Commentaries

Charting Transitions in the Middle East: Lessons Learned from Tunisia and Egypt

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ABSTRACT

The Arab revolts have resulted in deposed heads of state in Yemen, Libya, Egypt and Tunisia. Of these countries the latter two—Egypt and Tunisia—saw mass street protestors quickly topple entrenched autocrats without significant violence or foreign intervention. One year on, Egypt is still ruled by elements of the Mubarak regime with vested interests in the former order. It is also racked by political battles and economic troubles that are threatening its transition. Tunisia, on the other hand, is moving steadily closer toward a potential democratic consolidation. What explains the differences? This commentary discusses the prior institutional characteristics of the two countries. It then examines three areas of early transitional choices that contributed to Tunisia's progress and undermined Egypt's. In identifying lessons learned it makes the case that oppositional movements should avoid constitutional and institutional vacuums, establish broadly representative civilian-led transitional planning mechanisms, and follow appropriately-timed, transparent electoral sequencing.

As I write, revolutionary fever in the Middle East and North Africa has deposed presidents in the Arab republics of Yemen, Tunisia, Egypt, and Libya. Of these states Tunisia and Egypt shared similar revolutionary trajectories, where several weeks of sustained mass street protests forced dictators from office without significant violence or direct external intervention. Since these euphoric moments, Tunisia and Egypt have progressed along very different paths. While both countries have held competitive democratic elections—the conventional benchmark of liberal democratic legitimacy—their choices on key transitional questions have diverged with substantial consequences.

Tunisia remains buoyed by optimism, whereas Egypt has been marred by successive crises, state violence, and deepening political divisions. While Tunisia is moving on a path toward demo-

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cratic consolidation, Egypt is locked in an epic battle for political hegemony driven by remnants of the old regime, pitted against the dominant and increasingly assertive Muslim Brotherhood.

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Drawing lessons from their divergent experiences helps inform efforts to re-orient Egypt's continuing autocratic direction, consolidate Tunisia's democracy, and prepare for other pending transitions—most urgently in Syria.

Tunisia and Egypt – Are They Appropriate Contrasts?

While much of the comparative debate on Tunisia and Egypt has focused on the demographic and social differences between the countries—attributing Tunisia's optimistic prognosis to its smaller population, high education rates, and secular traditions, the former deposed regimes were quite similar in nature and affect. Both were "liberal autocracies,"[1] governed by facially liberal constitutions that granted civil liberties and allowed for multiparty elections, but which were ultimately sidelined or manipulated by the regime to consolidate power, presidency and the ruling party.

With limited autonomy for civil society, and thriving patronage networks, classes of elites acquired economic privileges that ensured their allegiance to the regime without significant challenge from below. Media and information were highly controlled, and government agencies and the judiciary were influenced to serve elite interests and help maintain executive control. Rampant corruption and a lack of equal economic opportunities and political freedoms left people frustrated and restive. In both Egypt and Tunisia, small demonstrations and activist initiatives challenged the regime years before 2011. But their efficacy was stunted by either a lack of sufficient popular mobilization or high levels of repression by security forces early on. Nevertheless, in both countries, the foundations for a larger revolt had begun well before 2011.

The main institutional difference between the countries was the size and role of the military. Unique for the MENA region, former Tunisian President Zine El Abidine Ben Ali deliberately kept the military small and poorly funded to prevent the kind of military coup that brought him to power in 1987. When the Jasmine Revolution started in December 2010, the Tunisian military consisted of about 36,000-40,000 officers and conscripts, inclusive of all three armed branches. Budgetary spending on the military was around 1.4 percent of the GDP.[2]

In comparison, at the end of 2010, Egypt had the world's 10th largest mili-

tary with nearly half a million officers and soldiers.[3] The military establishment played a large role in the political and economic sectors of Egypt. It enjoyed numerous market advantages such as conscripted labor, state subsidies, and tax-free businesses. It continues to hold substantial economic assets in the country—amounting to an estimated 10 to 40 percent of the national economy. Politically, the Egyptian military maintained multiple informal links with the government. Retired high-ranking officers frequently assumed positions of power within the cabinet and provincial offices. Egypt, a strategic regional ally of the United States, also enjoyed an annual average of 1.3 billion dollars in American bilateral military assistance, backed by a strong American diplomatic presence in and engagement with the country. Despite the relatively weaker role that the military played in autocracy and crony capitalism in Tunisia, in both countries burgeoning security and intelligence forces loyal to the president and ruling party were utilized to repress public dissent, control the public sphere, and instill fear in the population.

Another noted distinction between Tunisia and Egypt was the oppositional space permitted by the regime. In Egypt, the Muslim Brotherhood operated above ground and, for a period, participated in parliamentary elections as a recognized political party. In Tunisia the Islamist movement Ennahda was banned for nearly all of Ben Ali's reign, with the movement's leaders imprisoned or exiled. These differences have influenced political dynamics in post-Mubarak Egypt, but both Tunisia and Egypt registered weak civil societies and independent political parties at the time of their respective mass uprisings, which involved wide segments of unorganized society. Moreover, in neither country was there public consensus on the transitional road map to be followed.

Transitional Directions and Outcomes

Despite social and institutional distinctions between Tunisia and Egypt, both societies faced a similar task in moving from liberal authoritarianism to true democracy—a trajectory many countries have historically encountered. Both Tunisia and Egypt set out on a similar course as protestors took to the streets of their capitals and other key cities en mass demanding the "fall of the regime." The first major step in Egypt and Tunisia's transition to democracy occurred when the dictator was widely perceived to have lost his grip on power due to the balance of street power. Thus, at this point the transitions began and the early tactical divergences were adopted—or accepted—by the revolutionary movements that largely underpin each country's progress.

Constitutional and Institutional Continuity

During all transitions to democracy, a difficult question arises as to how and when to depart from existing legal and institutional frameworks that enabled

anti-democratic forces to thrive. This question is particularly pertinent in the Middle East/North Africa (MENA) region where republics have been dominated by single parties with patronage

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systems operating through party and, in some cases, military networks. A quick and total departure from the old order is instinctively preferred, and indeed was demanded by both Tunisian and Egyptian protestors. Comparing how each handled this issue and the result, however, cautions against a hasty departure, especially in the absence of a feasible, consensus-based transitional plan or where former power centers remain intact.[4]

In Egypt, following a "palace coup" led by the military, the Vice President and Head of the Supreme Council of Armed Forces (SCAF), Omar Suleiman, announced to waiting masses in Tahrir Square: "President Hosni Mubarak has decided to step down from the office of the president...and has charged the high council of the armed forces to administer the affairs of the country." Two days later the SCAF suspended the 1971 Constitution, dissolved parliament, and appointed itself the executive administrator of the country's transition pending parliamentary and presidential elections. It simultaneously announced the appointment of an unnamed committee

to propose constitutional amendments. The SCAF's 2011 Constitutional Declaration was put forward to the nation in a contested referendum seven weeks later. It limited the powers of the future parliament and granted the SCAF oversight of the constitution-making.[5]

The Egyptian public, including leading revolutionary groups such as the influential April 6th movement, accepted the SCAF's power grab[6] despite the military's extensive vested economic interests built up under the Mubarak regime. The military leadership was seen to have sided with the protestors during the mass 2011 revolt. The early actions of the SCAF, including issuing statements indicating that it would end Mubarak-era practices, such as the Emergency Law, encouraged a sense of trust amongst the people who were quite used to the military playing a large role in national affairs.

Following the letter of the 1971 Constitution would have likely handed interim presidential power to the speaker of the parliament, who was widely viewed as illegitimate due to the overwhelming dominance of the ruling party in parliament. In advance of parliamentary elections in October 2010, Mubarak had amended the constitution to eliminate judicial oversight of the electoral process and prohibit the inclusion of the Muslim Brotherhood. Those October elections ended with 81 percent of seats in the hand of the ruling National Democratic Party (NDP), leaving the parlia-

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Girls carrying the flags of Qatar, Tunisia, Egypt, and Libya during Libya's first festival of Amazigh songs in Benghazi.

ment with even less popular legitimacy. The 1971 Constitution prescribed that new presidential elections should quickly occur for a permanent replacement, and Egyptians likely surmised that this process would lead them back to square one without significant reforms being in place. In this context the military was viewed as a neutral arbiter for the interim period; abandoning the constitution was a clear break with the past.[7] In effect, the opposite has played out.

The immediate abandonment of the 1971 Constitution created a power vacuum that the SCAF exploited in order to control the transitional period and retain the military's former prerogatives, probably including immunity from prosecution for former violations. While there is debate over the extent of power the

SCAF seeks to retain, it has nonetheless manipulated the political process in such a way as to ensure that it retains executive power while the new constitution is drafted. Egyptian presidential elections are now scheduled for May 2012, but the SCAF has decreed that the new authority will not officially come into power until the end of June 2012, by which time the new constitution is supposed to have been drafted.[8]

In Tunisia, the army also played an important role in forcing former President Ben Ali from power after it refused to back up state security forces that were violently attempting to suppress demonstrations upon order of the former president. The army chief of staff, Rachid Ammar, became a revolutionary hero after he reportedly prodded Ben

Ali into exile. As in Egypt, the Tunisian army was initially popular, and upon the departure of Ben Ali there was some public support for having it accede transitional authority.

While the Tunisian army played a role in maintaining law and order, the country resolved the question of interim executive power consistent with constitutional dictates. Under the 1959 Constitution, the speaker of the parliament, Fouad Mebazza, was appointed interim

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president as confirmed by the country's constitutional court. A new interim government was immediately formed to lead the initial phase of the transition under the sitting Prime Minister, Mohammad Ghannouchi.[9] Faced with continued street protests over cabinet links to the RCD, Ghannouchi formed a second government that was also rejected by the street. On February 27, 2011 a third government was named under the leadership of a new interim Prime Minister, Beji-Caid Ebessi. Ebessi's government led the transition until an elected constituent assembly took their seats in November 2011.

The post-Ben Ali government in Tunisia eventually broke with the former constitutional order once an election date for a constituent assembly was an-

nounced. The announcement was followed shortly by the presentation of a new election law and the creation of an independent electoral authority to organize the elections. These decisions put forward by the Prime Minister were based on recommendations from the civilian body, High Authority for the Realization of the Revolution Objectives (the "High Commission"), established to lead transitional electoral planning.

In both Egypt and Tunisia the quick fall of long-standing dictators left little time for the opposition to formulate a unified stance on a transitional plan. Tunisia's path that maintained the existing constitutional framework until a relatively sound, consensual electoral plan was in place proved effective in avoiding a power vacuum that could be exploited by regime holdovers and those with vested interests in the former order. Rather than being viewed as an automatic obstacle to progress, maintaining constitutional and institutional continuity can help maintain order and keep power in the hands of civilians better able to extract a transitional road map consistent with a broader array of civic interests.

Civilian-led Transitional Mechanisms

A key determinate for a successful democratic transition is creating space for bargaining. This is especially true where social divisions, political marginalization, and growing dissent have

underpinned the former order and revolt against it. In Tunisia and Egypt, and indeed throughout the Arab world, societies have faced the burden of poverty, indifferent economic elites, and high rates of youth unemployment—often regionally manifested. These realities and the indignities of living under corrupt police states were at the root of the revolts.[10] In addition, post-revolution societies that have seen the rise of new Islamist forces must now reconsider the relationship between religion and the state and invent indigenous forms of pluralism and democracy.[11] Minority protection and decentralization issues are also animating the shifting terrain in the MENA region..

Civic participation and national dialogue are the best guarantees for achieving transitional reforms that address these challenges in a representative, inclusive manner. Scholars of democratic transitions have noted that civilian-led processes have greater institutional, symbolic, and absorptive "capacities" than military-led ones "to initiate, direct, and manage a democratic transition."[12]

Second, because political transitions are typically unstable, multi-staged, and extended over years, mechanisms for civic interaction with oversight of government act as important checks on emerging powers and a bulwark against a reversal of revolutionary gains. Influential civilian-led mechanisms can also help to solidify the democratic relationship between society and government as the transition moves forward. Again, the transitional paths of Egypt and Tunisia provide ample evidence to support these axioms for the transitions underway in the Arab world.

With the immediate appointment of the High Commission, led by jurist and union activist Yadh Ben Achour, Tunisia established a meaningful avenue through which the intelligentsia and civil society were able to guide the transition and ensure a more independent and better-managed process.[13] The membership of the High Commission was not without controversy, but its function led to what were widely hailed as genuine and fair elections for a Constituent Assembly in October 2011.[14] Today the assembly is functioning in a relatively robust, transparent manner in carrying out its mandate to draft a new constitution and enable laws for regular elections. Facing growing public impatience with slow reforms, there is pressure on the government in Tunisia to act faster.

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But dissent is, for the most part, being registered through peaceful debate and official response.

Conversely, in Egypt the military junta has been singularly responsible

for driving transitional planning. As public euphoria faded after Mubarak's departure and opposition criticism of the SCAF mounted, disparate proposals were put forward by civil society and political parties to quicken the handover to a civilian government or establish civilian leadership bodies to guide the transition. Continued street protests against the SCAF that were met by excessive state force added urgency to these proposals as the country faced a major political crisis days before scheduled parliamentary elections were to begin at the end of 2011. The SCAF's response to these calls was to appoint a new government under its authority and establish an advisory council made up of presidential hopefuls largely associated with the former regime. These proposals were rejected by the opposition and civil society but they lacked little leverage points other than street protests to force an alternative outcome.[15] As the nation went to parliamentary elections, which saw a participation rate between 60-70 percent[16] and which results were widely accepted as legitimate despite the limited powers of the assembly, the crisis dissipated. Today Egypt faces renewed crisis over the appointment of the constituent assembly and the approaching presidential elections in May 2012.

Questions persist over the extent of power the SCAF will retain for itself even as a democratically-elected parliament has convened and civilian presidential elections have been scheduled. Given earlier indications, including the issuance of decrees by the SCAF in June 2011 limiting their liabilities for past crimes, many read the SCAF's ambitions as at least avoiding prosecution for any past crimes and maintaining supreme prerogatives in budgetary matters.[17] This coincides with the continuation of the emergency law, retention of the despised state security forces, expanded military trials of civilians, and a crackdown on civil society. Challenges to the parliament's and constituent assembly's legitimacy and its embroiled affairs could work to the advantage of the SCAF in the longer term. The impasse has led many analysts to conclude that Egypt's uprising failed to achieve a political transition, with predictions that the country will follow Pakistan's path of having a weak civilian government and divided polity.[18]

Transparent and Appropriately-Sequenced Electoral Timelines

In the context of the Arab Awakening there has been a heavy focus on quick elections from both internal opposition groups and external actors supporting the transitions. Elected regimes hold the legitimacy to rewrite constitutions and implement broad reforms needed to consolidate regime change, such as dismantling or overhauling the security services. Thus, prioritizing elections has been an important emphasis in Arab country transitions. Yet the differing experiences of Tunisia and Egypt suggest that despite the urgency to install newly representative authorities, elections should be appropriately sequenced, well-timed, and indepen-

dently administered. Transparent planning along these lines is an essential ingredient for creating conducive conditions so that elections facilitate rather than undermine the transition. Moving too quickly to elections or placing too much emphasis on institutional politics in divided, weak societies can hamper the move from autocracy.

How Tunisia approached these issues was a major variable in setting its relatively smooth transitional course. Of particular importance was the decision to first elect a constituent assembly to draft a new constitution before holding regular governmental elections. As in Egypt, there was a widely held concern that holding political elections under the former constitutions, which privileged the ruling party, would return the former regime to power. Perhaps more significantly Tunisia, like Egypt, faced the imperative of addressing societal grievances that sparked the revolts. Tunisia seized the opportunity to address both challenges when it prioritized constitutional reforms through an elected constituent assembly.[19]

Equally significant, Tunisia's interim government established an independent election commission (ISIE) to prepare for elections within a set period of four months. It presented an election law to the public within a month of announcing the decision to dissolve the 1958 Constitution and hold elections for a constituent assembly. These steps were pursued in a relatively transparent fashion and per recommendations of the High Commission. When faced with

low voter registration numbers the ISIE postponed elections on two occasions in order to extend the registration period and promote greater participation. Ultimately, less than 52 percent of eligible voters went to the polls, but overall the elections were a significant step forward for the country. A further test of progress will hinge on whether Tunisia is able to increase or at least maintain the voter participation rate in the next election cycle.

Egypt, on the other hand, proceeded in a bizarre order that was initially cast as SCAF "mismanagement" but which has since been interpreted as political calculation on the part of the military.[20] First, Egyptians were asked to vote in the referendum to affirm the 2011 Constitutional Declaration, which provided for the election of a circumscribed parliament to elect a constituent assembly tasked with drafting a new national constitution within six months. Parliamentary elections were then held in three rounds over six weeks according to an "incomprehensible" and "incomplete" election law drafted by the SCAF that retained much of the Mubarak-era electoral system.[21] Meanwhile, no date had been set for presidential elections, leading to ongoing street violence just a week before parliamentary elections took place.

Despite poor electoral conditions, Egypt proceeded with its elections. They took place in an atmosphere of goodwill and with no major boycott. With a high participation rate and few systematic criticisms from observers be-

ing registered, the parliament convened in January 2012. Though it provided a veneer of legitimacy, that is now being slowly stripped away as the current crisis over the appointment of the unrepresentative Constituent Assembly has provoked deeper political divisions.

Ennahda's public representations that it will not insist on defining Tunisia according to Islamic law (Shari'a), suggests that the country may be able to avoid a debilitating struggle over the identity of the country

Added to this development at the time of writing is the Muslim Brotherhood's reversal of an earlier pledge not to present a candidate for president. The announcement that Khairat el-Shater, one of the Brotherhood's leading figures, entered his candidacy for the presidency leads now to serious questions about its ultimate power ambitions.

Conclusion

This commentary has upheld the Tunisian transition as a sound example to follow for other Arab countries experiencing upheavals after decades of autocratic rule. The purpose is not to promote a wholesale adoption of Tunisia's approach, which would neither be feasible nor constructive. Country-specific conditions and geo-political realities must be addressed on a case-by-case basis. Rather the point is to stress the factors that have made a significant difference in allowing Tunisia to proceed toward a process of consolidating democratic gains as contrasted with Egypt, which is seized by legal and political disorder and impending economic collapse. It would be short sighted to allocate the differences between Tunisia and Egypt merely to the military largesse in the latter, albeit the strength of the military and its US backing played a large role in the dynamics of change. In places such as Syria, where the opposition faces a hard choice whether to agree to a negotiated transition with the current regime, attention to these three factors is warranted.

In Tunisia the people were desperately anxious to break with the past, but it achieved this through a process of negotiation with former regime elements and consensus-based, best practice planning led by the intelligentsia and backed by the public. In contrast, the Egyptian opposition accepted an instinctually preferred immediate break with the old order. But by allowing the highly invested military to lead the process, a scenario emerged where non-citizen based interests have been dictating developments.

Tunisia's progress, while relatively positive, is still tenuous. As the constituent assembly began the constitution-making process in February 2012, it now faces the hard task of avoiding a partisan document that reflects only temporary majority views. Conditions

exist in Tunisia for productive and representative engagement on the social, political, and economic challenges facing the country, but it will largely depend on how the Assembly conducts its decision-making and whether civil society is brought into the process. This presents its own challenges as Tunisia grapples to reinvent its own relationship with Islam and the state and tackle the long-standing marginalization of the interior, as well as reform its institutions. Ennahda's public representations that it will not insist on defining Tunisia according to Islamic law (Shari'a), suggests that the country may be able to avoid a debilitating struggle over the identity of the country.

Initial lessons learned from Tunisia and Egypt suggest that other countries going through transformations should consider prioritizing national consensus for a new constitutional framework under independent civilian leadership. While such leadership may not be immediately available in a negotiated transition, ad hoc shifts away from existing frameworks without guarantees for independent civilian leadership could lock anti-democratic powers. Rushing toward national parliamentary elections under imperfect conditions could protract political fights rather than create productive channels for social and political battles that will no doubt have to be worked out after decades of singular, coerced rule. The transition from autocracy and the consolidation of democracy showed be viewed as long-term endeavors with an emphasis on creating a sound

platform for transformation that reflects the broadest consensus possible.

Endnotes

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5. SCAF Constitutional Declaration 2011, Articles 56, 57, and 60, from, www.egypt.gov.eg/english/laws/constitution/default.aspx

6. Nathan Brown, "The Egyptian Constitution Rulebook for Change," *Middle East Channel --ForeignPolicy.com*, retrieved February 3, 2011, from http://mideast.foreignpolicy.com/posts/2011/02/03/the_egyptian_constitution_s_rulebook_for_change

7. Some opposition figures such as Mohamed ElBaradei expressed early distrust of SCAF's hold on power with calls for an expedited handover to civilian power, but there was virtually no opposition to the usurpation of the constitution and the SCAF's claim to interim executive authority.

8. At the time of writing, the legitimacy of the Egyptian parliament, which is charged with electing the Constituent Assembly, is being challenged in court on grounds of a flawed electoral law. In addition, multi-party and independent boycotts of the Constituent Assembly are threatening both its ability to function and the legitimacy of any constitutional outcomes.

9. The transition in Tunisia was contested with Prime Minister Ghannouchi claiming presidential powers under the 1959 Constitution. The

interference of the Court, however, resolved the matter peacefully.

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12. Linz and Stepan, *Problems of Democratic Transition and Consolidation: South America, and Post-Communist Europe*, p. 68.

13. Following criticism from both the left and the Islamic Ennahda party, the High Commission membership was expanded to 130 to address charges of underrepresentation. Ennahda still ended withdrawing from the Commission, charging it with a leftist, secular bias, and going too far with reforms before elections.

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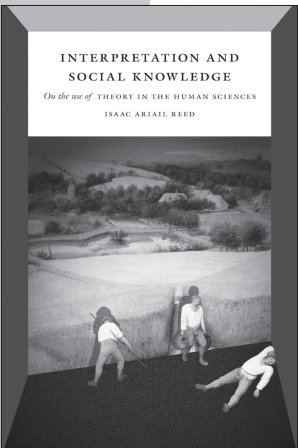
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21. Ibid.