

Analyzing Latest Political Developments in Tunisia: Unclear Paths for A Structural Change

RETHINKING **SECURITY** IN THE 2020s SERIES – ANALYSIS

By Yasmine Akrimi– BIC North Africa Research Analyst

INTRODUCTION

On September 22, 2021, Tunisian President Kais Saied enacted a decree that further expanded his grip over the country's political transition following the measures on the 25th July's that sacked the head of government and froze the parliament. A few days later, Saied appointed senior civil servant Najla Bouden to form a new government, the first female-led cabinet in the Arab region. A promising new path towards inclusion and power-sharing, yet insufficient to reassure both internal and external stakeholders.

DECREE 117: FULL POWERS TO KAIS SAIED IN THE ABSENCE OF COUNTER-POWERS

Tunisia finds itself again, a decade following the onset of major political and socioeconomic changes, at a crossroads. It is renegotiating the social contract that founded not only post-2011 political choices but, perhaps, the post-independence governance model as a whole.

Presidential decree 117 holds as its premises several points worthy of analysis.

First, in Saied's view, the people's will is unable to be expressed under the realm of the 2014 constitution. To a large extent this is true, yet it is not necessarily a legal problem but a political one.

The 2014 constitution fragmented political parties' power and allowed no clear majority to emerge, implement its policies, or be held accountable. It has been efficient in preventing the hegemony of a single political formation, yet in reality the constitution's weaknesses largely served the interests of the well-organized Islamists of Ennahda and deflected accountability from the failure of post-2014 governments. However, Tunisia's problems lie in its political elite and dire economic crisis which no constitution could handle on its own. The focus on debating the current political system puts the much-needed structural economic reforms in second place. The president's narrative about Tunisia's unlimited existing resources which simply need to be retrieved, as well as his disregard for the reality of market dynamics¹, also set unrealistic expectations no political system can fulfill.

A second premise of the presidential decree is that the Tunisian people expressed, at multiple times, their rejection of the mechanisms of governance in place. This is partially true, as no referendum was ever organized vis-à-vis the satisfaction, or dissatisfaction, of the mode of governance. Some Tunisians took to the streets to express their anger and frustration with the way the country was governed, and a significant number of them celebrated Saied's decisions in July, yet others have been protesting those same decisions, and still others voted for the political parties that have been sacked by the president's measures. "The people" is actually several ones.

Decree 117 maintained the constitution's Preamble and Chapter II relative to rights and freedoms. The parliament remains frozen, but not permanently suppressed. Its members' immunity remains lifted and, as a novelty, their bonuses and benefits have also been paused. The court for monitoring the constitutionality of legislations has been suppressed and the anticorruption commission suspended, and its president placed under house arrest². The president is in charge of all legislative

1 Per instance, the head of State recently disregarded the rating agency Moody's decision to lower Tunisia's Macro Profile score to 'Very Weak' from 'Very Weak+' although this decision means Tunisia is highly unlikely to be landed money from now on.

2 All house arrests have been lifted since October 10th.

reforms to the political system, with the help of a commission appointed by him. Until further notice, he will rule by decree, controlling both the legislative and executive branches. All of these dispositions are non-challengeable before courts.

Parliamentarian Yassin Ayari has been trialed before military court for an old Facebook post in which he criticized the military.³ Although officially, it was because his immunity has been lifted, the timing raised relevant criticisms as Ayari has been known to harshly oppose the 25th July's measures that he considers a coup. Although the use of military justice to convict civilians did not start with Saied, this practice is more worrisome in the realm of a one-man rule.

The groundbreaking presidential decree's measures are then a provisional organization of public authorities – also coined “a small constitution” – however Kais Saied insisted they are only exceptional measures.

A NEW FEMALE-LED GOVERNMENT WITH LIMITED PREROGATIVES

Two months following the consequent measures undertaken by Kais Saied, Najla Bouden, geologist and university professor, was appointed to head the new government. The cabinet has an impressive nine female ministers – the highest female ratio in a government in the country's history – at key positions as justice, finance, and industry. Although unclear how long this new formation will last as it is facing colossal challenges with very limited independent room for maneuver. This government is also responsible before the president, not the parliament.

Three ministers sacked by former head of government Hichem Mechichi returned in the new government in key positions: Leila Jaffel, who was in charge of State Property, was appointed to the Ministry of Justice; Kamel Deguiche took over the reins of the Ministry of Youth and Sports; and Taoufik Charfeddine returned to the strategic Ministry of the Interior. The latter was the regional coordinator of Kais Saied's presidential campaign, as was Malek Zahi, who was appointed to Social Affairs. A noteworthy change is the disappearance of the Ministry of Local Affairs,

³ A number of laws still allow for trying civilians before military courts in Tunisia.

formerly in charge of implementing decentralization which the country received enormous funds for.

From a feminist standpoint, Bouden's nomination, and the female ratio within the new government, might seem like great news but it signals no change to the country's patriarchal policies. During the annual celebration of the Personal Status Code (PSC) on August 13th 2020, Kais Saied chose to bury the project for equal inheritance between men and women, arguing the Quranic text is clear, the priority being to enshrine equality in socio-economic rights according to him. The Quran – which has remained a source of jurisprudence for Tunisian positive law – stipulates that a woman inherits only half the share of a man of the same degree of kinship. The Tunisian Association of Democratic Women (ATFD) had immediately denounced a "reactionary" and "populist" speech. Saied also argued the demand for equality in inheritance is not inscribed in equity and justice. However, inequality in inheritance's first victims are female agricultural workers who feed the country in miserable conditions without access to land ownership. Access to land ownership for women does not exceed 5% in Tunisia. The female agricultural workers are also paid less than male workers. This economic violence is at the foundation of equitable distribution of wealth, a staple of the president's narrative and the main demand of the 2011 revolution.

MIXED INTERNAL AND INTERNATIONAL REACTIONS

From the 25th July onwards, both local and external reactions to the head of State's measures have been cautious but overall positive. Tunisia's powerful labor union did not directly criticize Saied's measures. It called for a clear roadmap that would quickly end the exceptional measures. Regional players like Egypt, the UAE, and Saudi Arabia – sworn enemies of the Muslim Brotherhood and its affiliates – expressed their hope for proper stability in Tunisia. Neighboring Libya – itself torn between two governances – saw Khalifa Haftar supporting Kais Saied while the Tripoli-based government expressing some concerns. Yet, perhaps the most interesting reactions were that of Tunisia's most significant counterparts, the US and the EU – the latter which took time to issue any kind reaction. A possible explanation might be both parties' direct support for the country's democratic

transition since 2011, and hence hesitance to declare the process buried. Another could be US' fears regarding the failure of mainstreaming political Islam in Tunisia – or as Ennahda rebranded its movement, Muslim democracy – in the MENA. Although the U.S.' strategy vis-à-vis Brotherhood-inspired parties differs from one country to another, Ennahda's embracement of democracy's rules and its signaled separation between "religious" and "political" activities echo the expressed, post-Arab Spring American engagement for democracy in the region.

More than twenty hours after Saied's initial decisions were announced in July, the U.S. expressed its concern and urged calm without coining it as a coup. Its position later somehow evolved following decree 117's publication. A congressional hearing titled "Tunisia: Examining the State of Democracy and Next Steps for US Policy" was held on October 14 with the participation of several committee members and political experts. Committee Chairman, Congressman Ted Deutch, noted the positive moves taken recently, referring to the new government, yet also expressed a "deep concern" regarding democracy in Tunisia. The Senate Appropriations Committee then set specific conditions for its approval of aid under the Foreign Military Financing Program.⁴ The Committee requested a State Department report to verify the extent of : 1, whether or not the Tunisian military participated in or supported the decline of democracy in Tunisia; 2, the Tunisian government's use of the military to support authoritarian measures; and 3, the credibility of the measures taken by the Tunisian government to restore constitutional order and democratic governance, while guaranteeing freedom of expression, organization, press, and political parties' members' rights. A 45-day deadline was set for receiving the report.⁵

A similar position has been echoed by the EU. A lengthy discussion regarding the situation was held in the European Parliament's plenary Tuesday 19 October. Seventeen parliamentarians of different political movements intervened on the question before High Representative for foreign affairs Joseph Borrell concluded the ultimate objective of the EU is a return to constitutional normality in Tunisia. A

4 The funds are part of the U.S. program of international security assistance and bilateral economic assistance.

5 https://www.appropriations.senate.gov/imo/media/doc/SFOPSFY2022_Final.PDF, pp. 196-197.

resolution was voted on Thursday 20 October, notoriously insisting any financial support to Tunisia must be accompanied by a return to parliamentary democracy.

However, this joined call is highly unlikely to materialize, even for those hoping for early legislative elections. A political system in which the parliament plays a significant role is simply hard to imagine in the upcoming phase. During the televised governmental oath taking ceremony, President Saied displayed a number of pictures showcasing scenes of chaos which were regularly taking place inside the now frozen parliament. He reiterated the idea that the 25th of July was a historical moment for Tunisians. Saied also renewed his refusal of a national dialogue that includes intermediary bodies. The head of State is clearly determined to build a bottom-up approach to governance, directly addressing the country's "youth", rendering *vox populi* a governing model, not merely a consultative process.

Tunisia is heading towards a new, perhaps revolutionary, yet highly unclear path. Although the president's project and its implementation mechanisms remain rather vague, a transition process that excludes the country's strong civil society as well as the absence of a nation-wide, cross-ideological strategy to restructure the economy are worrying signs that whatever the future political system will be, it will fail to meet Tunisians' expectations for prosperity.

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Author

Yasmine Akrimi | North Africa Analyst



 @BICBrussels  @bicrhr  BIC

 www.bic-rhr.com  info@bic-rhr.com

 Avenue Louise, 89 1050, Brussels, Belgium  Tel:+32 027258466