

Seeing Tunisia's Civil Society During Un-civil Times

by Larbi Sadiki and Layla Saleh

ABSTRACT

Tunisia's dramatic democratic reversals since July 2021 warrant an in-depth reflection on how and where its once-promising democratisation momentum went wrong. Much attention is given to the top-down demolition of democratic institutions by the country's (democratically) elected President Kais Saied. However, just as the popular revolution that ousted the dictator Zine el-Abidine Ben Ali and the subsequent democratic transition was to a great extent a bottom-up process, so civil society too is an important piece of the de-democratisation puzzle. In a bid to compare and contrast trajectories of degeneration and regeneration, the paper explores the contributions and constraints of Tunisian civil society vis-à-vis Tunisia's difficult experiment with democratisation.

Tunisia | Democracy | Civil society | NGOs

keywords

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by Larbi Sadiki and Layla Saleh*

Introduction

Tunisia's dramatic democratic reversals since July 2021 warrant an in-depth reflection on how and where its once-promising democratisation momentum went wrong. After the exhilarating upheaval of the 2010–11 revolution that set off the Arab Spring, the degeneration of the regional pioneer's democratisation pathway has been a complex phenomenon. Much attention is given to the top-down demolition of democratic institutions by the country's (democratically) elected President Kais Saied.¹ However, just as the popular revolution that ousted the dictator Zine el-Abidine Ben Ali² and the subsequent democratic transition was to a great extent a bottom-up process, so civil society too is an important piece of the de-democratisation puzzle.

Hence, this paper seeks to parse the role and implications for Tunisian civil society as the North African state reaches an apex of its downward de-democratisation spiral. It seeks to ascertain whether civil society has morphed from a democratically consequential actor to exactly the opposite. One salient question regards the extent to which the seemingly inhibited renewal of democratic potential and a flagging moral drive of civil society are the function of democratic degeneration only at the level of the state. That is, how are bottom-up civic and political actors implicated in the undoing of what was only a few years ago the most successful case of the Arab Spring uprisings?

¹ Larbi Sadiki and Layla Saleh, "Tunisia's Presidential Power-grab Is a Test for Its Democracy", in *openDemocracy*, 28 July 2021, <https://bit.ly/2WuVS21>.

² See Larbi Sadiki and Layla Saleh, *Revolution and Democracy in Tunisia. A Century of Protestscapes*, Oxford, Oxford University Press, 2024.

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The paper commences by elaborating the country's crisis of democratisation, starting with the admittedly rocky stage of democratic institution-building and civic habituation between 2011 and 2021. Here civil society played a prominent role alongside the formal political institutions and legal apparatus taking shape in the post-2011 "democratisation bargain". Next, the paper explicates the abrupt turnaround of this democratisation orbit with the president's coup and his overhaul of the entire political system since mid-2021. The final section looks at Tunisia's civil society in this miasma of democratic degeneration, mapping out the set of civic forces and voices within a new regime that perilously constricts their space and scope of operation. It considers how civil society is situated within this tenuous new "bargain" taking shape in the "bottom-up structure"³ that is only now materialising, although Kais Saied began speaking of it as far back as his 2019 presidential campaign. The conclusion takes a brief look ahead at the prospects for democratic regeneration from the vantage point of civil society.

1. Democratisation takes off: 2011–2021

Tunisian protestors who stormed the country's streets and public squares beginning in December 2010, forcing Ben Ali to flee on 14 January 2011, have become legendary at home, in the region and even internationally. Consecutive parliamentary, presidential and municipal elections (2011, 2014, 2018, 2019) and a new constitution (2014), in addition to hallmark legislation such as the Association Law (2011) and Electoral Law (2014) have all been formal indicators of the monumental political change delivered by people power, emblematised by cries of "the people want" (*al-sha'b yurid*). This is not to say that the institutional materialisation of Tunisia's democratisation trajectory has been without difficulty. Certainly by its ten-year mark, the nascent democratiser – its governing structures and its policymakers – had far from fulfilled the popular demands for freedom and dignity (i.e., distributional claims) that reverberated throughout the Arab world in 2011.⁴ Still, the emerging political system was a vibrant one, replete with popular inputs through both protest and more structured non-governmental organisations (NGOs) within an expanding civic and media space.

Hence, the longstanding authoritarian bargain that combined state patronage with various degrees of repression in return for popular deference was replaced by a new "democratic bargain". This involved a mutuality or interplay between civil society and political society. In other words, the (potential for) robustness and sustainability of democratisation of Tunisian state institutions entailed a "civic parallelism". In this post-2011 bargain, civil society created a parallel space for enacting and deepening democratisation without exclusive recourse to state institutions, formal

³ Chiraz Arbi, "Tunisia's 2023 Local Elections: How the 'Bottom-Up Structure' Will Strengthen Kais Saied's One-Man Rule", in *MEI Articles*, 14 November 2023, <https://www.mei.edu/node/86098>.

⁴ Larbi Sadiki, "Tunisia's Peripheral Cities: Marginalization and Protest Politics in a Democratizing Country", in *Middle East Journal*, Vol. 75, No. 1 (Spring 2021), p. 77-98, DOI 10.3751/75.1.14.

political parties, etc. Where one stalled, the other stepped in, generating a kind of feedback between the two and a synergy between state and society.⁵ For instance, when the ruling troika that governed after the 2011 National Constituent Assembly elections faced intense public and partisan opposition in summer 2013, driving the country to political paralysis, the “Nobel Quartet” comprising the Tunisian General Labour Union (UGTT), the Tunisian Confederation of Industry, Trade and Handicrafts (UTICA), the Tunisian Order of Lawyers (ONAT) and the Tunisian Human Rights League (LTDH), took the lead in a National Dialogue. To extricate itself and the polity from an impasse, the Islamist Ennahda party (which held the most seats in the National Constituent Assembly and the premiership under Ali Laarayedh) agreed to resign in 2014, allowing a technocratic government to take its place. Protests against the so-called “complementarity” clause describing the relationship between men and women in Article 28 of the draft of the 2014 constitution⁶ were another example. Such public pressure generated intense political and public debate on the issue, leading to the term “complementarity” being ultimately dropped. Civil society voices seeking to defend women’s rights, codified under the 1956 Code of Personal Status, entered the formal political fray, in this case the hammering out of a new democratic constitution for the country.

This civic parallelism, in which both major associations with historical pedigree such as trade unions and unaffiliated citizens mobilising in the streets to add pressure through protest participate, was arguably a notable feature of Tunisia’s democratic momentum in the years after 2011. Up until July 2021, this brand of a democratisation bargain was more or less the state of play, although parliamentary politics in particular was growing increasingly sclerotic. Undoubtedly, the constitutional-electoral-legal underpinnings of Tunisia’s post-2011 political system facilitated the creation of this kind of space where multiple and diverse forces, discourses, activisms and ideologies dialogued and clashed, not always harmoniously. State and society were syncretically indispensable to launch and maintain the advancements in the fledgling democratisation process.

2. Entering the post-25 July

It behoves us to ask, then, whether the 25 July self-coup of 2021 spelled the end of this democratisation bargain. A global climate of democratic setbacks has been widely observed and debated in recent years, prompting reflection on the difficulties of defining and measuring this complicated, cross-regional phenomenon.⁷ Against

⁵ Larbi Sadiki, “Tunisia’s ‘Civic Parallelism’: Lessons for Arab Democratization”, in Raymond Hinnebusch and Jasmine Gani (eds), *The Routledge Handbook to the Middle East and North African State and States System*, London, Routledge, 2019, p. 191-208.

⁶ Mounira M. Charrad and Amina Zarrugh, “The Arab Spring and Women’s Rights in Tunisia”, in *E-International Relations*, 4 September 2013, <https://www.e-ir.info/?p=42622>.

⁷ Carl Henrik Knutsen et al., “Conceptual and Measurement Issues in Assessing Democratic Backsliding”, in *V-Dem Working Papers*, No. 140 (May 2023), https://www.v-dem.net/media/publications/wp_140.pdf.

this backdrop and within the context of multiple democratic retrenchments in the region, Tunisia itself has become mired in what we have elsewhere called “degenerations of democratisation” in the Arab region.⁸ Understanding this development and its country-specific permutations necessitates attention to top-down, bottom-up, regional and international factors. Importantly, degenerations in Tunisia and elsewhere are not simply teleological “reverse democratisation” but an implosion from within the state and/or society that experience shortcomings in achieving Arab Spring objectives of freedom, dignity and popular sovereignty. Sidestepping the *demos* itself, whether represented or mediated by civil society or more loosely organised collectives of (often marginalised and excluded) citizenry, has been a key defect in Tunisia’s democratisation. Such neglect of most of “the people” has been an obstacle to the sustainability of democratisation in Tunisia. Some problems that have fed into issues of degeneration, such as regional inequalities and social injustice, can be traced back to pathologies endemic to postcolonial authoritarianism, long before 2011. Issues of dependency vis-à-vis the Western centre, for instance, or recruitment of ruling elites into an American security agenda, are political-economic afflictions that remained largely undisturbed even during nascent democratisation in Tunisia.

The degeneration of Tunisian democratisation, gradually manifesting since the 2019 elections and perhaps earlier, was realised most sharply in the “self-coup” undertaken by President Kais Saied. On 25 July 2021, as the country was reeling from the badly mishandled Covid-19 pandemic, Saied made a memorable set of night-time proclamations. With a nod to the popular rage against a hugely dysfunctional parliament, ruling political parties (especially Ennahda) and the inept government of Hichem Mechichi, the president announced the activation of Article 80 of the 2014 Constitution. He suspended parliament and lifted immunity from members of Parliament and former government officials. Since then, Saied has overhauled the entire political system.⁹ A largely boycotted popular referendum, with an official turnout rate of about 30 per cent,¹⁰ installed a new constitution in July 2022. By the end of 2022, parliamentary elections (boycotted again, with only 8.8 per cent voting in the first round and 11 per cent in the runoff)¹¹ instated a “rubber-stamp” legislature with very few powers and no opposition. Decree Law 54, Tunisia’s version of a “fake news” law, has provided the pretext to arrest voices critical of the government. Dozens of politicians have been jailed. Political parties have been more or less frozen, part of Saied’s rampage against “intermediaries”. Independent constitutional bodies, such as the anti-corruption agency, have been

⁸ Larbi Sadiki and Layla Saleh, “Degeneration and the Demos in North Africa: Towards a ‘Critical’ Study of Democratisation?”, in *The Journal of North African Studies*, Vol. 28, No. 6 (2023), p. 1444-1472, <https://doi.org/10.1080/13629387.2023.2207227>.

⁹ Larbi Sadiki and Layla Saleh, “The End of Tunisia’s Spring?”, in *Eurozine*, 20 June 2023, <https://www.eurozine.com/the-end-of-tunisias-spring>.

¹⁰ Elizia Volkmann, “‘Yes’ Vote Wins Tunisia Landslide, But Critics Question Support”, in *Al Jazeera*, 27 July 2022, <https://aje.io/3vqe8z>.

¹¹ “Tunisian Election Records 11% Turnout in Rejection of President’s Reforms”, in *The Guardian*, 30 January 2023, <https://www.theguardian.com/p/n8f7c>.

shut down or co-opted. Judicial independence may be relegated to a pre-July 2021 past, as indicated by the sacking of 57 judges in 2022.¹² The entire political scene has been overhauled, with local elections of redrawn municipalities held on 24 December 2023. In this contest, 7,200 candidates vied for 2,155 electoral districts. Painstaking vigilance by the revamped election commission (ISIE) over campaign transgressions (e.g., tearing down rival candidate's posters)¹³ drowned out whatever larger questions Tunisians might have about the credibility of such elections in a post-25 July political scene. Voter turnout, an important measure of how much trust Tunisians exhibit in the revamped political system, was low once again. The (no longer so independent) election commission reported that only 11.66 per cent of registered voters casted their ballot.¹⁴ A new association law is also in the works, viewed with trepidation by civil society activists who note that it will set the country back through numerous constraints.¹⁵ Tunisia is no exception to the shrinking of civic space¹⁶ seen in other countries.

It is as if Tunisia is witnessing the building of a new political society and a new civil society based on the vision of one person, with the tacit support of the army. Saied has cobbled together a new "horizontal structure" whose hallmarks are direct representation from the local level, through the regional and up to the national level. Rather than serving as a radical form of direct democracy from below, however, this system is full of contradictions.¹⁷ The most glaring problem is that it has been forcefully put in place by a single person at the helm of power in a system where checks and balances are a thing of the past. In Tunisia's degeneration of democratisation, "the people" whose will Saied claims to embody have in fact been reduced to the blustering talk points of a populist president becoming the region's latest dictator. Weakened supervision of power, weakened power of intermediaries and weakened contestation over power characterise the North African country's degeneration. The consequence is an emasculation of the old powers. It is as though Saied has refashioned the system without reference to or reliance on old ideologues, cadres, parties or even institutions and procedures. This new regime supplants the post-2011 order which did not root out the *ancien régime* forces (e.g., corrupt businessmen, Ben Ali's Democratic Constitutional Rally party

¹² "Under Kais Saied's Shadow: The Vanishing Independence of the Judiciary", in *Inkyfada*, 26 July 2023, <https://inkyfada.com/?p=79679>.

¹³ "Talili Al-Mansri to 'Al-Sabah News': 20 Electoral Crimes...and Positive Signs for Participation Rates in the Local Elections" (in Arabic), in *Al-Sabah News*, 19 December 2023, <https://bit.ly/48p61wF>.

¹⁴ Kwabena Adu-Gyamfi, "Tunisia Records Low Turnout for Election of 2nd Chamber of Parliament", in *AfricaNews*, 25 December 2023, <https://bit.ly/48dSOCC>.

¹⁵ Human Rights Watch, *Tunisia: Reject Bill Dismantling Civil Society*, 7 November 2023, <https://www.hrw.org/node/386432>.

¹⁶ Janjira Sombatpoonsiri and Thammachat Kri-aksorn, "Taking Back Civic Space: Nonviolent Protests and Pushbacks against Autocratic Restrictions in Thailand", in *Protest*, Vol. 1, No. 1 (November 2021), p. 80-108, <https://doi.org/10.1163/2667372X-bja10006>.

¹⁷ See Mahdi Elleuch, "Saied Completes 'Bottom-Up Construction' on the Rubble of Democracy and Decentralization", in *Legal Agenda*, 26 April 2023, <https://english.legal-agenda.com/?p=24447>; Mahdi Elleuch and Mohammad Al-Khalfawi, "Bottom-up Construction: A Project or a Prophecy?" (in Arabic), in *Legal Agenda*, 6 December 2022, <https://legal-agenda.com/?p=41325>.

rebranded as the Free Destourian Party). By contrast, this time the political scene has been emptied of those who had been ascendant after the revolution: Ennahda, Abir Moussi of the Free Destourian Party, even the UGTT which has a very tense relationship with the state. The system now is one without any opposition. As before 2011 and as is the case in other Arab states, it revolves around one person, the president, and his supporters appeal to him almost as the people's saviour who will rescue them where previous political elites of the "Black Decade" (2011–2021) have failed to.

3. Civil society under the new regime

Democratisation's degeneration has touched more than just the three branches of government. Saied's political project has been as concerned with structures, procedures and actors from the bottom of society as it has with those from the top echelons of the state. With political parties effectively sidelined, it is now the turn of civil society, which is next in the president's refashioning of the Tunisian political system. As a form of intermediary with clear connections to foreign funders, states and experts, Saied has cast civil society as a corrupt set of organisations that draw extensive funding and meet at leisure in five-star hotels under the vacuous guise of "training".¹⁸ The president has levelled accusations against illicit financial activities of NGOs since at least early 2022, when he darkly suggested their foreign funding renders them affiliates or even fronts of political parties and suspicious external powers.¹⁹ The solution, he has since declared, could only be a ban on such funding through which other states or international organisations have sought to infiltrate Tunisia from within.

Since then, Tunisian civil society groups have vociferously criticised the direction of the crackdown on all forms of organisation or dissent that fall outside the remit of Saied's new institutions. It is worth recalling that Tunisia boasts over 24,000 NGOs after the 2011 Decree Law 88 opened up civic space as part of the country's democratisation. Emna Chebaane of the well-known NGO Al-Bawsala recalls how organisations such as hers succeeded in widening "debate out of the closed circles of politicians and turn it into something that belongs to everyone".²⁰ This and other achievements are in peril should the president's threats materialise. Of late, a draft law to replace Decree Law 88 is being debated in the parliament. The debate has resumed over civil society and its place in Saied's self-styled "true democracy" that has upturned the post-2011 order. Again, civil society activists

¹⁸ "Tunisia-Saied: There Is a Tunisian Association Abroad Which Receives Money to Finance Political Parties in Tunisia", in *Tunisia News*, 25 November 2023, <https://news-tunisia.tunisienumerique.com/?p=112588>.

¹⁹ Iman Zayat, "Tunisia to Ban Foreign Funding for Civil Society Groups", in *The Arab Weekly*, 25 February 2022, <https://theArabweekly.com/node/55608>.

²⁰ See Haïfa Mzalouat, Noujoud Rejbi and Mathilde Warda, "'Civil Society', in the Crosshairs of Kais Saïed", in *Inkyfada*, 15 March 2022, <https://inkyfada.com/?p=64175>.

warn against the proposed reform.²¹ The new law would be a step backwards from a major milestone of the country's democratic transition. Tunisia's Law 2011-88 was among the most liberal in the world, and certainly the best association law in the region from a democratic and freedoms standpoint, according to the head of the Kawakibi Democracy Transition Center.²² It is not just that revision of the law is taking place without consulting the civil society that it intends to reform. By restricting the space in which Tunisian NGOs operate, the proposed legislation is a form of blanket and pre-emptive punishment for the thousands of civil society organisations that operate in accordance with the law. In addition to more stringent requirements for the formation and registration of NGOs, this new version will enact punitive measures against associations accused of violating the law. No longer gradual, consequences for (alleged) illegal activity or non-adherence to codified procedures will become sudden and dramatic instead. These might entail immediate dissolution of organisations, which must then appeal to the courts – and whose independence has already been compromised since July 2021.

The clearest culpability for the degeneration of democratisation when it comes to civil society rests with the state. During his 2019 campaign, Saied's political vision sounded whimsical and naïve. Now that he has been implementing it step-by-step and it has reached civil society, the legal changes on the horizon will leave little room for activity that overtly critiques the president or his programme. Yet it would be simplistic to lay the blame entirely on Saied. More precisely, few individuals or groups raised the alarm on 25 July 2021, other than Ennahda and its close allies which were targeted directly at the time. Instead, influential civil society organisations gave Saied a chance rather than denounce his actions as an illegitimate power grab. Several of them – for example the UGTT, the Tunisian Confederation of Industry, Trade and Handicrafts and the Association of Tunisian Democratic Women – were granted an audience by Saied the next day. These organisations called for a "roadmap", insisting that they would be on guard in case the president transgressed the margin allotted to him by the emergency powers he had invoked, based on the then-operative 2014 Constitution. Now these groups themselves must either toe a very delicate line by "demobilising" themselves, more or less – or risk being shut down by the bureaucratic arms of Saied's new regime. Perhaps it was the populist tenor of 25 July – anti-establishment, anti-Islamism – that some NGOs found palatable at the time. Whatever the reasoning, civil society has unwittingly brought harm on itself. Outside the relatively elite environment of internationally connected NGOs, an overall scepticism about everything foreign may allow Saied to proceed without much popular discomfort. This is especially the case in the wake of the Gaza war. The United States' unflagging support for Israel has raised the ire of Tunisians alongside other Arabs and citizens of the Global South. Thus, Saied alongside other Arab leaders can capitalise on anti-Western sentiment to mobilise popular support when they choose, or to cast

²¹ "Ghali: The State Criticises Civil Society and Funds an Association with 60 Million" (in Arabic), in *Mosaïque FM*, 13 December 2023, https://youtu.be/GhKW_yRkULg.

²² Ibid.

further suspicion on civil society organisations and activists who benefit from foreign funding. The paradox is that despite Saied's quasi-isolationism and his return of 60 million euros to the European Union in October, cooperation with the EU continues. Specifically, Tunisia works with the European institutions and member states to curb migration across the Mediterranean, recently worth nearly 277 million euros in aid to the country.²³ This package may say more about (waning) European investments in democracy and preference for dealing with problems of security, of which migration is apparently one, than it says about the future of civil society in the country. The aid package's support for "law enforcement" may simply strengthen Saied's authoritarian hand. Immobilisation of civil society may proceed irrespective of the ups and downs in the President's relationship with the EU.

Conclusions

Civil society in Tunisia is the latest victim-participant in the country's crisis of democratisation, most acute since the 25 July coup. The country's democratisation bargain launched after the 2011 revolution is in the throes of degeneration, as this paper has demonstrated. The promise of the Arab Spring transitional model is now on hold, placed on the back burner until further notice. Some implications emerge from the foregoing discussion of civil society.

First, the platform for a democratisation is still available for those who seek to resist and counteract this degeneration. Doing so will take much skill, local and international, to renew and regenerate the momentum. The post-2011 recipe of civic parallelism, the synergy between political and civic bodies and processes, can still work but not under the president's current system. Exiting from Saied's orbit will require abundant creativity and will, but is not impossible.

Second, there is admittedly widespread disgust with politics or overall apathy, as Tunisians are caught up with the needs of daily subsistence and survival in the face of food shortages. It is not just political opponents or journalists but even business owners who are constantly afraid of being arrested. The president is so overpowering that he interferes with the kind and price of baguettes sold in bakeries.²⁴ The glue of the democratisation bargain has come unstuck, and many leaders of the pre-2021 establishment languish in jail or have been sidelined to

²³ European Commission, *Commission Announces Almost €127 Million in Support of the Implementation of the Memorandum of Understanding with Tunisia and in Line with the 10-Point Plan for Lampedusa*, 22 September 2023, https://neighbourhood-enlargement.ec.europa.eu/node/4577_en; European Commission, *L'Union européenne poursuit la mise en œuvre du Mémorandum d'entente avec la Tunisie en déboursant 150 millions d'euros de soutien financier*, 4 March 2024, https://neighbourhood-enlargement.ec.europa.eu/node/4837_en.

²⁴ "Tunisia-President Saied: 'Bread Is a Red Line for Tunisians'", in *Tunisia News*, 27 July 2023, <https://news-tunisia.tunisienumerique.com/?p=105654>; "Kais Saied: Bread Is a Red Line for Tunisians" (in Arabic), in *Tunisia News*, 27 July 2023, <https://youtu.be/ab4FSJIVETI>.

near-silence.

Third, however, protests and ceaseless media coverage of the war in Gaza have shown that when given the chance, civil society and Tunisian society at large remains, vibrant, aware and engaged when it comes to a core issue such as Palestine. Tunisians still display a moral impetus and the skills to take on reigning powers. These values and this know-how have not dimmed, whether on the part of demonstrators in the streets²⁵ or football ultras expressing solidarity with Palestine in their celebrated "tifos".²⁶ Degeneration need not be an end-point of Tunisia's democratisation experiment. The people may yet have the last word, learning from Saied's onslaught on the country's nascent democratisation – and paving the way for renewal.

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²⁵ See for instance, "Live from Tunisia: A Demonstration by Several Movements and Unions in Support of Palestine" (in Arabic), in *Diwan FM Live*, 21 October 2023, <https://youtu.be/wayinNjRa1I>.

²⁶ For example, by Club Africain supporters. See "'Tifo' of the Club Africain Fans" (in Arabic), in *Diwan Sport*, 22 October 2023, <https://youtu.be/7Bj3yatrWtg>.

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