

July 25th, a scope to learn lessons for a better future

1. Since 2011, Tunisian public affairs have been marked by a series of enduring inconsistencies. Transitional periods are generally known for their instability as they constitute a break with the past and a foundation for new structures, which govern the relationship between the people, on the one hand, and the different powers, on the other hand. However, the uncertainties in our case extended beyond the natural and acceptable limits accompanying every democracy-building operation.

2. On the day of the Republic of 2021, the Presidency of the Republic announced some unprecedented measures, in which it decided to freeze the Parliament and lift parliamentary immunity for two months. Another series of measures have accompanied the latter, according to which it seems clear that it is a new era where the Presidency shapes its most prominent features. These decisions put Tunisia under the projectors of the whole world again and gave rise to distinct positions that revolve around two major issues, one regards the legitimacy of these measures, and the other concerns its horizons.

3. After a sufficient period to observe and forge rational and cautious opinions about the measures of July 25, the think tank SOLIDAR Tunisia seeks to provide answers through this paper via two main axes, around which its research and activities revolve. These axes are human rights and the State of law, on the one hand, and economy and development, on the other hand.

A collapsing and regressing democratic structure

4. It would be inappropriate to proceed in an analysis based on the idea, according to which the measures of July 25 have transformed the Tunisian democracy into a dictatorship. Tunisia is still in the process of a democratic transition. Hitherto, it did not succeed at completing this process because of numerous obstacles and varying challenges. The political

results of July 25's measures do not constitute a return to dictatorship, as long as this situation remains exceptional, transitory, and restricted by a reasonable deadline to overcome the imminent danger menacing the State.

In the following paragraphs, we discuss the main conclusions reached following the application of the Constitution of 27 January 2014, its effects on Tunisians' rights, and its correlation to July 25's measures.

5. In the last period, the Parliament was unable to perform adequately. One of its most conclusive aspects is its incapacity to ratify urgent laws related to constitutional institutions¹. We are before a cripple political system that is advancing in time while lacking its fundamental elements (the Constitutional Court, for example). This situation has put Tunisia in numerous crises, dealing with various unexpected events (the death of President Essebsi, for instance). Many² recognize the relevance of highlighting how the behaviors of several Parliamentarians substantially abused the Tunisian democracy. However, the fundamental question regards the horizons and outcomes of the measures, and the need to establish sufficient safeguards, for the Parliament is an essential institution to every democracy. Therefore, it should throw off the yoke that impairs its functions and the advancement and development of Tunisian democracy. This operation requires the rehabilitation of the political climate.

There might be a consensus about the qualification of the Parliament's performance and the pressing need to obliterate the problems hindering its essential role of stimulating democracy. Nevertheless, there is a firm conviction that the extraordinary aspect of these measures constitutes a core condition to safeguard the safety and accordance of this new direction with the will of the revolution, thus guaranteeing a sound democratic structure that prevents past errors.

6. Since 2015, decision-makers and political actors have chosen to only deal with the tip of the iceberg in regards to the nascent problems by neglecting the execution of Constitutional provisions and the establishment of Constitutional institutions, with the sole aim of satisfying their political interests, thus damaging the 2014 system.

¹ SOLIDAR Tunisia, Constitution of January 27, 2014: Evaluation of practices and a future vision, p. 20 [online] <<https://cutt.us/QoWNY>>.

² We have recorded numerous violations of the Rules and Procedures that contain many significant loopholes. Thus, along with civil society, we requested its revision.

Democracy, as designed by the Constituents, was founded on complementary pillars. Consequently, it is natural that the democratic structure is rendered weak and fragile in the absence of its essential elements, especially the Constitutional Court³ and Constitutional instances. Regardless of the position and critical perception of Constitutional instances' situation and horizons, we might assert that the paralysis that affected their creation and their failure to solve issues related to their mandated areas (media regulation⁴, electoral crimes, investigating corruption, and illegal enrichment files, ...) have deepened the post-2014 crisis. These circumstances contributed to an increasing loss of faith in the system, as its independence was doubted and the influence of political parties was suspected.

7. Threats to human rights, mainly civil and political rights, were not lesser in the previous years. Police persecution of political activists, who were subject to numerous lawsuits regarding their protests against violent actions or freedom-restricting bills, never ceased. Furthermore, the access to justice and fair trial safeguards are still insufficient, despite the great efforts deployed by human rights defenders and civil society organizations. However, the current situation is highly delicate, considering that it is a transitional phase in which essential institutions, like the Parliament, were exceptionally suspended, and the executive started exercising inherently legislative powers. Even though it is not recent and specific to post-July 25, the threats to human rights reassert that requesting additional and essential safeguards for human rights is a continuous fight.

The last months' recorded procedural and practical violations call for civil society extreme vigilance to prevent any attempted restriction to the vested rights⁵. Factually, civil society plays an essential role in monitoring and reporting any potential or committed trespass.

8. The previous events revealed the magnitude of obstacles impairing the independence of justice. In addition to the impediments that blocked the advancement of the High Council of Justice proceedings succeeding its members' election in 2016, its positions concerning different files, especially those related to politics, were regarded as indecisive. Some positive decisions were rendered, like the late one related to issuing individual acts to halt joining

³ SOLIDAR Tunisia, "the Constitutional Court: a summer and winter trip" [online] Available at: <<https://cutt.us/h7u2q>>.

⁴ The decisions rendered by the HAICA in regards to television and radio stations have remained ineffective for years. They were applied only lately.

⁵ SOLIDAR Tunisia, « Lessons of going forward" [online] Available at: <<https://urlz.fr/gH66>>.

judicial judges occupying executive positions, or the instances where the law does not require a judge in their composition, to keep the judiciary power away from any political incitement. However, this situation stresses the gravity of political pressure exercised on justice. Therefore, it is relevant to deal with this issue with a great deal of attention. It should become an absolute priority, as it represents one of the most significant reforms for which Tunisian people aspire. The independence of the judiciary requires its relief from any political instrumentation or corruption that impedes litigants' interests and infringes their rights to access justice. It suggests that the reform goes beyond the procedures of accountability and disciplinary sanctions to enhance transparency and digitalization principles, create new training and structural programs, thus preventing the repetition of the same violations.

Alarming economic and developmental results

9. Regarding economic outcomes, the Covid-19 crisis has played an important role in exacerbating the Tunisian economy, thus increasing people's indignation, especially when the death ratio reached global records. This crisis shed light on the multiple flaws in public health and the retardation of development in interior regions. Additionally, this health depression has contributed to an increase in poverty rates and revealed a wider social gap with the expansion of the lower class compared to the middle class⁶. The State was incapable of imposing lockdown measures because of its incapacity to donate or compensate people and enterprises for their losses engendered by the paralysis of economic activities.

10. Furthermore, development orientations followed by previous governments did not align with Tunisian's hopes and aspirations⁷. In addition, there is a dire need to advance the reforms with an effective will to execute them. In this context, SOLIDAR Tunisia has elaborated a mid-stage evaluation of the 2016-2020 development plan, its objectives, and its realization advancement. Besides, it has conducted two other studies at the end of the Plan to evaluate public development project outcomes to check its advancement and the impediments that

⁶ National Institute for Statistics and the World Bank, «The map of poverty in Tunisia» [online] Available at: http://ins.tn/sites/default/files/publication/pdf/Carte%20de%20la%20pauvret%C3%A9%20en%20Tunisie_final_0.pdf.

⁷ SOLIDAR Tunisia, the Common vision for Tunisia: citizenship and growth [online] Available at: <https://cutt.us/98aIQ>.

hindered its thriving. Based on this evaluation, it is methodologically essential for the public projects to be attainable, applicable, and organized by priority to align with the priorities of the phase and the country's economic exigencies. It is also essential to fix a timeline for the Plan's advancement, which facilitates the monitoring and evaluation processes.

11. Strategically, as a principal axis in the 2021-2025 Plan, sustainable development should be dealt with a great deal of attention. Even though the 2016-2021 Plan contains in its fifth Title "Green economy, a safeguard for sustainable development," the sustainability of resources concern must be evident or consolidated through the inclusion of projects in the new Plan, which allows the protection, valorization, and good governance of natural resources, thus guarantees their sustainability. These projects should stem from the citizens' regional needs and take into consideration every region's specificities and the challenges impairing its development⁸.

12. In previous years, the Tunisian climate was not stimulating for investment. On the political level, the positions of some parliamentarians stemming from individual economic interests have impeded and paralyzed the performance of the Assembly. The events observed in the Financial Committee illustrate that, wherein numerous instances, conflict of interests has often dictated the Committee's acts. Additionally, the Consensus Committee – which is an illegal committee, since not mentioned in the Rules of Procedures of the Assembly of Representatives of the People- might also be cited as an example in this context. It is a "parallel chamber" where political agreements, partisan partnerships, and barbers take place.

Besides, governmental instability led to the paralysis of development projects and the weakening of the economic activity's flow stimulation.

This situation has contributed to a decline in the country's "vital" indicators, manifesting in difficulties in public finances, the increase of trade deficit, unemployment rates, and the continuous deterioration of the citizens' purchasing power⁹. Generally, these different data

⁸ For instance, the province of Jendouba suffers from a lack of cleansing services and an increase in informal landfills. Therefore, creating a rational waste management system encompassing all sorts of waste and an effective action plan, for that matter, is essential. Additionally, ensuring coordination between different parties, such as municipalities and administrations (the ministry of Environment and the Ministry of Agriculture), is necessary. Regarding the region of Kebili, a strategy that valorizes the oasis as great resource enriching regions and covers expansions as a core factor inciting investment.

⁹ SOLIDAR Tunisia, « Building a common basis stemming from winning parties' programs in the 2019 legislative elections » [online] Available at: <<https://cutt.us/Rh7Z2>>.

have engendered a loss of trust in Tunisia as a potential land for investment, thus missing many opportunities on the national and international levels.

13. On the institutional level, SOLIDAR Tunisia has requested the enforcement of the High Council of Justice to fight corruption and repatriate the State's capitals and properties. The Council was created by the Decree of August 31, 2012, related to the amendment and execution of the Decree n° 3080 of December 1, 2012, regarding the establishment of High Advisory Councils. These councils constitute an efficient legal framework for monitoring and coordination between different parties, in terms of fighting corruption and repatriation of the State's capitals and properties. They also facilitate the exchange of data and information between intervening parties, from administrative and judicial structures, and ensure the efficiency of judicial accountability.

Regarding transparency, fighting corruption and guaranteeing the State's good governance is the most pivotal point announced post-July 25. However, it is certainly conditioned by the current decision-makers' (the Presidency of the Republic and the government) commitment to a declared action plan with clear objectives that guarantee social peace.

In the announcements following July 25, the most relevant points to be highlighted are fighting corruption and ensuring good governance and full transparency. It is also necessary to be diligent so that the reform exceeds accountability and disciplinary sanctions to endorse digitalization and transparency principles and create new training and structural programs as a tool to prevent repeating the same violations in the future.

14. Through this work, we tried to display the different aspects characterizing the previous period to understand the context that led to July 25's measures. We believe that it is necessary not to ignore the last period in thinking about the next and rather start learning lessons as a medium to build stronger and more satisfactory foundations, which unquestionably necessitates participatory methods and means of dialogue. It is also conditioned by not following the same approach that has failed at finding efficient solutions. By the same token, numerous organizations and associations have proposed various dialogue initiatives, such as the platform launched by SOLIDAR, which is a tool to participate in creating the new orientations of development policies. The aim is to create a framework for debate about policy orientations with different actors, such as representatives of the

administration, international organizations, experts, and civil society activists, seeking to elaborate proposals to stimulate the economy and overcome the economic crisis.

The openness to involve youth, regions, and civil society constitutes a fundamental safeguard to prevent previous experiences and move forward by opening new horizons and aspirations for dialogue .

15. In this context, SOLIDAR Tunisia recommends dealing with extra attention with three core issues, which are:

- Fighting corruption through a comprehensive approach that is not only limited to accountability and disciplinary measures but also embodies digitalization and transparency principles, and training and structural projects to prevent previous violations from happening in the future;
- Advancing fair social and regional development by revising the local tax law review to enable the least-favored and marginalized provinces to benefit from a percentage of their revenues and allocate a ratio of their income taxes to development projects that incite development in the regions. This advancement would also require a successful application of the Plan on the local level;
- Political governance essentially requires the reform of the electoral system to strengthen the faith in elections and ethics in politics. It would directly reflect on the Parliament's future performance and enable it to play its fundamental role of drafting quality legislative laws¹⁰ and monitoring and evaluation .

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¹⁰ « Cooperation means the right of the executive to legislative initiatives, and that most bills stem from the government. The Parliament is entitled to delegate its right of issuing decrees to the government. Even though the number of ratified laws have exceeded 386, the laws necessary to draft Constitutional provisions have never seen the light. Therefore, there is a pressing need to revise cooperation methods between the Parliament and the government, especially in regards to the Committees work mechanisms, with the aim of improving the efficiency and quality of legislative acts.

A lack of harmony between the legislative and executive flows has been recorded. Many bills drafted by the government often remained unratified, and legislative proposals are sparse, which is partly engendered by Parliamentarians' lack of resources." SOLIDAR Tunisia, The Constitution of 27th January, 2014: an evaluation of performances and a future vision, p.35 [online] Available at: < <https://cutt.us/QoWN> >.