximately \$4 billion to cover the expenditures scheduled in the 2021 Finance Law,³¹ in the hope that this will restore the confidence of donors in the global financial market. However, the dismissal of Mechichi's government froze talks and added to the country's economic blight. Tunisia, now mired in debt, was forced to adopt coercive measures that will worsen economic and social conditions, as debt services deplete Tunisian resources. For example, 25.8% of the budget should be earmarked to repay external debt services before the end of 2021, double the expenditure on health (14%). At the same time resources urgently need to be steered toward mitigating the health and economic repercussions of the pandemic³². According to the Truth and Dignity commission, more than 80% of loans received by Tunisia between 2011 and 2016 were used to repay debts incurred by the former regime.³³ Therefore, nothing guarantees that any further loans would resuscitate the country's major economic indicators. Furthermore, the period before the July 2021 constitutional coup saw a sharp decline in foreign aid.

In November 2016, Prime Minister Youssef Chahed announced that Tunisia had managed to obtain investment pledges worth \$15.4 billion from more than 70 states and organization donors. Countries like France, Qatar, the UAE and Malaysia talked also about key investments. But the majority of these pledges, aside from Qatar, were withdrawn due to feasibility and funding issues, yielding very little investment overall.³⁴ In addition, the general environment was unwelcoming to investors due to absence of supportive regulations or necessary legal structure.

However, the most prominent factor in the decline of foreign investment is that the business environment has become less attractive since the revolution. In 2019, FDI inflows in dollars showed a decrease of 44%, compared to 2010, and 33.9% in terms of FDI inflows in euros. This modification was also underlined by the evolution of Tunisia's ranking according to the Doing Business Index, where it lost 33 places in 9 years, and moved from 45th place in 2010 to 78th in 2019. During 2020, foreign investments fell to 1.88 billion Tunisian dinars, a decline of 28.8% on the previous year, according to data from the Agency for the Promotion of Foreign Investment.³⁵ On the other hand, the rating agency, Fitch Ratings, lowered the long-term credit rating of foreign currency sources in Tunisia from "B" to "B with negative prospects".³⁶ These indicators show that the unattractive nature of the Tunisian economy is no longer so much a circumstantial feature as a structural problem.³⁷

Quite apart from the effects of the Covid-19 pandemic on foreign investments globally, Tunisia was in a difficult situation even before the pandemic. Tunisians may have expected that supporters of democracy worldwide would offer to help Tunisia economically after the revolution through investments and various forms of aid, as happened in Japan and Germany after World War II or the

31 See: Amal Al-Hilali, "Amid fears of Disappearing Aid: Tunisia Continues Negotiations with International Donors," *Al Jazeera Net*, 27/5/2021, accessed on 25/7/2022, at: <https://bit.ly/3yB0Mrw>.

32 Carton, Benghazi & Janne d'Othée.

33 Ibid.

34 Ismail Azzam, "A Catastrophic Economic Situation: How Did Tunisia Reach the Brink of the Abyss?", *DW Arabic*, 30/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3BuVERO>.

35 FIPA-TUNISIA, "Bilan de l'investissement étranger durant l'année 2020," 12/2/2021, accessed on 25/7/2021, at: <https://bit.ly/2WDeAEU>.

36 Fitch Downgrades the Credit Rating of Tunisian Foreign Currency Sources in Tunisia from 'B' to 'B-' with Negative Prospects", Tunisian TV, 8/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3mMBch3>.

37 Marwa Saidi, "Investissement Direct Etranger (IDE) en recul: L'instabilité continue à faire fuir les entreprises," *La Presse*, 22/1/2021, accessed on 21/8/2021, at: <https://bit.ly/3zwtb3e>.

Eastern European countries, but this did not happen. Western Europe, the United States and Japan could have sustained Tunisian democracy at a relatively low cost, at least during the transitional period of economic instability, and at a lower cost than the support they provided to non-democratic states in the region.³⁸ Countries experience various economic hardships during a transitional phase due to the pressure exercised by economically precarious groups, which may lead to a decline in faith in democracy as a framework stimulating economic growth and just distribution of resources. This is what is happening in Tunisia. The country has been left to face all the political and economic challenges of democratic transition alone, in an unfavourable and often hostile regional and international environment.

3. The Health Crisis in the Face of the Pandemic

Tunisia was one of the first countries in the MENA region to contain the outbreak of the emerging Covid-19 (Covid-19) in its infancy. From 11 May 2020, the country did not record any new infections for five consecutive days; between 4 May and 14 July, it successfully completed its gradual “reopening” plan; and from 27 July, it reopened its borders to tourists and resumed normal economic activity.³⁹ At the end of 2020, the country had recorded just over 4,237 deaths, with a peak of just 2,000 infections per day. However, the situation rapidly deteriorated in early 2021, and only began to improve again at the end of August. The number of people who contracted the virus exceeded 658,000, with a total death toll of more than 23 thousand.⁴⁰ This put Tunisia at the forefront of African countries in terms of mortality rate.

This collapse of the health system in Tunisia can be attributed to crumbling public medical infrastructure unevenly distributed over across regions, especially in the most deprived provinces, such as Kasserine, Sidi Bouzid, El Kef, Kairouan, Jendouba, Beja and Siliana, where government health services are already poor.⁴¹ The inability of the Tunisian government to maintain a general lockdown and its desire to keep the economy going at some minimum level prevented the development of an adequate response to the later waves of the pandemic. This also created a state of general confusion, with political and economic complications exacerbating an already bad situation. The political, economic, social and health crises combined to pave the way for the July 2021 constitutional coup.

II. Local Actors’ Attitudes to the Coup

Immediately after Saied announced his exceptional measures, Speaker of the House Rached Ghannouchi – who is also president of Ennahda and head of the largest parliamentary bloc – said that the president’s decisions were unlawful and unconstitutional. Ghannouchi described the move as “a coup against the constitution, revolution, and public and private freedoms,” stressing that “the Parliament is in charge and in permanent session,” and saying that while Saied had consulted him on extending the state of emergency, he had not mentioned the new measures.⁴² Later, Ennahda called

³⁸ Bishara, p. 265.

³⁹ Yasmina Abouzzohour, “Tunisia may have beaten COVID-19, but challenges persist,” Brookings, 7/30/2020, accessed 7/25/2022, at: <https://brookings/2WJxUQV>.

⁴⁰ “Health Statistics to Monitor Globally Documented Cases”, Sehhty, 29/8/2021, accessed 25/7/2022, at: <https://bit.ly/3yxwFBo>.

⁴¹ Carton, Benghazi & Janne d’Othée.

⁴² “What Kais Saied Has Done is a Coup against the Revolution and the Constitution, and the Supporters of Ennahda and the Tunisian People Will Defend the Revolution,” Rached Ghannouchi’s Facebook page, 25/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3l0STsr>.

on its supporters to head to the Parliament after military forces that were stationed inside prevented Ghannouchi from entering. While the morning hours witnessed skirmishes between demonstrators supporting the decisions of President Saied and others opposing them, peace was restored after Ennahda Movement called on its supporters to withdraw.⁴³

The Dignity Coalition followed Ennahda, branding Saied's decisions a "dangerous and flagrant coup against constitutional legitimacy" and expressing its "absolute rejection of all decisions announced by the Presidency of the Republic" and "deep astonishment at the deployment of the military and security forces to disrupt the work of the parliamentary institution".⁴⁴ The Democratic Current avoided describing Saied's decisions as a "coup", but stated that it disagreed with "the President's interpretation of Article 80 of the Constitution", and that it "reject[ed] the resulting extra-constitutional decisions and procedures"⁴⁵. The Communist Workers' Party described Saied's decisions as a "clear violation of the Constitution", stating that the measures embodied "Kais Saied's efforts, which he has been making for some time now, to concentrate all executive, legislative and judicial authority in his own hands and pave the way for a re-establishment of the system of absolute autocracy".⁴⁶ The Republican party deemed the President's decisions "a distortion of the spirit of the Constitution" and of the presidential oath to respect the Constitution.⁴⁷

The only party to support Saied's actions was the People's Movement (a nationalist party), which described them as a way of "putting the Revolution back on course" after the "meddling" of Ennahda and the "entire ruling regime".⁴⁸ The UGTT, whose Secretary-General met with Saied shortly after the announcement, also reserved public judgment, saying only that it supported the "peaceful social and popular mobilization that has begun in many sectors", and emphasizing the "need to ensure the constitutional legitimacy of any action taken at this delicate stage."⁴⁹

While accepting Saied's decision to assume the role of Public Prosecutor, the Supreme Judicial Council responded by affirming "the independence of the judiciary and the need to distance it from all political disputes," stressing, after some of its members met with the President, that "the Public Prosecutor's Office is part of the judicial institution".⁵⁰ Like most other political parties and national organizations, it also emphasized the need to respect the constitution, adhere to set deadlines and respect human rights and individual and collective freedoms. However, as will become clear, Saied's battle with the judiciary would continue, and he was ultimately to dissolve the SJC and replace it with his own appointees.

⁴³ On the transformations of Ennahda after the 2021 coup, see: Salaheddine El-Jourchi, "Ennahda after 25 July: Transformations and Fate," Arab Center for Research and Policy Studies, 3/10/2021, accessed on 25/7/2022, at: <https://bit.ly/3oolGTt>.

⁴⁴ The Dignity Coalition Facebook page, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3iWK1RV>.

⁴⁵ Democratic Current Facebook page, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3l2RBgy>.

⁴⁶ "The Course of the Revolution Will Not Be Corrected through Coups and Autocracy," Workers' Party Facebook page, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3rKDgXq>.

⁴⁷ "The Tunisian Republic: President Saied's Decisions are a 'Coup' against the Constitution," *Anadolu Agency*, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3BRZ1sG>.

⁴⁸ "Statement on the Decisions of His Excellency the President of the Republic," Députés Mouvement Echaâb Facebook page, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3x92fV6>.

⁴⁹ "National Executive Office Statement on the Latest Developments in the Country," Tunisian General Labour Union, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/2WrdMTj>.

⁵⁰ "Assurance on the Independence of the Judiciary and Distancing It from Political Interactions," the Supreme Judicial Council, 26/7/2021, accessed on 25/7/2022, at: <https://bit.ly/3x3u7tP>.

The military establishment had a clearer position.⁵¹ Immediately after Saied's announcement, the army closed parliament and the Palace of Government and other administrative buildings. Limited patrols were conducted in some areas, but there was no major deployment to the cities of the kind seen at the beginning of the revolution in 2011. The next day, the army prevented Ghannouchi and other deputies from entering the parliament building, citing "superior orders", an implicit reference to decisions issued by Saied as Supreme Commander of the Armed Forces. It also turned government officials away from their workplaces.

The military establishment issued no public statement on Saied's actions or on its own operations at the time, a form of ambiguity that the "silent institution" has long cultivated. But the presence of senior commanders from the army and security forces at the emergency meeting chaired by Saied, and the rapid implementation of his decisions, led many to wonder about the military's attitude to the president's coup, and to ask whether its willingness to follow his orders was simple military discipline or represented a shift towards direct involvement in politics.

Saied's dismissal of Defence Minister Ibrahim al-Bartaji and of the Military Prosecutor show that he has not been able to secure the acquiescence of the whole military in his project. But the security and military establishments (including the military judiciary) have been the main instruments by which he has implemented new measures. The military judiciary has issued a steady stream of warrants, largely targeting deputies and political figures known for their opposition to the president. A military court has sentenced one MP, Yassin al-Ayari, to imprisonment for his social media posts, and has issued five search warrants against deputies from the Dignity Coalition. Opposition bloggers have also been arrested and referred to the military judiciary, the lack of political background to their cases notwithstanding. Saied has been forced to rely on the military judiciary to prosecute civilian opponents because of the Supreme Judicial Council's objection to his assumption of the role of Public Prosecutor⁵² and the signing of a petition by dozens of judges and advisors denouncing the various breaches of law involved in the implementation of his special measures, including prohibitions on travel for judges and ordinary citizens without a judicial permit.⁵³

Since July 2021, President Saied has also appointed a brigadier-general as Minister of Health and expanded the military's role in the fight against the Covid-19 pandemic; the open vaccination days organized in various cities have taken place under the supervision of the Military Health Department. Various media outlets were ordered to provide extra coverage of these activities while turning a blind eye to the overcrowding and chaos witnessed at some vaccination centers. The appointment of military figures to government and administrative positions is rare in Tunisia, but these developments suggest that this might soon change.

51 For more on the transformations of the Tunisian army and its relationship to the 2021 coup, see: "The Army and the Presidential Coup Against the Constitution in Tunisia", Case Assessment, Arab Center for Research and Policy Studies, 28/8/2021, accessed on 25/7/2022, at: <http://bit.ly/3PPg30P>.

52 "Assurance on the Independence of the Judiciary."

53 "45 Judges Call on Kais Saied to Retract 'Arbitrary Measures'," *Al Jazeera Net*, 10/8/2021, accessed on 25/7/2022, at: <https://bit.ly/2VTbcW3>.

III. Attitudes of external stakeholders towards the coup

The counter-revolutions supported by anti-democratic forces in the Arab region represented a setback for the Arab Spring.⁵⁴ This section discusses the positions of a number of regional and international powers regarding the July 2021 coup as a threat to the gains of ten years of democracy in Tunisia.

1. The United States of America: Vague Rhetoric

In 2015, the then US Vice-President Joe Biden hosted the late Tunisian President el-Bajji Caid Essebsi in Washington DC, where he emphasized the importance that the US attached to the success of democracy in Tunisia.⁵⁵ The July 2021 coup was a test of this commitment.⁵⁶ Under Biden's leadership, the USA has embraced a rhetoric of defending liberal values and ideas. But in Tunisia, it has not hesitated to ignore these values.⁵⁷ The US has declined to describe Saied's extraordinary measures as a coup against the Constitution, limiting itself to vague statements on the need to return to a "democratic process" and respect human rights. White House spokesperson Jen Psaki has said that US officials "have not yet determined whether Saied's actions constitute a coup," revealing the scale of the gap between the administration's statements and its policies.⁵⁸ On 27 July 2021, the State Department issued the first statement on the situation in Tunisia, saying; "The United States is closely monitoring developments in Tunisia. We have been in contact with officials in the Tunisian government to confirm that solutions to political and economic problems in Tunisia must be based on the Tunisian constitution and the principles of democracy, human rights and freedom. We have been clear in urging all parties to avoid taking any measures that stifle democratic discourse or lead to violence [...]. Tunisia must not forsake its democratic gains, and the United States will continue to stand by Tunisian democracy".⁵⁹

A month after Saied's announcement, Jonathan Finer (Deputy National Security Adviser) and Joey Hood (the top US diplomat in the Middle East) held a meeting with him in Tunisia, where they reiterated Biden's position. Finer urged Saied to make "a quick return to the path of parliamentary democracy in Tunisia," and said that Washington "supports the democratic process in Tunisia, and is awaiting next steps."⁶⁰ A Senate delegation led by Democrat Chris Murphy expressed the same sentiments: "We do not favor any party over the other, and we have no interest in advancing one reform agenda over another. These issues are up to Tunisians to decide," and that "the United States will continue to support a Tunisian democracy that responds to the needs of the Tunisian people and protects civil liberties and human rights."⁶¹ US opponents of the coup saw the administration's stance as encouraging Saied to continue to undermine the constitutional separation of powers that

⁵⁴ In this context, scholarship has emerged to suggest the role of external forces in Arab democratic transition, both positive and negative. See: "External Factors and Arab Revolutions: Four Research Questions," *Siyasat Arabiya*, No. 36 (January 2019).

⁵⁵ However, in contrast, two weeks before the fall of the Mubarak regime in Egypt, he said: "Mubarak was our ally, I will not refer to him as a dictator." See: "Developments in the US Position on the Events in Egypt", *Al Jazeera Net*, 3/2/2011, accessed on 25/7/2022, at: <https://bit.ly/3cz3RTH>.

⁵⁶ Josh Rogin, "Biden Must Try Harder to Stop the Coup in Tunisia," *The Washington Post*, 26/7/2021, accessed on 10/8/2021, at: <https://wapo.st/2VUgznR>

⁵⁷ Ibid.

⁵⁸ She is the same spokesperson who commented in 2013, following Abdel Fattah El-Sisi's coup in Egypt, saying: "We have decided not to take any decision." See: Shadi Hamid, "The Return of Hypocrisy," *The Atlantic*, 30/7/2021, accessed on 9/8/2021, at: <https://bit.ly/3y8Lnyh>

⁵⁹ "A call between the President of Tunisia and the US Secretary of State... Contents," *CNN Arabic*, 27/7/2021, accessed on 25/7/2022, at: <https://cnn.it/3OvLgoH>.

⁶⁰ "Washington Calls on the Tunisian President to Accelerate the 'Return to the Democratic Process, and Saied Confirms that His Decisions are a 'Response to the Will of the People'," *France 24*, 13/8/2021, accessed on 25/7/2022, at: <https://bit.ly/3Punyuq>.

⁶¹ "US Delegation Urges Saied to Return to Democracy in Tunisia," *Al Hurra*, 5/9/2021, accessed on 25/7/2022, at: <https://arbne.ws/3BjQL8>.

has characterized the Tunisian experience throughout a decade of democratic transition. Senator Lindsey Graham has been the most prominent of these opponents, describing Tunisia as “the place where the Arab world’s movement towards representative and democratic government began” and saying that “inaction in the face of aggression will eliminate this movement.”⁶² A member of the Foreign Affairs Subcommittee, Joe Wilson, asked Secretary of State Antony Blinken why the Biden administration was so reluctant to publicly condemn the autocratic power grab in Tunisia, and whether the Biden team was willing to work with Congress to pressure Saied.⁶³

The US position remained unchanged until mid-December 2021. The United States seemed to welcome the road map announced by Saied, according to which he decided to hold a referendum on the constitution in July 2022, followed by legislative elections at the end of the same year, despite the Tunisian opposition’s denunciation of it. On December 15, 2021, State Department spokesperson Ned Price stated that the United States “welcomes President Saied’s announcement of a timetable that outlines a path toward political reform and parliamentary elections.” He added, “we hope that the reform process will be transparent and include a diversity of political voices and civil society.”⁶⁴ US rhetoric and behaviour continued to avoid taking a decisive position on the coup against the constitution by using nebulous language such as “express concern,” “invite all parties,” or “await the results of the referendum.”

Although the State Department stated in late April 2022 that it was “deeply concerned” about Saied’s decision to “unilaterally restructure the Independent High Electoral Commission” and stressed the need to “launch a transparent and inclusive political and economic reform process, involving civil society, labour unions, and political parties.” This has not affected the US position on Saied’s dismantling of Tunisia’s democracy. On the day of the referendum, State Department spokesman Price said that “the United States is awaiting the official results of the referendum on the draft constitution in Tunisia,” maintaining that his country “stands with the Tunisian people, and it’s up to them to decide their political future,” and that they would “continue to stand with the Tunisian people in their call for a return to democratic, responsive, transparent and accountable governance that respects human rights and places the country’s economic future as a top priority.”⁶⁵

The Biden administration could have worked to convince Saied that moving forward with an authoritarian power grab would not be acceptable, especially since the \$500 million Millennium Challenge Corporation (MCC) agreement means that Washington is the foreign power that is most influential in Tunis.⁶⁶ The USA could also have exercised pressure through its veto over the IMF’s bailout package destined for the Tunisian economy, whose crisis has been exacerbated by the COVID-19 death toll.⁶⁷ But there was never any real desire in the Biden administration to deal strictly with Saied’s coup.

⁶² Rogin.

⁶³ Ibid.

⁶⁴ “Tunisia: Washington Welcomes Kais Saied’s Roadmap and Hopes for ‘Transparent Reforms’,” *France 24*, 15/12/2021, accessed on 25/7/2022, at: <https://bit.ly/3cJnU1W>.

⁶⁵ Michel Ghandour, “The US State Department to Al Hurra: We will Continue to Stand by the Tunisian People,” *Al Hurra*, 25/7/2022, accessed on 26/7/2022, at: <https://arbne.ws/3cDDOL5>.

⁶⁶ Ibid.

⁶⁷ Hamid.

2. The European Union: Inaction vs Claims to Support Democracy

Tunisia has often received special attention from the European Union as the only country that emerged from the Arab Spring as a constitutional democracy. In theory, the EU was determined that Tunisia after the revolution would be politically and economically successful, and it was also keen to avoid a crisis that would lead to a new wave of migration to its southern shores.⁶⁸ Immediately after the coup, EU foreign policy official Josep Borrell stressed the need to preserve the foundations of democracy in Tunisia and respect the rule of law, the constitution and the legislative framework while continuing to take note of the aspirations of the Tunisian people, calling for the need to restore parliamentary activity and refrain from all forms of violence. The EU's foreign affairs and security policy spokeswoman, Nabila Massrali, did not add much to Borrell's comment, noting that the EU was following the situation in Tunisia closely, and that "it cannot go any further at this juncture." Germany, Italy and France took similar positions. Paris, for example, urged Saied to return as soon as possible to the normal functioning of the government and preserve the country's democratic gains, while Berlin confirmed that democracy had taken root in Tunisia since 2011 and expressed its deep concern that there might not be a return to the constitutional system as soon as possible.⁶⁹ Rome stated that it trusted Tunisia's ability to overcome the current political crisis within the boundaries of the democratic framework.⁷⁰

The EU position has faced sharp criticism for limiting its positions to statements in support of Tunisian democracy and rejecting the president's attempts to undermine it by bypassing the constitution. Despite the large sums of money that the EU had poured into protecting and promoting democracy in Tunisia, it now seemed to be adopting a neutral position. Its public statement adopted a fairly flexible tone,⁷¹ hoping that local dynamics would allow the European countries to avoid picking a side. However, there is no guarantee that the current dynamics will not exacerbate the already dire economic and public health crises and threaten democracy. European inaction is jeopardizing the situation of Tunisia as a stable democratic country and creating a domino effect for democracy in a region already fraught with instability.

3. Algeria: The Weight of Regional Concerns and the Experience with Islamists

Algeria played an important role in achieving political stability in Tunisia during the period of political transition after the rule of former Tunisian President Zine El Abidine Ben Ali. It granted Tunisia \$200 million in loans and deposits in 2014 and strengthened bilateral cooperation in combating terrorism and cross-border security. It also helped train Tunisia in how to deal with jihadi threats⁷² and secure the 1,034 km long common border, where 25,000 Algerian soldiers are deployed to prevent organized crime and arms smuggling from Libya (with which Tunisia also shares a border of up to 460 km). In 2012, this security cooperation resulted in the establishment of a joint intelligence unit. Algeria also

⁶⁸ Will Todman, "A Coup in Tunisia?" Center for Strategic & International Studies, 27/7/2021, accessed on 10/8/2021, at: <https://bit.ly/3iOq0hn>.

⁶⁹ Hans Von Der Burchard & David M. Herszenhorn, "EU Urges Tunisia to Protect Democracy but Skirts Criticism," *Politico*, 27/7/2021, accessed on 12/8/2021, at: <https://politi.co/37JpbAb>.

⁷⁰ "Italian Foreign Ministry: We Trust Tunisia's Ability to Overcome the Political Crisis," *Mosaique FM*, 27/7/2021, accessed on 26/7/2022, at: <https://bit.ly/3pyoKBP>.

⁷¹ Ibid.

⁷² International Crisis Group, Middle East and North Africa, *Algeria and its Neighbours*, Report no. 164 (October 2015), p. 19.

ranks fifth among the largest importers of Tunisian products, and Tunisia depends on Algeria for around 95% of its hydrocarbon needs.⁷³

Algeria views Tunisia through the lens of mutual security dependence in a turbulent regional environment, which explains the speed with which the Algerians moved to find out exactly what was going on following the coup; according to a statement, President Abdelmadjid Tebboune spoke directly to his Tunisian counterpart, and the Algerian foreign minister was quickly dispatched to Tunis on an official visit. In this sense, Algeria is continuing to play the role that it has regularly adopted since 2014, acting as guarantor of the balance of forces and preventing any party from monopolizing power, especially since Ennahda has grown closer to the Algerian regime and has not adopted a hard-line approach.⁷⁴

There is, however, another aspect to the Algerian approach. Tunisia has witnessed a rapid and peaceful transition from an authoritarian regime to an emerging democratic regime, based on free and fair elections, while Algeria has failed to implement fundamental democratic reforms.⁷⁵ Saied's actions are similar to those sanctioned by various Algerian constitutions. With the exception of that of 1963, whose 55th article allowed for the President to be held to account by means of a no-confidence motion signed by one third of deputies, all other Algerian constitutions have given the president extensive authority without making him politically accountable.

The Algerian presidency stated that “the Tunisian president briefed his Algerian counterpart on matters that he cannot disclose, and informed him of important decisions that he is about to take.” The Algerian government uses a discourse that has its roots in the traditions of Algerian politics, which inherited models of behaviour and central political values from the periods of the national movement and the war of liberation, such as avoiding public political debate,⁷⁶ especially in foreign affairs. Despite the rapprochement between the two sides, Algeria's ruling regime has not forgotten that Ghannouchi supported the FIS against them in 1994, and is generally suspicious of Islamists, who it believes seek to use democracy only to take power.⁷⁷ Contrary to Algeria's official behaviour, the Movement for the Society of Peace (MSP), the country's third biggest party, called for support for Tunisia's legitimate institutions, condemning the coup as a systematic failure of Tunisia's democratic transition.⁷⁸

Algeria is trying to strike a balance between two different possibilities. On the one hand, support for Saied's actions seems to promise a harmonious future between the two countries, and accordingly Tebboune has argued that “the reason for the current crisis in Tunisia is that it has chosen a political system incompatible with the make-up of the Third World”. On the other hand, the Algerian government dreads the prospect of Tunisia becoming an ally of the UAE and the repercussions that this might have for the situation in Libya. In particular, it is worried that this might undermine the political process and strengthen Haftar's hand, bolstering Emirati influence in North Africa.⁷⁹

⁷³ Dalia Ghanem, “Algeria's Crisis: Outlook and Regional Implications,” *Konrad Adenauer Stiftung*, Med Dialogue series no 22, August 2019, p. 3.

⁷⁴ Ali Yahy, “The Situation in Tunisia is Officially and Popularly Keeping Algeria Busy,” *The Independent Arabic*, 28/7/2021, accessed on 14/8/2021, at: <https://bit.ly/3g3WX7M>.

⁷⁵ International Crisis Group, p. 20.

⁷⁶ Abdel Nasser Jabi, “The Algerian Case,” in: Nevin Massad (Ed.), *How Decisions are Made in Arab Regimes* (Beirut: Center for Arab Unity Studies, 2010), p. 81.

⁷⁷ International Crisis Group, p. 20.

⁷⁸ Yahy.

⁷⁹ Sami Hamdi, “Algeria Fears Tunisia Becoming an ‘8th Emirate’ of the UAE,” *Inside Arabia*, 11/8/2021, accessed on 12/8/2021, at: <https://bit.ly/2VPPPVV>.

4. Egypt, UAE and Saudi Arabia: In Support of the Coup

The Egyptian regime has welcomed events in Tunisia as a victory for the Egyptian model. The Egyptian presidency has announced that it had agreed with Algeria to provide full support to the Tunisian president, and said that his actions were fully in keeping with the values of democracy, the constitution and institutions. The Sisi regime has an interest in supporting a strong presidential system in which a limited margin is given to the opposition, and building an Arab anti-democratic coalition in the name of opposing Islamic movements has been a core aim of Cairo's policy since the July 3, 2013 coup.⁸⁰ As a military coup toppled Egypt's first elected president, Tunisia's elected assembly was crafting the most liberal political system in the Arab World.

After the coup, Saied met with the diplomatic advisor to the Emirati president, Anwar Gargash, who conveyed Abu Dhabi's support for what he called a "positive agenda".⁸¹ The Saudi Foreign Minister, Faisal bin Farhan bin Abdullah Al Saud, also expressed the Kingdom's respect for Saied's actions, which are "a matter of sovereignty".⁸² It is clear that Saudi Arabia and the UAE strongly support Saied's coup. Tunisia had already experienced regional attempts to destabilize its democratic system. According to reports issued in May 2020, Turkish intelligence thwarted an Emirati coup attempt in Tunisia, where a group of demonstrators calling themselves the "Salvation Group" came out to denounce Ennahda and its alignment with "the Qatari-Turkish axis". It was later discovered that it was a group of activists on social media run by UAE residents.⁸³ Just as Riyadh and Abu Dhabi used social media accounts to provoke anger and push the country into more chaos, their media has celebrated Saied's use of the constitution to monopolize power.⁸⁴ Therefore, it seems that "the rulers of Egypt, the UAE, and Saudi Arabia have more to celebrate, as Saied's use of the constitution, and his previous praise of the Egyptian dictatorship, has indicated from the beginning that he plans to remove any obstacles in his way to seize power."⁸⁵

5. The position of Qatar and Turkey: the search for a way out of the crisis

Qatar's position on Saied's coup can be interpreted in the context of its support for the democratic process in the region. The Qatari Ministry of Foreign Affairs has expressed its hope that the voice of wisdom would prevail and the rule of law will once again be established. In a phone call with Saied, the Emir of Qatar, Sheikh Tamim bin Hamad Al Thani, pointed out the need to overcome the political crisis and for the various parties to follow the path of dialogue to solidify institutions and establish the rule of law.⁸⁶ However, Qatar has avoided using the term coup or making any additional official statements.

⁸⁰ Mohamed Saied, "Cairo Backs Tunisian President's Actions against Brotherhood," *Al-Monitor*, 10/8/2021, accessed on 13/8/2021, at: <https://bit.ly/2UoHaZM>.

⁸¹ "UAE Says it Supports Tunisian President's Decisions," *Reuters*, 7/8/2021, accessed on 20/8/2021, at: <https://reut.rs/2W6jBFw>.

⁸² "Saudi Arabia Affirms its Confidence in Tunisian Leadership," *Reuters*, 27/7/2021, accessed on 20/8/2021, at: <https://reut.rs/3z5fGr8>.

⁸³ Robert Inlakesh, "Tunisia's Instability and Coup Are Backed by the UAE, Saudi," *Middle East Monitor*, 30/7/20, accessed on 12/8/2021, at: <https://bit.ly/3sIRle7>

⁸⁴ See the fifth section of the report.

⁸⁵ "Crackdown in Tunisia: The Death of a Young Democracy?" *The Week*, 5/8/2021, accessed on 13/8/2021, at: <https://bit.ly/2Xmk7Qe>

⁸⁶ "Qatar Emir Appeals to All Parties in Tunisia Political Crisis to Pursue Dialogue," *Reuters*, 28/7/2021, accessed on 15/8/2021, at: <https://reut.rs/3keOsbe>

As for Turkey, it has been keen on maintaining open channels of communication and to adopt a diplomatic approach to encourage the continuation of the democratic process in Tunisia. Although the Justice and Development Party in Turkey described Saied's actions as a coup, President Recep Tayyip Erdogan and his Foreign Minister, Mevlut Cavusoglu, have refrained from using this term. In a call with his Tunisian counterpart, Erdogan stressed that it is important for the parliament to continue to function despite the difficulties, and emphasized the need for communication between president and parliament to allow the return of normal democratic life.⁸⁷

IV. Consolidating the Coup in Preparation for the Constitutional Referendum:

By 22 September 2021, more and more voices were warning that Tunisia was slipping back into autocracy, the protests on the ground were growing, and economic and social conditions were becoming steadily worse. In response, Saied issued Presidential Order 117.

1. Presidential Order 117: Concentration of Legislative and Executive Powers in the Hands of the President⁸⁸

Order 117 begins with a preamble claiming that “the Tunisian people have expressed, on more than one occasion, their rejection of the mechanisms related to the exercise of sovereignty and the ways of expressing it”, and that “the dynamics of the state have been disrupted and the danger is no longer imminent but actual, especially within the Parliament.” Its first chapter (on “general provisions”) extends the suspension of parliament and of parliamentary immunity announced on July 25,⁸⁹ while also revoking all other grants and privileges of the speaker and deputies. The second chapter (on “legislative authority”) grants the power to issue laws applying to all “areas and jurisdictions” as unappealable “presidential decrees”, while the third (“on executive authority”) makes Saied the “representative of the state and controller of its general policy”, empowering him to create and abolish ministries and dismiss and appoint all state officials; the government's role is reduced to “ensuring implementation of the state's general policy in accordance with the directives and choices of the President”, and it is accountable only to him. It suspends the Constitution, with the exception of the Preamble, Chapters One and Two, and “all provisions that do not conflict with this Presidential Order”. It also abolishes the body responsible for monitoring constitutionality of bills and sets in motion a process of political reform, to be conducted by the president “with the assistance of a committee to be appointed by presidential order”.⁹⁰

With the issuance of Order 117, Saied moved to a new phase whose objective was to concentrate all executive and legislative powers in his hands. Although he did not officially announce the dissolution of Parliament or the abrogation of the Constitution, the provisions of the order effectively amounted to a full repudiation of the 2014 Constitution and its distribution of power in favour of a

⁸⁷ Ragip Soylu, “Tunisia: Why Turkey Hasn't Called Kais Saied's Power Grab a Coup,” *Middle East Eye*, 16/8/2021, accessed on 13/8/2021, at: <https://bit.ly/3kfh0BJ>

⁸⁸ “Tunisian Presidential Coup Threatens a National Crisis,” Situation Assessment, Arab Center for Research and Policy Studies, 28/09/2021, accessed on 23/8/2022 at: <https://bit.ly/3AfGarM>.

⁸⁹ See: “Context and Projected Outcome of the Presidential Coup in Tunisia,”

⁹⁰ See: Tunisian Presidency, “Presidential Order No. 117 of 2021 dated September 22, 2021 regarding Exceptional Measures,” Official Gazette of the Republic of Tunisia, Year 164, No. 86 (22/9/2021), accessed on 25/7/2022, at: <https://bit.ly/2Zl3xkJ>.

presidential system. The retention of Chapters One and Two has no political meaning: these sections provide for Tunisia as a “civil state”, specify its official religion, borders and flag, and define its broad functions, most of which are settled issues that have appeared in substantively the same form in every constitution since independence. The continued suspension of parliament, the assumption of legislative power, the abolition of the body set up to assess constitutionality and the announcement of planned constitutional amendments likewise demonstrated that if parliament still existed *de jure*, it had been dissolved *de facto*.

All this has led to major changes in the attitudes of various parties toward the coup. Some of Saied’s supporters have moved entirely away from him, while others have become more cautious in their support, drawing up a road map intended to preserve the gains made since the revolution. The Democratic Current’s position has changed the most, with the DC leadership ultimately describing the President’s actions as a “coup”, and issuing a joint statement with the Republican Party, Ettakatol and Afek Tounes accusing Saied of having “lost his legitimacy by breaching the Constitution”, asserting that he “does not represent the Tunisian state, its people, or its institutions”, and saying that he bore the blame for “all the possible repercussions of this perilous step”.⁹¹ The Republican People’s Union, the Tunisian Movement of Will, the Popular Will Party, and the Wafaa Movement also issued a joint statement on 22 September 2021, announcing the formation of the Democratic Front to “coordinate its efforts in the face of Kais Saied’s coup”. The statement stressed that “the incumbent president has lost his legitimacy following the new announced measures and confirmed his violation of the constitution and his rebellion against the law.”⁹²

Ennahda described Order 117 as marking “a clear turn towards absolute authoritarian rule and a blatant coup against democratic legitimacy and the principles and values of the Tunisian revolution.” It argued that “this anti-constitutional trajectory adds the question of the legitimacy of the government to the long list of complex crises faced by the country, threatening the integrity and unity of the Tunisian state and taking the country into a more dangerous place than any other point in its history.”⁹³

While the UGGT remained conservative in its response to the president’s decisions, a remarkable transformation appeared in the statement of its executive bureau issued on 24 September 2021. It warned of “the dangers of accumulating powers in the hands of the head of state in the absence of structures for constitutional amendment,” considering that “the amendment of the constitution and the electoral law are matters that should be decided by all components of society, including state structures, organizations, associations, parties and national figures,” rejecting the “president’s monopoly on amendments,” and branding it a threat to democracy.⁹⁴

In contrast, five small nationalist parties, including the People’s Movement, the Baath Movement and the Popular Current, reiterated their support for the president and praised Order 117. They described

⁹¹ “Joint Statement,” Democratic Current Facebook page, 23/9/2021, accessed on 25/7/2022, at: <https://bit.ly/2ZndaiS>

⁹² “The Declaration of the Establishment of the Democratic Front,” Alirada Facebook page, 23/9/2021, accessed on 25/7/2022, at: <https://bit.ly/2Y3fZ8t>.

⁹³ “Ennahda Refuses to Suspend and Replace the Constitution of the Republic with a Temporary Organization of Powers,” Ennahda Movement, 23/9/2021, accessed on 25/7/2022, at: <https://bit.ly/2WbcH23>.

⁹⁴ “Statement from the Executive Office of the Tunisian General Labor Union,” the Tunisian General Labor Union, 24/9/2021, accessed on 25/7/2022 at: <https://bit.ly/3i50cNq>.

it as “an important step towards a clean break with a decade of ruin, destruction, and corruption and with the choices of governments that were no more than a front for the rule of mafia barons led by Ennahda and its allies.” They called on “progressive and patriotic forces to help correct the course of the revolution, whose aims have been abandoned by the parties that ruled the country for the last decade.”⁹⁵

In addition to the parties and organizations, a new actor emerged, an organization calling itself “Citizens against the Coup.” This group called for a sit-in in the centre of the capital, where participants chanted slogans condemning the president and his decisions and calling for a return to the constitutional path and warning of the dangers of autocracy. The movement on the ground was not limited to the capital. Other cities in the centre and south of the country witnessed protests and marches rejecting the president’s decisions.⁹⁶

The Citizens against the Coup movement has distanced itself from partisan politics. Although grassroots elements from some parties, particularly Ennahda, have been involved in it, most participants are academics, lawyers, bloggers, and intellectuals. Ennahda’s internal crisis, as embodied by its fluctuating stance on the coup, the resignation of more than a hundred of its members and affiliates,⁹⁷ and the collapse of its ability to organize, helped to combat the impression propagated by certain media outlets that the demonstrations were a struggle between Ennahda and the President.

On 29 September, shortly after Order 117 was issued, Saied appointed Najla Bouden as Prime Minister, bringing an end to more than two months of absent government following the dismissal of the Mechichi cabinet. The appointment was accompanied by the announcement of a roadmap that included an “online consultation”, forming a committee to draft a constitution and an electoral law, and holding a referendum, leading up to the organization of parliamentary elections on 17 December 2022. Since the announcement of the roadmap, Saied has continued to reel out presidential decrees and orders, most of which have targeted the existing constitutional and amendment bodies to dissolve, dismantle and subjugate, and assemble powers in the hands of the president. The measures to restrict rights and freedoms have augmented, and the administration, security, military, and judicial institutions have been employed to target political opponents.

2. The Bouden Government: Limited Powers to Curb the Power Grab

Saied’s appointment of Bouden as Prime Minister of a cabinet whose members he personally selected, came days after the issuance of the Presidential Order No. 117 of 2021. The Presidential order states that the government “ensures the implementation of the state’s general policy in accordance with the directives and choices set by the President of the Republic,” and that it is “responsible for its actions before the President of the Republic.”⁹⁸ Bouden and her government team have no prior political or administrative experience. This appears to be a deliberate move by President Saied, who has continued to appoint officials without a political, military or administrative background, and

⁹⁵ “Joint Statement”, People’s Movement Facebook page, 924/9/2021, accessed on 25/7/2022 at: <https://bit.ly/3m1JZcO>.

⁹⁶ “Mass Demonstrations in the Tunisian Capital against the Measures Taken by President Kais Saied, *Al Jazeera Net*, 26/9/2021, accessed on 25/7/2022, at: <https://bit.ly/3lYhYmt>.

⁹⁷ “Tunisia: More than 100 Ennahda Leaders Resign in Protest against the Political Choices of the Party Leadership,” *France 24*, 25/9/2021, accessed 25/7/2022, at: <https://bit.ly/2WdGPtI>.

⁹⁸ See: Chapters 17 and 18 of Presidential Order No. 117 of 2021, in: Presidency of the Republic of Tunisia, “Presidential Order No. 117 of 2021....”

avoided including personalities with a political legacy in his presidential or government team. He himself is new to the Tunisian political scene, with no revolutionary or political background.

Presidential Order No. 117 of 2021, which serves as a constitutional declaration, prohibits the Bouden government from undertaking any work outside the will and directives of the president. The President appoints, grants confidence to, reshuffles, sets the agenda of, and supervises the councils of the government, rendering it merely a team of technocrats rather than a political government. Accordingly, talking of the “Bouden government” becomes subjective, as it is, in fact, the “Saied government.”

Najla Bouden and her government team assumed their duties in difficult economic and social circumstances, with the exacerbation of the crisis. Although these problems are structural and chronic, rooted in the past, as indicated in this report, the looming ambiguity following the coup and Saied’s confrontation with the crisis with populist measures, are factors that contributed to a further deterioration of economic indicators.

Upon her appointment, Bouden was met with the severe imbalance in the state’s general budget, which Saied had approved by a presidential decree before her appointment. This budget required the mobilization of 8.5 billion dinars (2.7 billion dollars),⁹⁹ according to the most optimistic odds. Saied built his budget on unreliable expectations, including the input of thirty-five billion dinars (about 11 billion dollars) from taxes, and nearly half a billion dinars from donations. These numbers have not been collected before and most observers rule out achieving them in 2022.¹⁰⁰

To cover the huge deficit in the 2022 budget, in addition to the accumulated deficit from 2021, the Saied government was faced with limited and difficult choices: successive fuel price spikes, seeking aid from Gulf countries supportive of Saied’s measures, and rushing an agreement with the IMF to obtain a loan of around \$4 billion, in return for implementing a number of structural economic reforms. These reforms include a reduction in public sector wages and employees, lifting subsidies on food, fuel, water and electricity, and privatizing government assets.¹⁰¹

The ambiguity that marked the aftermath of 25 July 2021, and the poor performance of limited Tunisian negotiations led to the disruption of negotiations with the IMF, with no agreement signed until the end of July 2022. This was accompanied by the waning enthusiasm of the Gulf parties that Saied had been counting on, and the downgrading Tunisia’s credit rating to “CCC”,¹⁰² which Saied responded to with sarcastic populist comments.¹⁰³ This exacerbated the financial and living crisis and further increased inflation alongside the depreciation of the dinar against foreign currencies, leaving the state helpless to fulfil its obligations. The dollar exceeded the three dinar barrier for the

⁹⁹ According to the exchange rates for 20 June 2022, 1 USD is equal to 3.1 TND.

¹⁰⁰ See: Chapters 2 and 3 of Decree No. 21 of 2021, in: Presidency of the Republic of Tunisia, “Presidential Order No. 117 of 2021...”

¹⁰¹ See: Iman Al-Hamidi, “Tunisia Seeks Help from the IMF: Debt Trap and Bankruptcy,” *Al-Araby Al-Jadeed*, 20/4/2022, accessed on 25/7/2022, at: <https://bit.ly/3y6e5mR>; Iman Al-Hamidi, “Tunisia: Gradual Abolition of Food and Fuel Subsidies and Halting Government Employment,” *Al-Araby Al-Jadeed*, 4/6/2022, accessed on 25/7/2022, at: <https://bit.ly/3y9RFkI>.

¹⁰² Aisha Yahyaoui, “Fitch Downgrades Tunisia’s Sovereign Rating to CCC,” *Anadolu Agency*, 18/3/2022, accessed on 25/7/2022, at: <https://bit.ly/3zOYeu9>.

¹⁰³ “Your Mother is Worthy... A Statement by Tunisian President Kais Saied Stirs Controversy,” *Maghreb Voices*, 10/10/2021 accessed on 25/7/2022, at: <https://bit.ly/3y6e02D>.

first time, while the markets repeatedly underwent food shortages and price increases.¹⁰⁴ Multiple fuel price spikes also drove up the prices of services, commodities and industries.

The economic and social difficulties of Saied's government were not limited to the failure to mobilize resources for his budget, nor in the inability to curb the rise in prices, the scarcity of goods and the depreciation of the dinar. The government's relationship with the UGTT became so tense that the Union declared a general public sector strike. Although the UGTT had welcomed the measures announced by Saied in July 2021, albeit with reservations, and expressed its willingness to participate in the referendum campaign, the government sent circulations to the various administrations prohibiting any negotiations with the unions on any financial or professional demands, except with approval from the Prime Minister herself. It also evaded the implementation of previous agreements related to salary increases and grants to a number of sectors.

It is thus clear that the Bouden government does not have any political agenda or initiatives. It is simply a team of technocrats whose role is limited to running daily errands according to the president's vision and directives. Accordingly, its apparent failure to accomplish any significant achievements was expected from the outset. Although the possibility of a cabinet reshuffle or replacement remains an option, this will not lead to any significant breakthrough in the economic and living crisis in a context of improvisation and populism, given the president's unilateral decisions and the concentration of power in his hands.

3. Dissolution of the Parliament: The President as the Legislator and the Executive

On 30 March 2022, President Saied issued a presidential order¹⁰⁵ to dissolve the Parliament, the day after it had held a session, via video conference, in which it cancelled all the decrees and orders that Saied had issued since 25 July 2021. Saied had since suspended all parliamentary activities and immunities. Although the decision to freeze does not differ much, in its essence, from the dissolution, Saied stated a few days earlier that he would not take that step out of respect to the constitution, which does not give the president the power to dissolve Parliament. But Saied did not respect the constitution from the outset. The 2014 constitution does not grant the President the power to dissolve, freeze, or lift the immunity of Parliament. Contrary to Saied's statements, the constitution stipulates that the Parliament remains in permanent session in case the president resorts to imposing "exceptional measures" in accordance with chapter 80.¹⁰⁶

Saied issued a decree, six months before the dissolution of the Parliament, in which he assigned to himself all the legislative powers granted to Parliament under the 2014 Constitution, by "issuing texts of a legislative nature in the form of decrees stamped by the President of the Republic and authorizing their publication in the Official Gazette of the Tunisian Republic."¹⁰⁷ He also immunized

¹⁰⁴ Aisha Yahyaoui, "Basic Commodities Scarcity: Tunisia's Latest Living Crisis," *Anadolu Agency*, 23/2/2022, accessed on 25/7/2022, at: <https://bit.ly/3bkMAx5>.

¹⁰⁵ Presidency of the Republic of Tunisia, "Presidential Order No. 309 of 2022," *Official Gazette of the Republic of Tunisia*, No. 35 (03/30/2022).

¹⁰⁶ Article 80 of the Constitution of the Republic of Tunisia states that "...The measures shall guarantee, as soon as possible, a return to the normal functioning of state institutions and services. The Assembly of the Representatives of the People shall be deemed to be in a state of continuous session throughout such a period. In this situation, the President of the Republic cannot dissolve the Assembly of the Representatives of the People and a motion of censure against the government cannot be presented."

¹⁰⁷ See: Part One of Decree No. 117 of 2022 dated 9/22/2022 relating to exceptional measures, in: Presidency of the Republic of Tunisia, "Presidential Order No. 117 of 2021...".

all of his decrees from appeal or revocation.¹⁰⁸ This means, practically speaking, that the parliament has not performed any legislative or oversight functions since the coup against the constitution, and that the issuance of a decree to dissolve it permanently was just Saied's reaction to the virtual session in which the Parliament, by a majority, cancelled all of his decrees, orders and procedures.

President Saied has consequently ensured that he is the only party entitled to issue and implement legislation, with an absolute authority that may not be challenged before any other party. Thus, he has concentrated the legislative and executive power in his hands. He is the one who issues legislation in the form of decrees, and he is the one who transforms it into measures to be implemented by the government, whose ministers are appointed, relieved, and monitored by him, and the Council of Ministers, which he chairs.

4. The Battle to Subjugate the Judiciary

Saied's endeavour to restrain the judiciary's autonomy has involved two main lines of confrontation: the Supreme Council of the Judiciary and the judges themselves.

a. Dissolution of the Supreme Judicial Council

On 12 February 2022, President Saied issued a decree regarding the creation of the Interim Supreme Judicial Council,¹⁰⁹ by which he dissolved the Supreme Judicial Council elected under the Basic Law of 2016. In accordance with the decree issued by him, Saied granted himself the power to appoint all members of the new Council, by a presidential order. He also granted himself the power to "object the nomination, appointment, promotion or transfer of each judge."¹¹⁰ Saied justified his decree by the allegation that judges were tampering with files including cases of assassinations, terrorism, collusion with criminals, involvement in corruption, selling positions based on loyalties and obtaining bribes in the amount of "mega billions," describing them as "insects" and "traitors" and other insulting descriptions. He argued that they deserve to be behind bars, not in the courts of justice¹¹¹.

Saied's onslaught against the judiciary did not begin with the dissolution of the elected Supreme Judicial Council, but dates back to the initial coup, when he announced his assumption of the Public Prosecution Office before reversing his decision under pressure by the Supreme Judicial Council. But his retraction, at that time, did not prevent him from continuing to attack judges, accusing them of corruption and tampering with files, and reiterating, on more than one occasion, that the judiciary is not an independent authority, but just another function of the state, the sole of which is to apply laws and legislation. In the Tunisian status quo, these laws and legislation are the decrees issued by Saied himself. Saied's attacks on the judiciary notably escalate whenever judicial departments issue rulings to release opposition detainees, or prevent their house arrest, such as in the case of the

¹⁰⁸ See: Chapter 7 of Part Two of Decree No. 117 of 2022, in: *Ibid.*.

¹⁰⁹ Presidency of the Republic of Tunisia, "Decree No. 11 of 2022 dated 12/2/2022 regarding the creation of the Supreme Council of the Temporary Judiciary," *Official Gazette of the Republic of Tunisia*, No. 16 (16/2/2022).

¹¹⁰ See: Chapter 19 of Decree No. 11 of 2022, in: *Ibid.*.

¹¹¹ "President Kais Saied's speech during his visit to the headquarters of the Ministry of the Interior," Tunisian President Facebook page, 6/2/2022, accessed on 25/7/2022, at: <https://bit.ly/3aUH6Jc>.

former Minister of Justice, MP Nouredine Bhiri, and the head of the Dignity Coalition, MP head of the Dignity Coalition, MP Seifeddine Makhlouf.¹¹²

Saied's relentless attack on judges, for six months, was not limited to accusations and insults. On 19 January 2022, he issued a decree stipulating "an end to the promotions and privileges granted to members of the Supreme Judicial Council."¹¹³

Thus, by dissolving the Supreme Judicial Council, elected in accordance with the constitution and replacing it with a council appointed by Saied, and by amending the rules for naming, dismissing, and transferring judges to be all subject to his wishes and away from any censorship or appeal, President Saied became, in practice, the head of the judicial authority, in addition to his leadership of the executive authority. He also assumed the tasks of the legislative authority by issuing decrees after the parliament was dissolved, to be the monocrat of the country, taking over all authorities, institutions and bodies.

Regardless of Saied's justifications to promote the decision to dissolve the Supreme Judicial Council, he understands that the existence of structures guaranteeing a margin of judicial independence will be an obstacle, which would curb his unbridled desire to eliminate his opponents through security, judicial, and administrative institutions, and destroy the gains of the decade of democratic transition and its institutions.

b. Dismissal of Judges

Nearly four months after the dissolution of the Supreme Judicial Council elected in accordance with the constitution and its replacement with a council appointed by himself, President Saied assumed that this decision was not enough to force the judges to acquiesce to his wishes. Some departments continued to release detainees accused of opposing the president and others seemed unwilling to involve themselves in files of a political nature, such as the case against the deputies who held a parliamentary session via video conference, on 30 March 2022. While the judiciary decided not to detain them, Saied demanded that they should be tried on charges of high treason, conspiracy against state security, and attempting to overthrow the regime. Charges that could lead to the death penalty.¹¹⁴

In view of judicial resistance, and the inability of the appointed council to make significant progress in this direction, Saied took the initiative to modulate the decree establishing the appointed Supreme Judicial Council, and added a chapter allowing himself to dismiss any judge "on the basis of a reasoned report from the competent authorities,"¹¹⁵ followed by a presidential order to dismiss 57 judges.

¹¹² See: "Escalated Repression Reveals the Depth of Tunisian President's Predicament," Situation Assessment, Arab Center for Research and Policy Studies, 24/1/2022, accessed on 25/7/2022, at: <https://bit.ly/3R4ajB3>.

¹¹³ See: Presidency of the Tunisian Republic Facebook page, 19/1/2022, accessed on 25/7/2022, at: <https://bit.ly/3tuNLjp>.

¹¹⁴ See: "He Talked about a Coup Attempt... the Tunisian President Announces the Dissolution of Parliament after Deputies Cancel Exceptional Measures," *Al Jazeera Net*, 30/3/2022, accessed on 25/7/2022, at: <https://bit.ly/3OjS4GB>.

¹¹⁵ Presidency of the Republic of Tunisia, "Decree No. 35 of 2022 dated 1 June 2022, relating to the completion of Decree No. 11 of 2022 dated 12 February 2022 relating to the creation of the Interim Supreme Judicial Council," Official Gazette of the Republic of Tunisia, No. 63 (1/6/2022).

The list of dismissed judges included Youssef Bouzakher (the head of the Supreme Judicial Council elected according to the constitution),¹¹⁶ Bashir Al-Akrami, who indicated, on more than one occasion, that he was under pressure to use the case of the assassination of the leftist politician Chokri Belaid against political parties,¹¹⁷ the official spokesman for the Court of First Instance in Tunis, Sofiane Al-Sulaiti, who is also following up on cases of political assassinations, and Khaira bin Khalifa, who stated her rejection of the intervention of members of the president's family, to divert cases and manipulate a number of files.¹¹⁸

Saied justified the decision to dismiss the judges, in a speech he delivered at the Council of Ministers, with accusations that they had committed crimes such as abuse of process, involvement in corruption and bribery, disrupting follow up in terrorist cases and in the file on "Ennahda's Secret Service," violating procedures, committing a career misconducts, smuggling and adultery.¹¹⁹ The war that Saied declared on the judiciary, since the coup against the constitution, was "seasoned" with populist rhetoric. In an official communication to the Presidency of the Republic, he debated the salary and privileges granted to members of the Supreme Judicial Council; despite the fact that such privileges are entrusted to all regional and central officials in the various ministries and are not "exclusive" to members of the Council. With this populist rhetoric, Saied exploited the anger of marginalised and impoverished groups in society.

Justifying his dismissal of the judges, Saied indicated that one of the judges had manipulated more than "six thousand" terrorism files; a number that no judge could possibly handle even if he worked on that sole file over many years. He also accused one female judge of adultery — a dangerous accusation in a society that judges such a cultural taboo harshly — with media in his pocket publishing security and medical reports of questionable credibility.

Although a limited number of dismissed judges are suspected of corruption and are subject to a Ministry of Justice oversight committee investigation, the score-settling was evident. Specific names were targeted who stressed the independence of the judiciary and opposed the president's plan to transform judges into marionette puppets serving Saied's interests. This campaign was met with a protracted strike — the first of its kind — carried out by judges to protest the interference in their work to demand the preservation of the independence of the judiciary, and the rejection of the dominance of the executive authority over the judiciary. It is a precedent where all the judges agreed "unanimously" to join this protest movement.

Similar to other protest movements, Saied launched an attack on the judges' strike, suspending their salaries and promising further repercussions. He also called, through the body tasked with preparing the draft constitution, to include a chapter criminalizing judicial strikes having realised that the existence of a judicial authority that enjoys a margin of independence will hinder his quest to establish a presidential system.

¹¹⁶ Mohamed Ali El-Chteivi, "President of the Supreme Judicial Council in Tunisia to 'Arabi Post': The Judiciary is an Authority, not a Job, and Kais Saied Wants Judges outside the Constitution," *Arabic Post*, 31/1/2022, accessed on 25/7/2022, at: <http://bit.ly/3yiZsg5>.

¹¹⁷ See: "Tunisian Judge to 'Arabi 21': The West has Honoured Me and My Country's Judiciary is Putting Me on Trial," *Arabi 21*, 3/2/2022, accessed on 25/7/2022, at: <https://bit.ly/3tBBIXg>.

¹¹⁸ See: "A Tunisian Judge Accuses the Sister of Kais Saied's Wife of Causing Her Dismissal after Refusing Request," *Al Jazeera Net*, 4/6/2022, accessed on 25/7/2022, at: <https://bit.ly/3b0S4N2>.

¹¹⁹ "President of the Republic, Kais Saied, Supervises Cabinet Meeting," Presidency of the Republic of Tunisia Facebook page, 1/6/2022, accessed on 25/7/2022, at: <https://bit.ly/3xQpvLu>.

5. The Online Consultation: “Success” Despite Low Participation

Saied’s road map, which was announced on 13 December 2021, stipulated the organization of an “online consultation” from 1 January 2022, until 20 March 2022, via an online questionnaire on the electronic platform.

This consultation involved answering questions related to the political system and economic, social, cultural and educational affairs.¹²⁰ The consultation was not organized, nor monitored, by a neutral or academic institution.

The portal faced technical difficulties that delayed its launch by several days. It was received by a state of reluctance and indifference from citizens over the age of eighteen, who constitute the “adult” age group that is entitled to vote in elections according to the law. This was in spite of the President’s instructions to state and private media to advertise the consultation throughout the day. Governors and regional officials assigned field teams to communicate with citizens in cities and rural areas, and set up tents in markets and public squares, and put the Youth, Culture and Media Centres along the administrative headquarters of the consultation. Yet reluctance persisted, prompting the President to allow the participation of minors — of 16 years — and to provide free access to the electronic platform.¹²¹

Most promotional discussions in the Media related to the online consultation focused on the necessity of transforming the system of ruling into a presidential system, showing the disadvantages of the mixed political system produced by the 2014 constitution, and on transforming the electoral system from voting for lists to voting for individuals, through disparagement of the parties, and blaming them for the country’s various failures, especially the deteriorating economic and living conditions. Other issues related to culture, education and development did not receive much attention. The election of individuals instead of strong parties under a semi-absolute presidential system could encourage the return of tribal and local social frameworks, turning parliament into mere pawns in the hand of the president.

This populist campaign against democracy whose official results were announced after the end of the electronic consultation, which lasted two months and five days, showed that the number of participants amounted to 534,915 (366,210 males and 168,705 females).¹²² They represent 4.5% of the total Tunisian population (estimated at 11,803,588, by the National Institute of Statistics on 1 January 2022),¹²³ and 5.9 percent of all adults aged 16 and over who were allowed to participate (an estimated 9 million). The age category of 40 years and above represented 55.2% of participants while the group between 20 and 39 years were 42.5%. But the under 20 age group did not exceed 2.3% of the total participants in the consultation.¹²⁴

With regard to the geographical distribution of participants in the consultation, Siliana (Northwest) ranked first, with a participation rate of 14%, while Medenine (southeast) ranked last where the

¹²⁰ “The National Consultation Portal,” accessed on 25/7/2022, at: <https://bit.ly/3Hvb9U2>.

¹²¹ See: Presidency of the Tunisian Republic Facebook page, 8/3/2022, seen on 25/7/2022, at: <https://bit.ly/3zQ776V>.

¹²² “The National Consultation Portal.”

¹²³ “Population on 1 January,” National Institute of Statistics, accessed 25/7/2022, at: <https://bit.ly/3NE2KiB>.

¹²⁴ Ibid.

number of participants did not exceed 3%. The southeastern region is considered one of the traditional strongholds of Ennahda, where the party earned the highest votes following the revolution.

In the “political and electoral affairs” section, the results of the consultation announced by the Presidency of the Republic showed that 86.4% want to establish a presidential system of government, while those supporting a parliamentary system did not exceed 8%. Meanwhile, 70.7% preferred a system of voting for individuals, compared to 21.8% who preferred a system of voting for party lists.

The declared results of the consultation revealed a poor participation rate that, despite being announced as just 6%, remained a matter of scepticism. Some observers say that the real numbers are far below the declared number, and that many technical details contributed to its inflation. For example, one person could easily participate multiple times by changing the number of the phone sim card to receive the access code. The use of the national number no longer prevents the recurrence of participation since minors are allowed to participate, with most not having a national number.

Furthermore the context of the consultation was brought into question, after boycott advocates were prevented from expressing their opinions on the platforms, which were solely mobilized to promote consultation and influence public opinion in one direction. Pressure was exerted on the administrative departments to steer their logistics and human resources towards serving the consultation, while similar coercions were imposed on some vulnerable professional groups to force them to participate in consultations by fear mongering about losing their livelihoods or through promises to improve their professional status.

Despite the low turnout, President Saied considered the consultation successful, claiming that he would build on its results to move forward with radical changes in the political system, electoral law, economic and development options. It will represent a reference for all stages of the next roadmap, including the “national dialogue” and the draft of a new constitution. Saied also stipulated that the list of participants in any dialogue would be limited to supporters of the consultation, celebrating that the country, due to the “success of the consultation,” entered a new political era. Instead of acknowledging the reluctance with which the consultation was met, Saied continued to attack his opponents, whom he described as “traitors, agents and thieves,” and held them responsible for the disruptions to the consultation, where, according to his statement, the platform had been subjected to 120,000 attacks, an allegation that was baseless.¹²⁵

Far from Saied’s evaluation of the electronic consultation, the weak turnout showed a significant decline in his popular incubator.

V. Passing the New Constitution: The Authorities’ Preparations and Street Protests

On 21 April 2022, Saied issued a presidential decree that revised the basic law relating to the Independent High Authority for Elections elected in accordance with the 2014 constitution. The revision mandates selection by the president of the members of the commission’s council and their

¹²⁵ For more: see, for example: Mahdi Mabrouk, “On the Implications of the Failure of Electronic Counseling in Tunisia,” *Al-Araby Al-Jadeed*, 21/3/2022, accessed on 25/7/2022, at: <https://bit.ly/3zH7K2s>.

appointment by presidential order.¹²⁶ Following his decree, Saied dismissed the head of the elected committee and most of its members, forming a new one with an appointed chairman.

1. Preparing for the Referendum: a Specialized Body and a Conditional Dialogue

After the members of the independent commission were dismissed and replaced by others appointed by the President, it seemed to Saied that this procedure was not sufficient to prepare the context for the referendum and elections programmed according to the road map. The reluctance to register on the voter lists continues, as was the case with the electronic consultation. He thus decided to maintain the lists of registered persons from the previous body and to approve the automatic registration of non-registrants. This means that all citizens over the age eighteen are registered as voters, in addition to giving them the freedom to choose their polling station on voting day.¹²⁷

In preparation for the referendum on the new constitution and then the parliamentary elections, Saied announced the organization of a national dialogue. He conditioned participation in it upon support for the measures taken on 25 July 2021, and claimed the results of the electronic consultation as a frame of reference. He also decided to exclude opponents, whom he describes as “traitors, thieves and agents.”

The Presidency of the Republic formed a committee titled “The National Consultative Commission for a New Republic” to represent a framework for the “National Dialogue.” University professor Sadeq Belaid was assigned to chair it.¹²⁸ Invitations were sent to the deans of law faculties, heads of political parties supporting Saied, heads of national federations and some figures described as “patriots” to attend the “dialogue” sessions, but the deans of the law faculties and the UGTT boycotted the sessions, while others later withdrew.

However, not only did he ignore the main social and political forces by not inviting them to participate but he also declined to open the constitution to public deliberation by elected committee. Instead he held secret negotiations and reformulated the proposal drawn up by the dialogue committee. Sadeq Belaid, the head of the commission, consequently asserted that Saied’s proposal represented a radical contradiction to the original proposal he had received from the dialogue committee, and constituted a threat to democracy.¹²⁹

The dissolution of the Council of the Independent High Authority for Elections and the installation of a specific council in its place comes within the framework of the policy initiated by Saied, since his coup against the constitution to destroy the institutions established during the decade of the democratic transition, which he has always referred to as the “black decade”, as part of his populist rhetoric. This rhetoric holds the entire constitutional institutions responsible for the political, economic and living difficulties that the country has suffered, and portrays it as an “absolute evil” that must be eliminated, in return Saied promoted his alternatives as “purification” and “repair” of what has been corrupted by others.

¹²⁶ Presidency of the Republic of Tunisia, “Decree No. 22 of 2022”, Official Gazette of the Republic of Tunisia, No. 45 (21/4/2022).

¹²⁷ See: Presidency of the Tunisian Republic Facebook page, 2/6/2022, accessed on 25/7/2022, at: <https://bit.ly/3xiQ37z>.

¹²⁸ “Presidential Decree Issued to Form the National Consultative Authority for the Preparation of a New Tunisian Draft Constitution,” *An-Nahar Al-Arabi*, 20/5/2022, accessed on 25/7/2022, at: <https://bit.ly/3OQiHmi>.

¹²⁹ “Belaid ‘Disavows’ Saied’s Constitutional Draft Submitted for Referendum,” *Al Hurra*, 3/7/2022, accessed on 1/8/2022, at: <https://arbne.ws/3OQtDjR>.

Saied, who ascended to power in voting supervised by the Independent High Authority for Elections, the transparency of which was attested for by all contestants and observers, realizes that the presence of an independent body would obstruct his road map, delegitimize any of his transgressions, and prevent him from tampering with the results of electoral stations, whether related to the referendum on the constitution or the parliamentary elections scheduled for 17 December 2022.

The amendment made by Saied to the law regulating the Independent High Authority for Elections, and the procedures that followed it, was widely rejected in Tunisian political actors and was considered “a sign of Tunisia’s return to the era of fraudulent elections and the falsification of voter will.” The rejection also extended to the parties that support Saied. These measures prompted sharp calls for a boycott of the referendum. In addition to the positions of the “National Salvation Front” and the “Citizens against the Coup” movement, which reject all of Saied’s actions, a new movement was formed under the name “The National Campaign to take down the Referendum” that included Ettakatol, the Republican Party, the Labour Party, the Democratic Current, and the Democratic Modernist Pole, and started organizing protests in a number of cities.

In the same context, and contrary to Saied’s aspirations, the “dialogue” supervised by the “National Consultative Commission for a New Republic” appointed by presidential decree, led to further breakaways from the president, including the UGTT, which had remained, until then, supportive, albeit discreetly, of most of the measures that Saied had taken. Amidst an absence of political actors and the boycott by main parties, the “dialogue” has turned into another office task to produce a document that meets the president’s ambitions and legitimizes the concentration of powers in his hand.

2. The Movement on the Streets: Expansion of Protests and Escalation of Repression

A year since Saied’s coup against the constitution, the movement on the Tunisian streets has not stopped. In the wake of the shock that prevailed in the days following the coup, in the context of noticeable support from some popular circles frustrated with the performance of the political elites throughout the previous decade, opposition voices grew louder, and quickly turned into a popular movement through the “Citizens against the Coup” initiative. This initiative included activists from various political parties, organizing demonstrations and vigils in the capital and the Tunisian interior. It managed to mobilize a large number against the backdrop of decline in the momentum that accompanied Saied’s earlier actions, and as living conditions worsened and Saied grew more willing deal with the street movement through the security forces.

The opposition movement was not limited to “Citizens against the Coup.” An expanded political front was formed under the title “National Salvation Front,” which included, in addition to “Citizens against the Coup,” Qalb Tounes, Ennahda, the Dignity Coalition, the Tunisian Movement of Will, the Amal Party, parliamentarians and independent political activists.¹³⁰ Another bloc was formed from Ettakatol, the Republican Party, the Workers’ Party, the Democratic Current and the Democratic Modernist Pole under the name “The National Campaign to Overthrow the Referendum,” which, in turn, organized rallies and vigils in the capital and the internal states.

¹³⁰ Basma Barakat, “The Official Announcement of the Salvation Front Opposition Movement in Tunisia... Its Programme”, *Al-Araby Al-Jadeed*, 31/5/2022, accessed on 25/7/2022, at: <https://bit.ly/3Nuqh5l>.

On the other hand, Saied’s supporters called on several occasions for rallies on the main streets in the capital, but with a lacklustre response. The president did not hide his encouragement of the street movements loyal to him; on one occasion, he personally went to the headquarters of the Ministry of Interior and appealed for participation in the rallies supporting him. He dictated his demands to be painted as slogans and ordered the security forces to facilitate his supporters.¹³¹ Despite this, the participants in the opposition rallies far outnumbered his supporters.

The security forces provided every possible assistance to ensure the success of Saied’s rallies, while confronting the opposition movements with widescale repression. On most occasions, they closed roads leading to the capital and the streets surrounding gathering places to impede protester access. Security forces also used force to disperse the protests and arrested and charged demonstrators.¹³² The escalation of the crackdown on the protests could not suppress them however. Within weeks they had expanded to the interior, having being initially concentrated in the capital, and the “National Salvation Front” began to organize marches instead of vigils on the main streets in the capital, while new political parties joined the street movement through “The National Campaign to Overthrow the Referendum”.

Repression extended beyond the street movements to target political and media activists and bloggers. Raids, kidnappings and extrajudicial detention were frequent, and number of activists, party leaders, and journalists were referred to military courts on charges related to “threatening state security” and “undermining the prestige of the President.” This demonstrates Saied’s habit of accusing his opponents of political crimes. Although human rights organizations, both at home and abroad, denounced the escalating repression since 25 July 2021, Saied has continued to rely on security repression and the misuse of the administrative and judicial procedures to suppress his political opponents.

VI. Conditions and Results of the Referendum on the New Constitution

Despite growing political and civil opposition, President Saied decided to proceed with the referendum on his draft constitution to transform the country’s political system into a presidential one, whereby the majority of powers are assigned to the president. It is worth mentioning that the day of the referendum, 25 July 2022, coincided with the anniversary of Saied’s coup against the constitution.

1. Controversy over Results

The polling stations opened their doors from 6am until 10pm on 25 July 2022, setting a new precedent with a 16 hour voting period as opposed to usual 10 hours. Voting for Tunisians abroad opened three days earlier.

Observers monitoring the voter turnout and media on the ground showed it to be weak early on. There were no queues in front of the polling stations; nor any celebrations or a festive atmosphere. While elderly people attended, the youth were conspicuously absent. The press, including state media, failed to capture images of any crowds of voters.

¹³¹ See: Presidency of the Tunisian Republic Facebook page, 6/2/2022, accessed on 22/6/2022, at: <https://bit.ly/3HYUTeh>.

¹³² See “Escalated Repression Reveals the Depth of Tunisian President’s Predicament.”

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.

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. Meanwhile opinion polls questioned the publicly declared turnout, insisting that it was lower. According to the same source, 3 percent of the polling participants voted against the draft constitution while 92 percent voted in favour. Voter turnout abroad, according to statements by election officials, ranged between 6 percent in Europe and 10 percent in Arab countries.

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.” 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. The parties affiliated with the “national campaign to take down the referendum” questioned the announced results, describing the referendum as “fraudulent,” pledging to “continue the resistance” and, in turn, calling on President Saied to resign.

The voter turnout was not 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.

2. 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.

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 manipulating 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 a new political scene that he can direct, at a time when the economic and living crisis is preparing the ground for a new wave of popular protests.