

Kais Saied's Resolute Strategy to Uproot Tunisia's Post-2011 Governance Model

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Brief Analysis

As the president erodes Tunisia's democratic norms, independent civil institutions have become a major target.

Over the last decade, Tunisia's ability to sustain its transition towards democracy amidst failed democratic experiences in the region has been accredited to a large extent to its governance system. With the adoption of a model that is open, inclusive, and participatory—as never witnessed before in the country's modern history— independent actors have gradually forged their roles as key players in decision-making and in defining the country's major political and socio-economic orientations. The emergence of this set of actors who, in contrast to political parties, do not seek to access power yet possess the ability to challenge the state on a number of fronts and exert pressure to shape its response to demands for social change, has been at the heart of the Tunisia's exceptionalism.

This remarkable group consists of civil society organizations, the Tunisian General Labour Union (UGTT), the employers' organization (UTICA), professional organizations as well as constitutionally independent institutions. Their role through the Tunisian National Dialogue Quartet in “contributing to the building of a pluralistic democracy” has been internationally recognized, including by the Nobel peace prize in 2015.

The Quartet succeeded in institutionalizing dialogue and negotiation not as a complementary approach nor as a support mechanism, but as an alternative mechanism for power and decision making. By demonstrating that in Tunisia, the state could become one “actor” among others—at least in decisive and historic political moments—it became evident that sustaining this model constitutes the real rampart against any authoritarian attempts.

Yet, values of dialogue, negotiation, inclusion and any form of pluralism seem to be the Tunisian president's *bête noire*. Most importantly, they represent a real threat to the consolidation of his one-man rule after the July 25 coup and the establishment of a “state of exception” where President Kais Saied took hold of legislative, executive, and

part of the judicial powers.

The presidential decree of September 22, 2021 states that “the President of the Republic formulates draft revisions relative to political reforms with the assistance of a commission whose organization is determined by a presidential decree.” This formulation, which allows the president to choose whose council he seeks during this process, constituted the first legal step to affirm Saied’s hold up of political reforms; he then undertook further steps to hinder the role of non-governmental actors and exclude them from actively participating in shaping the country’s future political trajectory. This is an especially concerning development as the country heads into a referendum on constitutional reforms on July 25, 2022, to be followed by legislative elections on December 17.

Civil society organizations have also come under scrutiny and attack as Saied openly accused NGOs that receive international funding as “the extension of foreign powers” and of conducting “suspicious activities”. On February 24, 2022, the President announced that he plans to reform the law of associations in a more restrictive way to control foreign funds, although this control is already provided for by current legislation. In fact, the law now allows for a series of sanctions, including a formal notice to dissolve, in response to foreign funding for NGOs. These legal actions were taken with the knowledge that domestic financial support for NGOs is effectively nonexistent. Moreover, while CSOs do have the possibility to benefit from international funding, a system of sanctions ranging from formal notice to dissolution is also provided for by law. It is increasingly evident that these decisions are all part of Saied’s strategy to discredit CSOs’ critiques of his authoritarian measures.

With a civil society excluded from the negotiating table and its figures are now on Kais Saied’s exhaustive list of “traitors,” eyes have turned to the UGTT given its position as a key force in Tunisia since its independence. The Labor Union’s weight in both Tunisia’s socio-economic and political scenes has been unshakable during the past ten years. Yet even this has not prevented Saied from extending his exclusion of civil society voices to include the UGTT, thus putting an end to ten years of governance practice.

The UGTT’s exclusion came in the form of the president’s decision to launch an alternative mechanism for dialogue, which he labeled “the real dialogue.” This communication is through an electronic consultation with the Tunisian people launched on January 15, 2022, a rejection of the UGTT’s call for a national dialogue. The “electronic popular consultation” that lasted two months claimed that its objective was to enable all citizens, especially youth above the age of 16, to formulate their needs and preferences by answering various questions about politics, economy, and societal issues. The effort, however, turned out to be a complete fiasco with only 534,915 Tunisians participating.

It wasn’t until the International Monetary Fund’s recent call for the launch of a broader social dialogue in Tunisia—a precondition for advancing discussions on a new bailout package—that the president reluctantly reached out to the UGTT. The IMF’s director of the Middle East and Central Asia Department Jihad Azour has in fact emphasized Tunisia’s former democratic process and stated that “a national dialogue remains the appropriate framework for reviving the Tunisian economy and initiating reforms.”

The UGTT’s ability to play an active role in shaping the country’s future political direction will be tested shortly as the Union just announced its decision to boycott the National Dialogue, which it was invited to participate in—along with other National Dialogue Quartet members—by the President. The announcement was made on May 23, after it became almost certain that only political parties and civil society organizations that supported the July 25th process would participate in the Dialogue. The UGTT expressed its refusal to “any dialogue...in which roles are unilaterally defined and imposed, and where national civil and political forces are excluded”. In a further escalation, the Labor Union also declared a general strike in the public sector, to be held at a later date. Historically, general strikes have always been accompanied by broad social mobilization, so it will be important to examine the UGTT’s ability not only to take a leading role in restoring pluralistic mechanisms in the governing process but also to provoke a political change.

Yet even if Saïed’s attempted marginalization of the UGTT’s role has been unsuccessful so far, there remain a series of Saïed’s decisive legal measures taken since the July 25 coup intended to annihilate the role of the country’s independent institutions.

The very emergence of these independent public authorities after 2011 came as an answer to the crisis of confidence in the state’s intervention in specific fields and sectors. They also arose in response to do the historical authoritarian tendency that threatened some basic rights and freedoms. Media and elections, which used to be subject to the authority of the Ministry of Interior under Ben Ali’s regime, are now being managed and monitored by constitutionally mandated independent institutions. By guaranteeing the non-interference in their operation, the legislators sought to uphold the principles of impartiality, neutrality, and good governance.

And yet less than a month after July 25, the President dismissed the Secretary-General of the INLUCC (National Authority for the Fight against Corruption) and ordered the closure of its premises without providing any explanation for the action. It seems obvious, however, that this measure reflects Kais Saïed’s rejection of the interference of any other entity in his war against corruption and his plan to “clean” the country—his justification for the July 25 coup and the non-democratic legal measures that followed. These measures would indeed not have been possible with a functioning INLUCC, an institution established with the specific mandate to propose anti-corruption policies, lay down the principles of general orientation, and give its opinion on draft legislative and regulatory texts related to the fight against corruption within Tunisia.

But the biggest blow to independent institutions, and by extension to democratic Acquis, was yet to come. On April 21, 2022, the Head of State initialed an alarming decree-law amending and supplementing certain provisions of the organic law relative to the Independent Higher Authority for Elections (ISIE). Saïed has attempted to dismantle the role of this constitutionally mandated authority by undermining its very foundation and *raison d’être*; the decree grants the president the sole power to appoint, remove, or lift the immunity of the seven members of the ISIE (against nine previously) who, until then, had been elected by members of parliament.

This move comes at a critical moment—the country is just three months away from the referendum that will enable the president to pass a new constitution, drafted by a commission he appoints. This process will present a solid legal basis for this authoritarian rule, especially since the commission has a four-year mandate. This means that it will organize Tunisia’s next presidential elections, in which Saïed is likely to be a candidate.

With the next elections cycle looking like it will be run by Saïed’s “election commissions”, serious concerns have been raised both at the national and international level that the commission seriously jeopardizes the legitimacy of the whole electoral process. ❖

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