

TUNISIA'S 25TH OF JULY: THE END OF A CRISIS OR THE START OF A NEW ONE

ANALYSIS



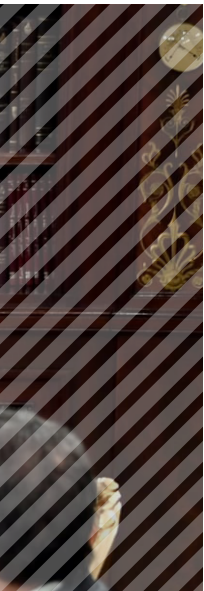
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Abstract: The 25th of July has become a highly symbolic date in Tunisia, not only as the anniversary of the first republic's proclamation in 1957, but also as a date marked by key events throughout the Tunisian transition. The recent exceptional measures announced by President Kais Saied on that date, however, did not come as a surprise, but rather constitute the culmination of the protracted and multifaceted crisis that has affected Tunisia for the last several years. Received with relief by a majority of the people but contested by part of the political class and civil society, the president's bold move undoubtedly raises questions about the future of Tunisia's democratization process. This paper will attempt to review the root causes that led to this crisis and to the president's latest decision. It will also address the possible impact and prospects of this exceptional situation on Tunisia's democracy.

Introduction

The 25th of July has become a highly symbolic date in Tunisia, not only as the anniversary of the proclamation of the country's first republic in 1957, but also as a date most recently marked by key events throughout the Tunisian democratic transition. In July 2013, the assassination of constituent assembly member Mohamed Brahmi dealt a serious blow to Tunisia's transition, triggering one of the tensest political crises faced by the country and which threatened to derail its democratization process. It was eventually overcome through an inclusive national dialogue and efforts from all parties to compromise and build consensus. In July 2019, the death of President Béji Caïd Essebsi and the peaceful transfer of power to interim authorities until general elections could be held yet again guaranteed the healthy state of Tunisia's young democracy.

Therefore, the events that took place on the 25th of July 2021 – first the violent popular protests calling for the government's resignation and parliament's dissolution, and later the president's exceptional measures – were received with shock by several foreign analysts. The events opened an intense debate on whether the widely praised Tunisian democracy – the sole survivor of the Arab uprisings – was now under threat. More seasoned experts of Tunisian politics and Tunisians themselves were, however, less surprised. For months, the country's political, socio-economic and sanitary conditions had been deteriorating with popular discontent simmering. The situation had become so untenable that the question

was no longer how it could be solved, but rather when and how the social explosion would occur.

Criticized by some as a possible return to dictatorship, but regarded by others as a last resort solution, President Saïed's bold decision undoubtedly raises questions about the future of Tunisia's democracy. Only a few weeks after these events and as the situation on the ground remains fluid and uncertain, this paper seeks to review the main causes that led to these exceptional circumstances, and to address the possible impact that the next steps might have on Tunisia's democratization process.

1- Anatomy of an intractable crisis

While the recent developments in Tunisia have mostly been understood as a consequence of the political, economic, and sanitary crisis that has affected the country over the last few months, its roots in fact run far deeper than often described and even precede Kais Saïed's accession to the presidency in October 2019.

The widespread malaise and popular resentment that fuelled this crisis and led to the events of the 25th of July have been latent for years. The results of the 2019 general elections that propelled the political outsider Kais Saïed to the head of state, while at the same time filling a scattered parliament with a mix of populists, sovereignists, radicals, former regime holdovers and a crowd of independents, were a direct expression of this general feeling of exasperation towards an inefficient and self-interested political establishment.¹

Over a decade of transition, the crisis of confidence between the Tunisian citizens and their elected representatives, indeed, only grew deeper. In the public's views, not only had the ruling elite failed to deliver on the revolution's main demands – employment, dignity, and social justice-, it had also become increasingly disconnected from local realities, monopolizing the state's structures and resources to serve their own and their supporters' interests rather than that of the nation.

While the latest electoral results mainly aimed at sanctioning the political elite, they also sowed the seeds for the most recent political deadlock. Indeed, the hybrid political system enshrined in the 2014 constitution quickly revealed its limits in the face of the unforeseen political configurations that emerged from both the 2014 and 2019 ballot boxes. The normal functioning of institutions over the last few years has been obstructed by an inability to build stable and coherent ruling majorities or form an effective and

constructive opposition within a fragmented parliament; cabinet positions distributed on the basis of partisan loyalty rather than competency; persistent tension and mistrust within the executive branch; widespread corruption and vested interests at all levels of the state, etc.

The political crisis most recently culminated in open confrontation between the ‘three heads’ (President, Prime Minister and Speaker of parliament), notably as the president obstructed the cabinet reshuffle of January 2020, leaving a dozen ministerial positions vacant,² and blocked the amendment of the law establishing the Constitutional Court,³ an institution whose establishment was already due six years ago. The failure (or unwillingness) to solve the conflict and reform the political system, especially due to the absence of the Constitutional Court envisioned by the Tunisian constitution as an arbiter between the heads of the executive (art. 101) and as an essential stakeholder in any constitutional revision process (art. 144), rendered the whole situation even more intractable.

Moreover, the poor performance of other institutions, including the judiciary and the police, further undermined the state apparatus’ credibility in the eyes of the people. Violent crackdowns of social protests;⁴ assaults against journalists;⁵ repeated violations of freedom of expression,⁶ and a concerning return of torture and death in custody,⁷ all these practices persisted in the transition period, albeit at a narrower scale. The lack of reform of a judiciary system that still falls short of genuine independence and was again recently marred by scandals,⁸ as well as the perceived ability of those with sufficient resources and political connections to escape justice, further left Tunisians with bitterness towards the overall democratic experience. Indeed, for many Tunisians, their country’s ruling system has lost most of its budding democratic nature, including core values such as accountability, equality before the law and representing the will of the people.

The revolution’s failure to result in tangible benefits for citizens, including an improvement of their daily living conditions, thus triggered increasing disengagement from politics. Instead, recurrent street protests over the last few years⁹ have become, for many Tunisians, the only way to be heard by the authorities.¹⁰ For the first six months of 2021 only, Tunisia registered 7,773 social protests, compared to 4,566 for the same period in 2020, according to recent statistics.¹¹

Indeed, over the ten years since the Tunisian revolution, economic indicators have shown little signs of progress, and further worsened with the onset of the Covid pandemic in 2019. Chronic unemployment (17.8%) more severely affecting women (24.8%) and young

graduates (30.1%); rampant inflation (6.4% in July 2021, up from 4.9% in December 2020); a sharp decline in economic growth (-8.8% in 2020) and an exploding public debt (87% of the GDP in 2020), have only widened the existing social gaps and inequalities.¹² A persistent feeling of neglect and marginalization in the rural and interior regions of the country, where the most basic services are not available and the State remains largely absent, has deprived a whole generation of hope and future prospects in their country, instead fueling waves of both illegal migration and professional brain drain.¹³

Eventually, the mismanagement of the Covid crisis after the summer of 2020 was the last straw. While Tunisia had handled the first wave of the epidemic (spring 2020) with limited damage, the authorities' failure to offer a coordinated response to the new surge of the virus quickly resulted in the healthcare system's collapse, and in skyrocketing figures that placed Tunisia at the top of African and Arab countries with the highest per-capita death toll and infection rates.¹⁴ The division displayed by the ruling class further weakened the bonds of trust between Tunisian citizens and the political elite. The latter lost the moral authority necessary for imposing strict restriction rules, and lacked the credibility to take up a proper leadership role in a crisis that was inflicting unprecedented human and economic losses on the country.

On the eve of July 25th, Tunisia had turned highly sensitive with even the slightest triggers risking an upheaval. While experts had expected possible social turmoil or violent popular protests,¹⁵ the situation took a different turn with President Saïed's announcements.

2- July 25th: A power grab or option of last resort?

As it has become customary on commemorative dates in Tunisia, the celebrations of the 64th anniversary of Republic Day on 25 July were marked by violent protests throughout the country. Rallying the call of social media activists or showing up spontaneously, hundreds of protesters took to the streets to express their anger at the country's deteriorating situation and to denounce the ruling elite's carelessness. Political party offices, mainly that of the Islamist party Ennahdha, were stormed in several cities, including El Kef, Monastir, Sousse, Sfax and Tozeur by protesters who demanded the parliament's dissolution and the government's dismissal.¹⁶

Later that evening, during an emergency meeting with senior military and security officers, President Saïed announced a series of exceptional measures taken, in his own words, on the basis of article 80 in which he suspended all of parliament's prerogatives and activities, lifted the immunity of its members and dismissed the head of government, amongst

others.¹⁷ While these measures seemed to be a direct answer to the protesters' demands, the president had already warned on several occasions against the state's dissolution and had threatened to use the necessary means against those that he accused of "looting the people's resources" and "seeking to destroy the institutions."¹⁸ Calls for the President to use article 80 in order to end the political deadlock had also multiplied over the last few months, emanating not only from protestors but also public personalities and political party figures,¹⁹ with rumors of a possible 'constitutional coup' circulating earlier in May.²⁰ However, a number of legal experts and political parties' members, chief of which was Ennahdha, immediately denounced the President's move as a "violation of the constitution" and a "coup against democracy."²¹

Extensive debates have already occurred on whether the President's free interpretation of article 80 constitutes a 'coup', a 'power grab', or a 'constitutional coup' and whether the country is heading towards a 'constitutional dictatorship'.²² This disputed interpretation is mainly due to the ambiguous wording of article 80, itself largely inspired from article 16 of the French constitution.²³ The noticeable lack of a definition of what constitutes an "imminent threat to the nation, the country's security or independence" that could prevent "the normal functioning of state institutions", and of the type of "measures" that could be taken in these "exceptional circumstances" is the main source of controversy, as it leaves these conditions to be determined solely by the ruling authorities' judgement. While such a risk had already been pointed out by members of the National Constituent Assembly at the time of elaborating the text, these concerns were eventually disregarded.²⁴

The drafters had elaborated article 80 envisioning a context of collaboration and consultation between state institutions to define and handle the extraordinary circumstances that the country may have to face in the future. However, they did not imagine that the institutions themselves could be at the heart of the crisis. Moreover, the drafters did not envision the absence, seven years after the constitution's adoption, of a Constitutional Court to help interpret the article. This enabled the president to advance his own interpretation of the constitution, and his supporters choose to endorse his more political than legalistic reading of the text.

When read literally, indeed, not all conditions were fulfilled for article 80's activation. The requirement to consult both the Prime Minister and the Speaker of Parliament, though confirmed by the President, was denied by the Speaker of Parliament (though he initially

confirmed his receiving notification from the President),²⁵ while the Prime Minister has made no comments on this point since his removal. It is most probable that a form of ‘consultation’ did effectively take place, but without the President clearly specifying the type of exceptional measures that he was about to implement. The article also requires informing the President of the Constitutional Court of this decision, but in the absence of this court, several legal scholars considered that, on the basis of article 72, the President is entitled to interpret the constitution.²⁶ Moreover, the other institutions’ opinions are not specially defined as having a compulsory or binding value as done elsewhere in the constitution (ex. in art. 106), thus seemingly supporting the President’s reading of the text.

Beyond the conditions of article 80’s implementation, some of the President’s announced measures have also raised controversy. Among them, the decision to freeze parliament’s activities, while the constitution explicitly states that the legislature should be “in a state of continuous session,” and his choice to appoint a new head of government and a new cabinet, while “no motion of censure can be brought against the government” during this period. Eventually, the President’s announcement that he would head the Public Prosecution in cases related to members of parliament who had escaped justice by means of their immunity was largely denounced as political interference in judicial affairs and an infringement on the judiciary’s independence. Several political and social stakeholders have voiced their apprehension of this excessive concentration of power in the sole hands of the President, particularly in the absence of any institutional checks.

For their part, ordinary Tunisians have expressed little concern for these legal technicalities. Most received with relief and enthusiasm what they saw as a move needed to solve the crisis, and threw their support behind the President’s decisions.²⁷ More radical voices went so far as calling the President to further dissolve the entire parliament. Furthermore, some political parties that had initially denounced the illegality of the President’s move or disagreed with his interpretation of the constitution eventually sided with the people’s “legitimate demands”, underlying the political necessity of such measures.²⁸ President Saïed himself, although arguing to be acting “within the framework of legality,” insisted not only on the legality of his decision, but also its “political legitimacy” and the necessity to “face up to his responsibility in front of the people.”²⁹

More broadly, it remains to be answered if any other alternatives would have been possible rather than the president’s radical measures. While not enough time has passed to make

this assessment, what is certain is that the traditional ways of crisis management in Tunisia, including national dialogues, political bargaining and consensus building between parties, have run their course. President Saied is obviously determined to change the rules of the game, but how remains yet to be seen.

3- The way forward: restoration, reform, or establishment of a new system?

The question that has been on everyone's lips over the last few days is: Where is Tunisia heading now?

Except for the announcements made on 25 July, and the following implementation decrees, President Saied has not yet unveiled any detailed plan for the next steps of the process, or any clear vision on where he is taking the country. While the President has explicitly expressed his desire to fight corruption and restore accountability and citizens' equality before the law, how he intends to politically rebuild the country and get it back on track remains unclear.

In the first few days following the President's move, most external observers and Tunisian stakeholders had indeed expected the President to open negotiations with political parties, quickly proceed with forming a cabinet and issue a roadmap laying out the measures that would enable a swift return to the state's normal functioning. This, however, did not happen. Indeed, this analysis was reached through the same classical framework of crisis management that have helped solve conflict in Tunisia since 2011. From the outset though, President Saied has shown that he is not following any traditional script, but one of his own making, which includes a good measure of caution and opacity.

The President rather opted to focus on the Tunisian people's most immediate concerns, namely the sanitary crisis and economic situation, while leaving political reforms to the second stage. Additional measures to cope with the epidemic were thus quickly announced, including further limitation of public gatherings, a modification of curfew hours,³⁰ and the setting up of an operation room to coordinate the management of the Covid-19 crisis, involving representatives of various Ministries (Interior, Defense, Foreign Affairs, Health, Transport and Local Affairs) and reports to the President on a weekly basis.³¹ Diplomatic efforts undertaken over the last few weeks has also enabled Tunisia to secure sufficient vaccine doses to boost its vaccination campaign (now reaching about 4.8 million doses administered and close to 14% of its population fully vaccinated), and significant medical supplies, including much needed oxygen, to relieve some of the pressure on the healthcare system.

On the economic front, the president's coordination meetings with syndicates and unions from various economic sectors and his calls to lower the prices of basic necessities as part of a national effort to boost Tunisian households' purchasing power,³² have been positively received by an exhausted population and partly followed by some traders. The sensitive and long-delayed issue of economic reconciliation with businessmen involved in corruption cases under the former regime was also put on the table shortly after the 25th of July. Involving no less than 460 cases, the 'penal settlement' brought forward by the president aims at returning close to 13.5 billion dinars (4.1 billion euros) of stolen money to the Tunisian people by establishing mechanisms through which this money would be invested in development projects in the country's most deprived regions. In exchange, legal proceedings against the concerned businessmen would be ended and penalties dropped.³³ However, beyond these immediate steps, a more detailed plan on how the President intends to fix a devastated economy and address Tunisians' socio-economic grievances is still missing.

At the political level, delays in the announcement of the new head of government and the cabinet promised by the President have started to raise concerns among both Tunisian and international stakeholders, who fear that the president might eventually be willing to retain all executive power in his hands. The lack of a roadmap and transparency with regards to the next steps, especially what will happen after the expiration of the 30 days period announced by the President, may also erode the people's confidence in the President once the euphoria has dwindled down. Pressure has thus been mounting and voices have urged the president to communicate his intentions more clearly. The President's entourage responded by sending reassuring messages stating that decisions regarding the next steps are being carefully devised and will be announced in due time.³⁴

At this stage, one can only make assumptions about what measures the coming period will entail, based on the political vision that President Saied had consistently defended during his presidential campaign and even before. The President has made no secret of his dislike for the 2014 constitution as conceived by its drafters, and in particular for a political regime that, in his view, marks no real break with the system of governance in place since independence and that has failed to adapt to Tunisia's present realities.

³⁵ It remains to be seen whether and how he will take this historical opportunity to implement his own preferred model of a direct democracy that would give more room to local voices and forces. However, the following points certainly need to be addressed in the short term:

- **Executive power:** Three weeks after the 25th of July's announcements, the promised cabinet that would assist the President in exercising executive power is not yet in place. President Saied, instead, has limited himself to individual nominations for positions that have recently remained vacant (ex. Ministry of Health) or that he has himself dismissed (ex. Ministry of Interior, Ministry of Defense). While various names have been circulating lately for the position of head of government, none has been officially confirmed. In practice, though, this appointment would bring little change in the exercise of executive power. As announced by the President, he himself will appoint members of the cabinet (in consultation with the Prime Minister), head the council of ministers (unless he asks the Prime Minister to do so), and the cabinet will be responsible before him, therefore reversing the balance of power within the executive branch provided for in the constitution. As such, the head of government will end up being a mere agent of the president's decisions, and most executive power will remain in the president's hands, at least during the state of exception and in the absence of parliament to act as an effective counter-power. The fact that the President has already initiated cabinet nominations in the absence of a head of government is a telling indication in this regard.

One of the few reasons appointing a Prime Minister may become urgent relates to the possible situation of the President being incapable of performing his duties. While the Prime Minister is constitutionally entitled to substitute the President in case of temporary disability (art. 83-84), and the Speaker of Parliament should replace him in case of absolute incapacity (art. 84), the absence of the first and the freezing of parliament, whose Speaker has become the most contested political figure on the Tunisian scene today, could drive the country into an institutional vacuum in this extreme scenario.

- **Legislative power:** The parliament's future is one of the greatest unknowns in Tunisia. While its dissolution is not permitted under the provisions of article 80 - explaining why President Saied opted to freeze its activities - several alternative options have been envisioned, none fully convincing. Simply restoring the parliament under its existing form is certainly out of order, as this institution is now largely discredited in the populace's view. Rumors of a collective resignation and the body's self-dissolution have also circulated, but are hardly realistic. One debatable scenario would be the parliament's restoration but with indicted MPs losing their seats. Indeed, investigations have been opened against the major parties in parliament, namely Ennahdha (52 seats) and Qalb Tounes (38 seats), for irregularities in their campaign funding for the 2019 general elections, including possible foreign funding,

that have been pointed out by a recent report of the Court of Accounts.³⁶ Were the charges to be confirmed, they could result in several members of parliament losing their seats (and possibly whole candidate lists being dropped) according to article 163 of the electoral law. Overall, beyond the issue of campaign funding, an estimated 54 members of parliament, who were able to evade justice by means of their immunity, could face trial for charges as diverse as tax fraud, cheque kiting, corruption, conflicts of interests or sexual harassment, and thus be excluded from parliament. This could possibly lead to partial elections to fill the vacant seats (art. 34, electoral law), and result in a more politically diverse but not necessarily more stable legislature. A question that remains in this configuration is whether the reshuffled parliament would be more willing to collaborate with the executive than the previous one, and whether it would support a cabinet that it did not contribute to form in the first place. An additional issue is the legal validity of investigations conducted against members of parliament if the President heads the Public Prosecution as he has announced.

- **Anticipated elections and revision of the electoral law:** While the dissolution of parliament and the organization of early legislative elections face strict conditions in the constitution,³⁷ there are still repeated demands on the political scene for the President to take these measures.³⁸ Should these elections take place and be conducted under the existing electoral law, they may result in an equally or even more scattered parliament than the current one. The electoral system in place (a proportional close-list system with highest remainders) had been envisioned and designed for the election of the National Constituent Assembly back in 2011 that called for a politically diverse institution. However, the failure of previous and current legislatures to revise and adapt it to Tunisia's new political reality and partisan landscape eventually resulted in an unworkable legislature. Conditions for the electoral law's revision, possibly by presidential decree through dialogue with political and social forces, as well as for the possible holding of elections in the current tense economic and sanitary situation would thus need to be carefully thought out. Another question for possible future elections is which new political forces could emerge on the Tunisian scene, as most existing parties have lost their credibility. More broadly, this raises the question of the role the different political parties will play in the coming period.

- **The role of political parties in the new configuration:** Since the 25th of July, the President has seemed in no rush to open a dialogue with political parties. While he has already consulted several social forces and civil society organizations, political parties have apparently been intentionally sidelined and might end up with little say in the presidential roadmap currently under elaboration. For their part, most political parties have expressed no clear vision, nor made proposals for the next steps, adopting instead a wait-and-see attitude until the President unveils his plans.

The President's behavior appears in line with his broader conception of doing politics, i.e. by circumventing parties to speak directly to the people. Should a dialogue eventually happen, it will "not take place the way previous dialogues were held",³⁹ as already explicitly stated by the President months ago. Indeed, the option of a national dialogue has been on the table for quite some time now, initially backed by the main workers' union UGTT to bring an end to the political deadlock. However, the President has repeatedly rejected "the top-down approach traditionally used in Tunisia" to solve conflict which, in his view, has served to "legitimate traitors and thieves."⁴⁰ Nevertheless, it may prove unsustainable to exclude the political class from the discussion over the long run as political parties, although weakened by the current crisis, remain a reality of Tunisian politics and any future political reform may require their support.

The place of political parties in the future configuration thus remains unclear. Whether their sidelining is only temporary or reveals more profound changes at play will largely depend on the President's objectives for the coming period, that is, whether he simply aims at reforming the existing ruling system to make it more efficient or at radically reversing it and undertaking what some of his supporters have called "a revolution of institutions."⁴¹

- **Towards a Third Republic?** For many Tunisians today, a radical refoundation of the ruling system and the advent of a third republic have become unavoidable. Not only the President but multiple voices, including legal scholars and political figures, have for years highlighted the flaws of the 2014 constitution and called for its revision. In their efforts to prevent the return of an authoritarian regime, the constitution drafters indeed "placed locks everywhere" in the constitution,⁴² while several formulations have also been left ambiguous for the sake of reaching consensus, but eventually caused several political blockages in their implementation.

In practice, however, changing the political regime would require either the amendment of the 2014 constitution or, as suggested by some including the President, its possible replacement by

an amended form of the 1959 constitution. Implementing either option may pose serious difficulties. Procedures to amend the constitution are clearly spelled out in articles 143 and 144 of the 2014 constitution. They explicitly provide that any proposal to amend the constitution must get the opinion of the Constitutional Court to check its constitutionality and must eventually be adopted by two-thirds of parliament, with popular referendum being only an additional and optional step. The Constitutional Court's absence explains why the much-needed revisions of the constitution have not taken place over the last several years.

Whether the President, under the cover of his current exceptional powers, would decide to circumvent both a frozen parliament and an absent Constitutional Court to resort directly to a referendum to approve any constitutional revision is a possible option, all the more so were he to argue on the basis of article 3 which stipulates that the people are "the source of all powers, which they shall exercise through their freely elected representatives or by referendum." Returning to the 1959 constitution is a trickier scenario, although the President could similarly resort to a referendum to seek the people's opinion on this option or approve an amended version of the text. The practical revision of the document to make it relevant for the current and coming periods may also prove difficult. Comparatively, the 2014 constitution is much more advanced, notably with regards to rights and freedoms, but also independent constitutional bodies, and a return to the independence constitution may thus appear as a step backward. Symbolically as well, discarding the 2014 constitution, despite all its flaws, may turn out to be unpopular as it still embodies years of work and efforts at building consensus and an important page of Tunisia's transition that cannot easily be thrown away in the dustbin of history.

Conclusion

Halfway from the expiration of Tunisia's 30-day period of state of exception, a general sense of optimism still prevails among most Tunisians, especially as the sanitary situation has experienced some notable improvement in the last few days, and symbolically strong steps to hold corrupt political figures accountable have been initiated.

Nevertheless, the President's limited communication of his intentions has started to raise doubts among both Tunisia's political class and civil society and the international community. While no return to the pre-25 July state of things is envisioned, the lack of a clear roadmap for the next steps, and the President's choice to not involve any political or social parties in its elaboration, challenges the widespread expectation of a swift return

to a form of normality. While many Tunisians have been willing to trust the president, or have endorsed his move by default, the experience of decades of an authoritarian rule have left them suspicious and wary of any prolonged concentration of power in the hands of one political figure, especially in the absence of any institutional checks.

However, while many observers have expressed concerns about the state and future of democracy in Tunisia, the main concerns today are not primarily the disputable measures recently imposed by President Saied, which most Tunisians consider a small price to pay for a return to a functioning state and which the international community has tacitly endorsed, but whether these measures will resolve the dysfunctionalities of the post-transition system.

Even more than his election to the presidency in October 2019, President Saied's move on the 25th of July 2021 has raised huge expectations among Tunisians who are now waiting to see concrete achievements, and will closely monitor any future moves. If the President succeeds in (re)building efficient and accountable institutions and a system of governance that gives more space to local voices and opportunities for citizens to be part of the decision-making process and play an effective role in designing the future of their country, it could restore Tunisians' confidence in a democratic model that has long excluded them.

But in the absence of any viable alternative to the President's initiative given that the political scene remains highly divided and deprived of any concrete vision for the country, a failure to gather broad political, social and popular support for the path initiated on 25 July and to rebuild a national project in the most inclusive manner could drive the country into a new period of uncertainty and instability.

The coming weeks will tell if July 25th will be remembered as a historical date and the revival of Tunisia's democratic experiment or as its worst failure.

Endnotes

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- 13- 13, 466 illegal migrants from Tunisia (including 70% of Tunisian nationals) were intercepted on their way to Italy in 2020, representing a fivefold increase from the previous years, according to a report of the FTDES (<http://www.ftdes.net/rapports/fr.decembre2020.pdf>). On the issue of Tunisians' legal and illegal migration, see also Lakhal, M., "Tunisia: Illegal migration and brain-drain, two sides of the same coin", *Nawaat*, 7 May 2019: <https://nawaat.org/2019/05/07/tunisia-illegal-migration-and-brain-drain-two-sides-of-the-same-coin/> .
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- 16- Amara, T., "Protests across Tunisia target Ennahada party over political crisis", *Reuters*, 25 July 2021: <https://www.reuters.com/world/africa/protests-across-tunisia-covid-19-surges-economy-suffers-2021-07-25/>
- 17- President of the Republic heading an emergency meeting with senior military and security officers, 25 July 2021: <https://www.facebook.com/271178572940207/videos/323343259519706> . These measures were further detailed in presidential decrees issued in the following days.
- 18- President Kais Saied's meeting with former heads of government, 15 June 2021: <https://www.facebook.com/271178572940207/videos/324260272504583> ; President Kais Saied's meeting with the Tunisian diaspora in Rome, 18 June 2021: <https://www.facebook.com/271178572940207/videos/358810755666549>
- 19- See for instance « Kamel Akrouf invite le chef de l'Etat à activer l'article 80 de la constitution », *Business News*,

12 July 2021: <https://www.businessnews.com.tn/kamel-akrout-invite-le-ef-de-letat-a-activer-larticle-80-de-la-constitution.520.110029.3>

20- "Tunisia: President denies 'coup' plan after days of speculation", *Middle East Eye*, 27 May 2021: <https://www.middleeasteye.net/news/tunisia-president-denies-coup-plan-days-speculation>

21- Statement by Ennahdha's President Rached Ghannouchi, 26 July 2021: <https://www.facebook.com/185603771463757/videos/394377522393886>

22- Jrad, E. "Constitutional or Unconstitutional: Is that the Question?", Arab Reform Initiative, 3 August 2021: <https://www.arab-reform.net/publication/constitutional-or-unconstitutional-is-that-the-question/>

23- Article 16 of the French constitution of 1958 reads as follows:

"Where the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfilment of its international commitments are under serious and immediate threat, and where the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take measures required by these circumstances, after formally consulting the Prime Minister, the Presidents of the Houses of Parliament and the Constitutional Council. He shall address the Nation and inform it of such measures. The measures shall be designed to provide the constitutional public authorities as swiftly as possible, with the means to carry out their duties. The Constitutional Council shall be consulted with regard to such measures.

Parliament shall sit as of right. The National Assembly shall not be dissolved during the exercise of such emergency powers. After thirty days of the exercise of such emergency powers, the matter may be referred to the Constitutional Council by the President of the National Assembly, the President of the Senate, sixty Members of the National Assembly or sixty Senators, so as to decide if the conditions laid down in paragraph one still apply. The Council shall make its decision publicly as soon as possible. It shall, as of right, carry out such an examination and shall make its decision in the same manner after sixty days of the exercise of emergency powers or at any moment thereafter."

24- Excerpt from the debate on article 80 at the plenary session of the National Constituent Assembly, 12 January 2014: <https://www.facebook.com/watch/?v=846594569319896>

25- "Al-Ghannouchi yakshaf zan mokalamat " 'istisharatho" min taraf Kais Saied [Al-Ghannouchi reveals the call of 'consultation' from Kais Saied]", *Tunisia Sat*, 26 July 2021: <https://www.tunisia-sat.com/forums/threads/4217654/>

26- Article 72 of the Tunisian constitution stipulates that, as the head of the State, the President of the Republic "shall represent its unity and guarantee its independence and continuity, and shall *ensure respect of the constitution*" (Emphasis added).

27- Abueish, T., "Nationwide poll finds 87 pct of Tunisians support President Saied's decisions", *Al Arabiya English*, 29 July 2021: <https://english.alarabiya.net/News/north-africa/2021/07/29/Nationwide-poll-finds-87-pct-of-Tunisians-support-President-Saied-s-decisions>

28- See for instance the state of the following parties: Ettakatol, 26 July 2021: <https://www.facebook.com/ETTAKATOL.FDTL.Officiel/photos/a.125680620844846/4333438786735654/>; Machrou Tounes, 26 July 2021: <https://www.facebook.com/Machrou3ouna/photos/4230666950385422>; the Democratic Current's Political Bureau, 26 July 2021 : <https://www.facebook.com/Attayar.page.officialle/photos/4166034610151934> and its National Council, 29 July 2021: <https://www.facebook.com/Attayar.page.officialle/photos/4175397449215650>

29- President's meeting with representatives of national organizations, 26 July 2021: <https://www.facebook.com/271178572940207/videos/975717983206668>

30- The curfew hours that were already in place throughout the month of July from 8 pm to 5 am were changed to 7 pm-6 am on 26 July 2021 (presidential decree No. 2021-70), and then reduced from 10 pm to 5 am on 1 August 2021 (presidential decree No. 2021-83).

31- Presidential decree No. 2021-77 of 28 July 2021.

32- « Tunisie : Saied appelle les commerçants de gros et de détail à baisser les prix, et les mets en garde contre toute tentative spéculative », *GnetNews*, 29 July 2021: <https://news.gnet.tn/tunisie-saied-appelle-les-commerçants-de-gros-et-de-détail-a-baisser-les-prix-et-les-mets-en-garde-contre-toute-tentative-speculative/>

33- President Saïed had prepared a first draft of this bill and had started to discuss it with political parties already back in October 2020. It is worth noting that this project is very similar to the legislative initiative presented by late President Béji Caïd Essebsi in July 2015, which, at the time, had been widely decried as an attempt to whitewash corruption and as sapping the process of transitional justice.

34- « Tunisie : Le choix d'un chef de gouvernement se fait avec circonspection, les grandes lignes de la feuille de route sont en train d'être esquissées (Hajjem) », *GnetNews*, 6 August 2021: <https://news.gnet.tn/tunisie-le-choix-dun-chef-du-gouvernement-se-fait-avec-circonspection-et-les-grandes-lignes-de-la-feuille-de-route-sont-en-train-detre-esquissees-hajjem/>

35- Dahmani, F., « Tunisie : 'L'erreur c'est la Constitution elle-même' », *Jeune Afrique*, 31 January 2014 : <https://www.jeuneafrique.com/165867/politique/tunisie-l-erreur-c-est-la-constitution-elle-m-me/>

36- General report of the Court of Accounts presenting the results of its monitoring of the funding of the electoral campaigns for the anticipated presidential elections and the legislative elections of 2019 and the monitoring of party finances, issued in November 2020: http://www.courdescomptes.nat.tn/upload/RapportSepec/rapport2020/rapport_election.pdf. The opening of the investigations dates back to 14 July 2021, i.e. precedes the president's announcement of 25 July. Moreover, in the immediate aftermath of the 2019 elections, one of the running parties, the Democratic Current, had already filed a complaint with the courts for similar allegations, but the case had seemingly been shelved. See for instance Hedoui, K., "Tunisian judiciary opens probe into election finances of Ennahda, Qalb Tounes", *The Arab Weekly*, 29 July 2021: <https://the arabweekly.com/tunisian-judiciary-opens-probe-election-finances-ennahda-qalb-tounes>

37- According to the constitution, the parliament can be dissolved only if it fails to pass the vote of confidence to the government (art. 89; art. 99). The only option for the President to constitutionally dissolve the parliament and call for early elections would thus be to restore it and present a cabinet that would be rejected by the parliament.

38- "Early elections emerge as an option to end Tunisia's political impasse", *The Arab Weekly*, 19 June 2021: <https://the arabweekly.com/early-elections-emerge-option-end-tunisias-political-impasse>

39- President Kais Saïed's meeting with former heads of government, op. cit.

40- Brésillon, T., « Tunisie. Un 'moment césariste' sans César », *Orient XXI*, 13 July 2021: <https://orientxxi.info/magazine/tunisie-un-moment-cesariste-sans-cesar,4906>

41- Aliriza, F., "Who is Kais Saïed? His Voters and Former Students Speak", *Meshkal*, 26 September 2019: https://meshkal.org/?p=459&fbclid=IwARoFiztce1kMo2OghcoEUWKLazixmeUuhop_mY5dZ6etgvmsfKbjUuyi14s

42- Dahmani, F., « Tunisie : 'L'erreur c'est la Constitution elle-même' », op. cit.

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