THE PROMISES OF SPRING

Citizenship and Civic Engagement in Democratic Transitions

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Acknowledgements

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"All revolutions are impossible
until they become inevitable"
Leon Trotsky

PEOPLE POWER AND POLITICAL TRANSITIONS: SHATTERING THE BARRIERS OF FEAR?

Even though the spark set by Mohamed Bouazizi in the little town of Sidi Bouzeid took the world by surprise, for many in the region some form of unrest was fast becoming inevitable. Decades of authoritarian rule, systematic structural adjustments, and economic and financial liberalization programmes lead to greater political, economic and societal marginalization of individuals and communities. Indicators for voice and accountability decreased as those for societal inequality increased. Globally, the financial and food crisis strained international resources. Jobs were affected as the numbers of unemployed across the world and in the Arab region grew dramatically. All these factors and many more were straining the societal fabric of countries of the region to its limits.

While the debate continues as to whether these uprisings constitute revolutions, there is no doubt that the popular movements of the past two years have placed the Arab region at one of the most critical junctures of its modern history. Arab citizens loudly reasserted their right to have a say in the governance of their lives and their role as the source of legitimacy for the governing bodies of their countries. As the words "freedom", "dignity" and "justice" resonated through Arab streets, they shattered the myth of Arab exceptionalism and the so-called "immunity" of Arab regimes to democratic rule.

The upsurge in civic activism has also been dramatic. An eruption in creative endeavors and initiatives has taken Arab cities and the global and national public spheres by storm, pulverizing the barriers of fear imposed by security regimes. While many of these social movements are new, others have built on a past momentum initiated by labour union movements and other forms of civic activism. They have also built on what Asef Bayat has called the "social non-movements"[1] or the collective actions of dispersed and unorganized actors and their quiet encroachment of citizens into public space. The streets of Arab cities became sites of daily contestation, as citizens asserted their rights to the city and more. Today, in the absence of institutional mechanisms for effective participation or the failure of established modes of participation, as in the dissatisfaction with electoral politics in Egypt, citizens continue to turn to the streets, public spaces and virtual spheres to voice their discontent or demand alternatives.

In effect, what Arab citizens are calling for is a new social contract with their States, whereby States move from viewing citizens as a threat to security to considering them as the fundamental basis for their own legitimacy. While the specificities of the new social contract demanded by citizens remain unclear, its general contours have already been asserted in the slogans carried in the streets: Justice, Freedom and Dignity. What these effectively translate into is an assertion of citizenship rights and obligations on the political, social, economic and cultural fronts. However a number of questions on the role of the state and its institutions, the role of other social groups and civil society actors in ensuring social justice, and the mechanisms available to do so, are also brought forth. On the developmental front, considering a new social contract implies rethinking past and current approaches to socioeconomic development so as to address existing inequities and ensure social justice. While this may require long-term structural adjustments to the economy, in the short term it demands a shift in policies that ensure a dignified life based on citizenship rights.

Another key issue that has dominated the debate on the new social contract is the nature of the state as religious or civic. New constitutions, which will enshrine the relationship between states and citizens by determining the rights and obligations of both, are meant to be a reflection of that nature. In this context, three key subjects of contestation (among others) have emerged: civic freedoms, including the right to assembly; the rights of women and minority groups; and the socioeconomic and developmental rights of citizens as part of a broader approach to social justice. The ongoing debates over new constitutions and the varying definitions of a civic state proposed by different key actors all reflect the importance of those subjects.

Building consensus and maintaining social cohesion during such periods of upheaval is also essential. This process includes the creation of mechanisms that address the short-term expectations of citizens without taxing their future, and initiate measures to deal with past injustices. Building a sound legislative framework for participatory politics and civic engagement, which links the right to assembly and other laws that govern civil society to participatory mechanisms, such as labour unions and political parties, is central. In addition, establishing sound principles for transitional justice is key to a less turbulent transition to political stability and to moving away from illiberal democracies.[2]

The role of participatory mechanisms and civil society in addressing the challenges outlined above, supporting a stable political transition and ensuring social justice is paramount. Even in the context of turbulence in some countries of the

region, the empowerment of civil society organizations and individuals can help Governments build consensus around key issues during this period.

ON CONCEPTS AND BASIC ASSUMPTIONS

The basic premises of this study are that citizenship is the foundation of democracy; that democratic practices cannot be limited to procedural questions such as voting and elections, despite their importance; and that effective citizenship establishes sound relations between citizens and the state, as well as among citizens themselves. This perspective is not new. Rather, it reflects the Universal Declaration of Human Rights, which established a broad conception of citizenship that included political, civil and social rights.

What the Arab uprisings have demonstrated is that it is important to go beyond a rights-based approach to politics and consider citizenship as an essential weapon in the struggle against inequity, and as a tool to widen the concept of politics itself. Politics here does not only refer to what politicians do, but also to the choices that citizens make and the manner in which they engage with public affairs. Civil society in this context is viewed as a form of associational life that includes different networks in which individuals participate voluntarily, such as non-governmental organizations (NGOs), political parties, social or economic associations, syndicates, labour unions or non-institutionalized social movements. Such forms of active citizenship are what make for a productive social capital and competitive economy. They also constitute the arena through which peaceful politics of dissent are practiced.

Arab citizens today have also demonstrated a passionate belief in their ability to induce change in the construction of their own social realities. Acknowledging the centrality of passion to the construction of social and political identities is also vital for a wider conception of democracy.[3] Passion in such a context is central to discussions about citizenship, civic agency and the role of participation in democracy. Understanding such agency requires that we see citizenship not just in formal or legal terms, but also in relation with meaning, practice and identity. Such an understanding goes beyond contained notions of civil society to recognizing the ability of individuals and groups to make a difference. It also goes beyond various models of democracy that consider self-interest as the sole reason for political action or that focus only on the role of reason and moral considerations in political action. As will be demonstrated throughout this study, active civic engagement by Arab citizens is one through which they would actually be seeking to reinvent themselves and their societies.

Adopting this perspective, this publication approaches social movements as a continuum, in that they are not single-episode expressions of discontent, but rather a dynamic and multifaceted process of change and transition. That process manifests itself depending on opportunity, and historic and political context.[4] The development of such frameworks of action is rooted in historical, political and societal formations. In other words, a basic assumption of this publication is that the historic, political and social contexts of different countries in the region matters. Because of that, the regimes that rule are quite different from one another, and the opposition to these regimes also takes different trajectories. In other words, each country has its own dynamic. It evolves according to the specificities of the societal fabric as well as with policy or tactical changes, whether those are made by the state or by civil society activists.

To navigate the complex path of political transitions, and in view of the multitude of new actors on the scene, a shared understanding of the political, economic, social and cultural changes that paved the way is important. A basic premise of this publication is that the political and the economic are intrinsically linked, and that it is through politics and not just economics that it is possible to achieve a just society. As Stiglitz states in The Price of Inequality, "inequality is the cause and consequence of the failure of the political system".[5] From this perspective, the sociopolitical and economic commonalities that span different countries become important for assessing and understanding the broader context in which the uprisings took place and their possible trajectories. Such commonalities are also important to assess the constellation of factors that allowed the overflow of these uprisings in different countries. These factors include similarities in developmental challenges and regional inequities. However, the historical, political, institutional, socioeconomic and cultural differences, which affect the make-up of the societal fabric, the human capital and the institutional capacities of each country, have also impacted the modalities and trajectories of the uprisings. These differences help account for the apparent achievements of these uprisings in some countries and not others. Thus, throughout its chapters, this publication analyses both the common and the specific to identify relevant questions and possible recommendations.

The publication begins with a chapter entitled Text and Context: Why Arabs Rose in Defiance? It considers the overall context in which Arab uprisings took place and aims to provide a broad overview of the factors that may have contributed to the eruption of popular dissent. Chapters two to four address the challenges to building consensus, maintaining social cohesion in transition, and engaging with the promises of spring, through three key entry points:

- Arab Uprisings and the Civil State, the cases of Tunisia and Egypt, focusing on constitutional revisions, the role of religion and the definitions of a civic state;

- Social Justice and Consensus−building, underlining four interconnected social deficits and arguing that, even after

the uprisings, Governments continue to approach social issues from the perspective of crisis management rather than the rights and obligations of citizenship;

– Social Cohesion and Transitional Justice, exploring the context for transitional justice in Arab countries and the tools and mechanisms available.

The last chapter, "Arab Transitions: Alternate Paths and Possible Trajectories", will attempt to address future scenarios for ongoing transitions in the region then infer their possible impact on issues such as participation, consensus-building, social justice and social cohesion. It will also propose policy recommendations on the infrastructure needed to institutionalize participatory politics, empower civil society organizations and enshrine the principles of citizenship.

It is important to note that the rapid developments in countries of the region posed significant challenges for the team working on this report. Making sense of a fluid situation in a manner that is meaningful yet open to alternate possibilities is a significant concern for any analysis of the current moment. How to navigate between the general and the specific or to address both commonalities and singularities is yet another challenge faced in this report. One example is the unfolding situation in Egypt since the ouster of President Mohamed Morsi and the role of the army and civil society forces in defining the future of the country. Another issue was how to provide a solid analysis

of societal transformations whilst keeping the wider regional context in mind. Indeed, the report sought to navigate between regional and national considerations, between the collective and the singular as it analysed the different unfolding paths of transition in different countries whilst keeping the possibilities of future trajectories open. It is our hope that we were able to add new insights and policy suggestions to the ongoing discussions of how to address both the challenges and opportunities of the current moment. It is also our hope that, in time, the promise of this moment will be fulfilled. For to quote Margaret Mead, "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed it is the only thing that ever has."

Maha Yahya

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(1) Bayat, 2010.
(2) Zakaria, 1997 defines "illiberal democracy" as a system with free and fair elections but that does not necessarily respect the basic tenets of constitutional liberalism, including the rule of law, basic liberties and freedoms and the protection of liberties and property.
(3) See Mouffe, 2002; and Yahya, 2008.
(4) Bayat, 2010, p. 261.
(5) Stiglitz, 2012.

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Text and Context:
The People Want

"What is the Revolution? Why did we take to the streets? Water and bread and no to Ben Ali; employment, freedom and national dignity. But if we were to dissect these slogans what would they show? We want an equal distribution of wealth, a fair development plan between the regions, the inland regions, between first class Tunisia and the other Tunisia. Unemployment is one of the main issues"

Revolutionary Promises, p. 34.

Introduction

Much has been written in the last two years about the different triggers of the popular Arab uprisings. Among the many causes underlined were unproductive economies, rising inequality and income gaps; so-called 'jobless growth' an increasing number of educated yet unemployed youth; and the autocratic nature of the regimes in question.

However, many of these factors had been incubating for decades in Arab countries. What was new at the end of 2010? Why then? What was it about that moment that drove first the citizens of Tunisia and then of the rest of the region to take to the streets? The importance of Mohamed Bouazizi's death notwithstanding, he was not the first Arab citizen to take his life in protest against the living conditions to which he had been reduced; against the humiliation he was subjected to at the hands of the State; against the injustices he saw and lived daily. Moreover, at the time of his death, there were no specific socioeconomic or external policy changes that warranted such massive protests.

While we may never be able to answer this question, we can state with some confidence that the multiple political, economic, social, and cultural injustices and exclusions that Arab citizens were subjected to for decades, and the absence of meaningful venues to voice grievances were among the central catalysts of these uprisings. These exclusions, which varied between countries depending on historic and sociopolitical circumstances, were the result of the prevailing social contract between Arab States and their citizens. For the most part, these contracts were based on a logic of rentierism rather than the rights and responsibilities of citizenship. In such a context, citizens were viewed as a threat to state security rather than the foundation of state legitimacy, while 'Presidents for Life' maintained their power through political tools such as cooptation and repression.[1] This chapter will try to unpack some of these issues and present a brief overview of the key factors and regional trends that may have contributed to this historic moment. It will also assess, to the extent possible, the implications of the uprisings on state and society. In so doing, it will seek to identify the commonalities between countries, while also acknowledging their specificities.

Whither the State: The Social Contract, Citizenship and the Politics of Identity

Broadly speaking, the social contract adopted in most Arab countries in the postcolonial/post-independence period was one in which the right of citizens to participate in public affairs was supplanted by promises of social welfare and security. Arab citizens were ruled by elites who ensured that the playing field was tilted in their favour by creating multiple obstacles market to entry into the market, limiting opportunities, discouraging innovation and entrepreneurship, and providing special concessions to cronies. From the 1950s to the 1980s, large investments in the public and social infrastructure brought about substantive gains in education and health indicators, such as significant increases in life expectancy and average years of schooling, and decreases in maternal and infant mortality. However, despite these gains, multiple deficiencies and inequities emerged, in part because of the missing link between access to quality services and the concept of citizens' rights. Revenues from oil and its derivatives meant that many Governments of the region have not had to rely on taxes for wealth redistribution, even as economic growth and trade were restricted by heavy industrial regulation and uncompetitive exchange rates. Private sector activity and investment was for the most part uncompetitive, as labour markets were segmented by public sector policies.

With the collapse of oil prices in the mid-1980s, Arab Governments, received advice from international agencies, notably Bretton Woods institutions, to undertake a series of structural reforms that overturned fundamental aspects of the prevailing social contracts, which, in time, weakened these Governments. As a result, the welfare state was rolled back in a systematic manner. Deregulation, particularly in countries like Egypt and Jordan, lead to the sale of state-owned enterprises to the benefit of a select elite; a reversal in some previous populist policies; cuts to state subsidies, notably in the agricultural sector; tax increases; and the reduction of levels of public employment without the provision of alternative job opportunities. The conditions imposed by international development agencies restricted the ability of Governments to formulate development policies. Limited social protection mechanisms were introduced as 'safety nets' that sought to contain the adverse impact of economic and fiscal restructuring rather than promote equitable development. In time, this forced many workers, a traditional support base of the Arab regimes,

to turn to alternate networks to satisfy their needs, such as faith-based organizations that propagated conservative interpretations to identity. This served to reinforced tribal and sectarian ties and networks of patronage, at the expense of more nationalist and civic identities.

In the period that followed, the region enjoyed a relatively satisfactory economic performance that continued unabated, even in the midst of the global financial crisis. Oil-producing countries sought to decrease their reliance on rents through foreign investment, external reserves and oil stabilization funds. They tried to foster growth by increasing domestic investment in real estate, transport, communication, social services and other sectors. Other Arab countries sought to reform their public administrations by revising policies related to human resources management, taxation and customs procedures. Many also exerted considerable efforts to enhance the ease of doing business, so much so that the Arab region was ranked the second-fastest reforming region in 2007-2008.[2] Signs of improvements were also seen on the social policy front. Some countries introduced a number of new instruments that aimed to extend the coverage of public pension schemes to vulnerable groups, such as agricultural workers and craftsmen (Algeria, Egypt, Iraq, Kuwait, Lebanon, Libya, Oman and the Syrian Arab Republic); the self-employed (Bahrain, Jordan, Saudi Arabia and the Syrian Arab Republic); and foreign workers (Algeria, Bahrain, Egypt, Iraq, Jordan, Libya, Morocco, the Syrian Arab Republic, Tunisia and Yemen).[3] In the aftermath of the global financial crisis, some of these countries implemented new initiatives that sought to protect jobs and provide additional safety nets.[4]

A- Growth and Human Development

These measures resulted in a paradoxical situation of improved growth and development indicators combined with deteriorating living conditions. The 2010 Human Development Report identified Tunisia, Algeria, Oman, Saudi Arabia and Morocco among the world's top ten movers in development gains over the last 40 years, relative to their starting point in 1970.[5] However, these indicators overlooked other development disparities that had widened over the same period.

These disparities were most apparent in geographic inequalities, income gaps and lost opportunities. In 2010, on the eve of the uprisings, the countries of the region were struggling with increasingly visible inequalities, poverty, chronic unemployment and strained infrastructure. Persistent inequalities in the areas of health, education and income distribution were identified. The Multidimensional Poverty Index[6] revealed that the region had an estimated 39 million multi-dimensionally poor persons with a regional incidence that varied from below 7 per cent in the United Arab Emirates and Tunisia to 52 per cent in Yemen. At the same time, in countries such as Egypt and Yemen, absolute poverty rates increased. In Egypt, the percentage of people living below the national poverty line rose from 16.7 per cent in 2000 to 22 per cent in 2008.[7]

In Yemen, the proportion of people living below the national poverty line increased from 34.8 per cent in 2005 to 42.8 per cent in 2009.[8] In the Syrian Arab Republic, an estimated 33.6 per cent of the population lived below the upper poverty line in 2007. One critical factor in these increases was that growing inflation and the rising prices of food and other basic goods had a greater impact on the poor, who spend a larger portion of their incomes on food and housing. Moreover, in countries like the Syrian Arab Republic, Egypt and Tunisia, the benefits of economic liberalization were felt mainly in the cities. In the Syrian Arab Republic, for example, where persistent drought had undermined the livelihoods of entire communities, the percentage of people living on one dollar a day was ten times higher in rural than in urban areas.[9]

The inequalities registered in qualitative multidimensional poverty assessments were aggravated by the inequality of opportunity. As indicated by Assaad and others, the inequality of opportunity due to "differences in circumstances, such as parental characteristics, household wealth, place of birth and gender" contributed significantly to the outcomes of 2003 surveys on child health in Morocco, Egypt and Jordan. The unequal geographic distribution of public services was identified as the most likely source of this inequality, leading to large urban-rural disparities.[10] Similarly, inequalities in educational achievements were related to equivalent differences in circumstances. Despite substantial investment in free public education over the past few years and considerable improvements in education-related indicators, educational opportunities have either remained the same or declined.[11] In 2006, the percentage of 7 to 16-year-olds who had never been to school as a result of income or wealth levels was highest in Yemen and lowest in Jordan. In Yemen, regional and gender disparities also determine educational inequality. Around 42 per cent of the people living in Hajjah have never been to school, compared to a national average of 21 per cent. The majority of uneducated persons are women (52 per cent versus 32 per cent male). Similarly, in the Syrian Arab Republic, existing wealth inequities are further aggravated by large regional disparities, with the largest percentage of those who have never been to school in the regions of Raqqa and Deir Ezzor (figure 1-1).[12]

Figure 1-1: Inequality of Education

Percentage of 7 to 16 year olds who has never been to school
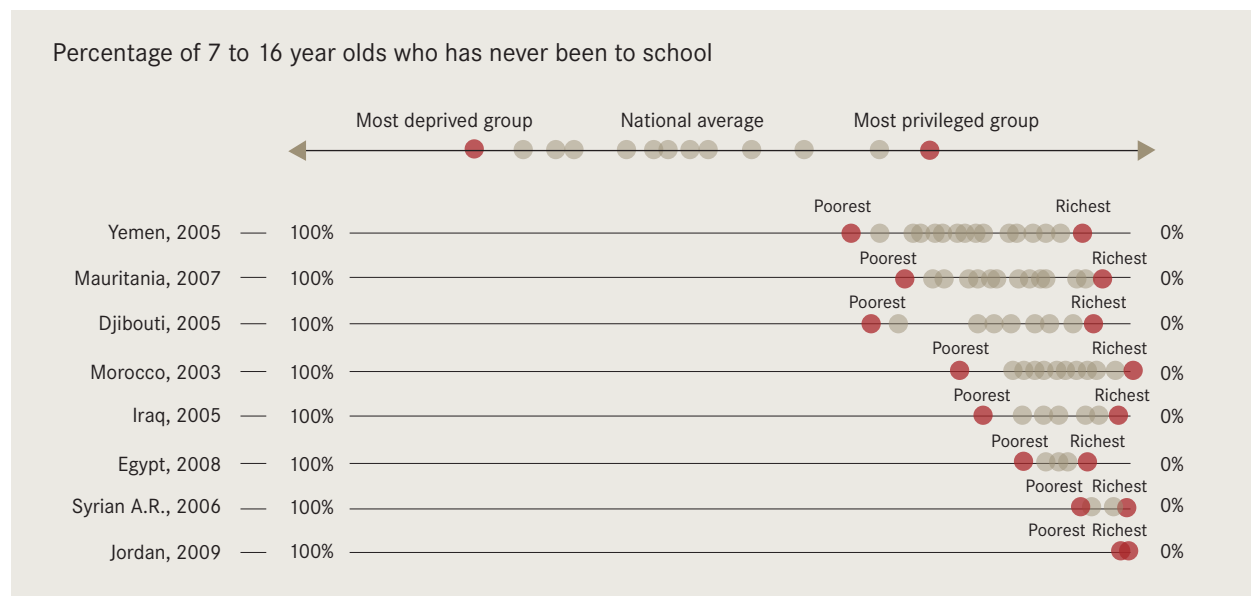
Inequality of opportunity was also evident in the distribution of wealth and access to social services. New research indicates that there was a sizable shift in income distribution, as a wealthy 1 per cent controlled a large share of national income.[13] In other words, the liberalization of the markets and the retreat of the State from the direct provision of services concentrated power in the hands of a few families and firms closely connected to the State, creating networks of privilege and spreading a culture of cronyism.[14] These networks of privilege are both economic and political and impact access to services. Recent studies on Lebanon, for example, have shown that access to education and health are directly impacted by networks of privilege affiliated with sectarian political parties. As a result, activism within these parties is often central to securing access to needed health services.[15]

The changes brought about by economic liberalization also led to a greater impoverishment of the middle class, mainly composed of civil servants and employees who, historically, were central to the political settlement that ushered in Arab autocrats.[16] A subsequent increase of informal employment was also registered, as the new market-oriented reforms terminated previous guarantees of social and job security. Minimum wages declined, as did the percentage of those working for the State. Though no official statistics are available, real average wages appear to have also declined since 2008.[17] Many turned to entrepreneurship and independent microenterprises and small businesses, particularly in the informal sector, as they sought to avoid bureaucratic costs and bribes. This 'shadow economy' in the Arab world grew to occupy a sizable

share of national economic activity: in Egypt and Tunisia, its reaches 34.5 per cent and 37.7 per cent, respectively.[18] The shadow economy also accounts for around 10 per cent of all employment, while the rates of informal employment can reach 20 per cent in labour-exporting countries.[19] In Egypt alone, regular informal wage employment rose from 15 per cent of overall employment in 1975 to more than 32 per cent in 2005.[20] While creating new employment opportunities, informal employment deprives a large number of individuals from even minimal social protection.

The failure of Arab Governments to meet the rising expectations of their educated populations and of the increasing middle class in their countries was most evident in the high levels of youth unemployment. In 2010, it reached 25 per cent in the Arab region, twice the global average, with an Arab youth labour force participation among the lowest in the world.[21] For the past decade, there has been an increasing recognition of the particularities of a youth-dominated demographic situation in the Arab region. Young adults aged 15 to 29 represent around 38 per cent of all adults over 15 in Tunisia, and more than 50 per cent of the same age group in Yemen.[22] They represent the vast untapped human potential of the region. As a number of international studies show, including the Pew Research Center World Values Survey, individuals with higher education do not just want security, but choices and opportunities as well. In most Arab countries, however, higher education is highly correlated with diminishing opportunities and greater chances of unemployment or underemployment.

B- Freedom and Civic Action

In parallel, and unlike similar structural adjustments in Latin America and Africa that were accompanied by greater democratization, economic liberalization in Arab countries was accompanied by greater political repression over the last three decades. Voice and participation decreased as other human development and economic indicators increased. Rulers created an interlocking system of restrictive laws and security organizations that monitored every aspect of social life, and sought to weaken and fragment all potential opposition. Civil society organizations were closely scrutinized through intrusive regulatory frameworks that made it increasingly difficult to organize around issues beyond social and emergency assistance, poverty alleviation and microfinance initiatives. The right to assemble, the freedom of expression, the right to information and to form political parties were either denied or severely curtailed.

In time, it became apparent that States were intent on restraining, controlling and shaping civic activism. To consolidate power, they clamped down on the more 'secular' or civic-minded civil society organizations, which were perceived as more likely to make political demands, while encouraging the work of Islamic charities and faith-based organizations so long as they focused on social assistance and associational work. Many of these organizations, as studies on Egypt and the Syrian Arab Republic have shown, went on to capture large sections of civil society and even claim a space in the running of state institutions.[23]

However, the past decade was also marked by increasing protests by civil society organizations and labour unions reacting to deteriorating socioeconomic conditions and policy changes, including to industrial policies. The strikes of workers in December 2006 until September 2007 in the textile town of El-Mahalla Al Kubra in Egypt (box 1-1), and the 2008 demonstrations in the Gafsa mining basin in Tunisia are two key examples. The former, led by female workers, initially sought to pressure the Government into raising the minimum wage, unchanged since 1984, and fulfilling other promises related to standards of living and services. It soon spilled over to other sectors, with more than 650 labour-related protests taking place in the space of 10 months.[24] These protests, spearheaded by unemployed graduates who considered recruitment practices to the Gafsa Mine to be unjust and nepotistic, lasted nearly six months. These events were viewed by analysts as the most significant protests since the Bread Riots of 1984.[25]

Numerous other initiatives were launched during the same period by civic activists and organizations. In the Syrian Arab Republic, the Damascus Spring was initiated in the year 2000 by a group of 99 intellectuals calling for an end to emergency rule, the release of political prisoners, the legal protection of free speech and freedom of assembly,

and a society free from different types of surveillance (box 1-2). It was followed by the Statement of 1,000, which called for democracy, multiparty rule and an independent judiciary. This period was characterized by the emergence of literary and political salons (known as Muntadayat) in private homes. By 2001, these initiatives were being violently repressed; the salons were closed and prominent activists jailed. Similarly, in Egypt, the 2005 Kefaya[26] movement and the 2008 April 6th movement became increasingly outspoken in their demands for government reform and the upholding of human rights. While Kefaya called for political reform, the April 6th movement[27] was launched in support of the Mahalla worker strikes. Authorities responded to these initiatives with force; proponents were jailed, or in some cases killed.

At the same time, and contrary to practices adopted by donors in the Latin American and African contexts, foreign aid to Arab countries was not accompanied by pressure to democratize. As Diwan argues, the relationship between the international community and Arab Governments was based on "the stability of oil production, the containment of the Islamist 'threat'—especially after 9/11— and the defense of Israeli interests".[28] In a number of countries, this facilitated what Heydemann has termed an "autocratic upgrading".[29]

Box 1-1

Women and Labour Union Movements: El-Mahalla El-Kubra

Since the 1980s, the Ghazl el-Mahalla textile factory has been home to several movements that shaped the struggle for labour rights in Egypt. On 7 December 2006, at least 10,000 textile workers protested at a textile mill demanding wage increases and the amelioration of intolerable work conditions. Led by the female workers, these strikes continued for months. Mahalla worker Amal el-Said would later recall:

We complained to the syndicate and to the factory management. But all to no avail. So we decided to strike. We wanted increased production incentives, more food allowance, better working conditions, and the two-month bonus. We closed all the mills to go on strike in Talaat Harb Square. We stayed there.

The Mahalla strikes set an example for others to follow. A committee was formed to lobby for labour rights and organize the demonstrations that followed. In time, these movements paved the way for the popular uprising of January 2011.

Source: De Smet, 2012.

Box 1-2

The Declaration of the 99

Democracy and human rights today constitute a common humanitarian language, which unites peoples' hopes in seeking a better future. And even if some countries are using such statements in order to pass along their political views, ideas and interests, the interaction among Nations need not result in domination and political dictation. Such interaction had enabled the Syrians and will enable them to be inspired by the experiences of others, while inspiring others in return and developing their own distinctiveness with openness.

As the Syrian Arab Republic enters the twenty-first century, all its citizens should join forces to face the challenges hindering peace and modernization, and open up to the outside world. The Syrian citizens are indeed invited, more than ever before, to participate in the making of the present and future of their country.

Based on this objective need and in order to secure our national unity;

Driven by our faith in the fact that the future of our country can only be built by its citizens, as actors in a republican system in which all people have the right to express themselves freely;

We the undersigned, call upon the ruling authority to fulfill the following demands:

- End the state of emergency and martial law applied in the Syrian Arab Republic since 1963;

- Issue a public pardon to all political detainees, prisoners of conscience and those who are pursued for their political ideas; and allow the return of all deportees and exiled citizens;

- Establish a rule of law that will recognize public freedoms, political and intellectual diversity, as well as the freedom of assembly, the freedom of the press and the freedom of expression;

- Free public life from the legal constraints and various forms of surveillance and censorship imposed on it, allowing citizens to express their various demands and interests within a framework of social harmony and peaceful [economic] competition, and enable the participation of all in the development and prosperity of the country.

No reform, whether economic, administrative or judicial, will lead to security and stability if not fully implemented side by side with the desired political reform, as it is the only means to help our society reach a peaceful shore.

27 September 2000
Signatories: Abdul Hadi Abbas (lawyer and writer); Abdul

Mouin al-Mallouhi (member of the Arabic Language Academy); Antoine Makdissi (writer and thinker); Burhan Ghalyoun (writer and thinker); Sadek Jamal al-Azm (writer and thinker); Michel Kilo (writer); Tayeb Tizini (writer and thinker); Abdul Rahman Mounif (novelist); Adonis (poet); Burhan Bukhari (researcher); Hanna Abboud (writer); Omar Amirralay (cinematographer); Khaled Taja (actor); Bassam Koussa (actor); Nayla Atrach (theater producer); Abdullah Hannah (researcher/historian); Samir Saaifan (economist); Faysal Darraj (researcher); Haidar Haidar (novelist); Nazih Abu Afsh (poet); Hassan M.Youssef (novelist/journalist); Ussama Muhammad (cinematographer); Nabil Suleiman (novelist/critic); Abdul Razzak Eid (researcher/critic); Jad al-Karim Jaba'i (writer/researcher); Abdul Latif Abdul Hamid (cinematographer); Samir Zikra (cinematographer); Ahmad Mallah (impressionist artist); Fares al-Helou (actor); Hassan Abbas (researcher); Hanane Kassab Hassan (university professor); Mmdouh Azzam (novelist); Adel Mahmoud (poet); Hazem Al-Admeh (physician and university professor); Burhan Buraik (lawyer) ; Muhammad Raadoun (lawyer); Yasser Sari (lawyer); Yussef Selman (translator); Hind Midani (cinematographer); Munzir Masri (poet/impressionist); Ahmad Maitah (university professor); Wafik Salitin (university professor); Mujab al-Imam (university professor); Munzir Halloum (university professor); Malik Suleiman (university professor); Sarab Jamal al-Attassi (researcher); Toufic haroun (lawyer); Issam Suleiman (physician); Joseph Lahham (lawyer); Attiyah Massouh (reasercher); Radwan Kadamani (university professor); Nizar Sabour (impressionist); Chouaib Talimat (university professor); Hassan Sami Younness (cinematographer/writer); Waha al-Raheb (cinematographer/actress); Hamid Merhei (economic consultant); Rifaat al-Souyoufi (engineer); Moaffak Nairabiah (writer); Suhail Chbat (university professor); Jamal Chedid (university professor); Omar Koch (writer); Raymond Butros (cinematographer); Antoinette Azarieh (cinematographer); Negib Nussair (critic/writer); May Skaff (actress); Nidal al-Debs (cinematographer); Farah Jokhadar (architect); Akram Khatib (poet); Lokman Deirki (poet); Hikmat Chatta (architect); Muhammad Najati Tayyara (researcher); Najmeddine al-Samman (novelist); Ali al-Saleh (economist/researcher); Sabah al-Hallak (researcher); Nawal al-Yaziji (researcher); Muhammad Karasly (cinematographer); Sawssan Zakzak (researcher); Chawki Baghdadi (poet); Bachar Zarkan (musician); Fayez Sarah (journalist); Muhammad al-Fahd (journalist/poet); Muhammad Berri Laawani (theater producer); Najat Amoudi (educator); Adel Zakkar (physician/poet); Mustafa Khodr (poet); Muhammad Sayed Rassas (writer); Kassem Azzawi (poet); Nabil al-Yafi (researcher); Tamim Menhem (lawyer); Ibrahim Hakim (lawyer); Anwar al-Bunni (lawyer);Khalil Maatouk (lawyer); Ali al-Jundi (poet); Ali Kanaan (poet); Muhammad Kamel al-Khatib (researcher); Mamdouh Adwan (poet); Muhammad Malas (cinematographer); Muhammad Ali al-Atassi (journalist).

C- Public Opinion and Realities

Furthermore, public perceptions of elite corruption and the economic capture of Arab countries were quite widespread. The Transparency International Corruption Perceptions Index (CPI) 2010[30] ranked eight Arab countries including Egypt, Libya, Tunisia and Yemen in the bottom half of the 178 countries surveyed (table 1-1), indicating that nepotism, cronyism, bribery and other forms of corruption were of considerable public concern prior to the uprisings. CPI results were corroborated by the 2010 Global Integrity report findings,[31] which mapped corruption trends in a number of different countries for the period of 2006-2010. While Egypt scored 54 out of a possible 100, indicating very weak integrity scores and a decline since 2008, other countries in the Arab region such as Iraq, Lebanon, Morocco, the Syrian Arab Republic and Yemen were placed at the bottom of Global Integrity's rankings for 2010. A more recent United Nations study on corruption in Iraq that surveyed around 31,000 civil servants indicated that more than half of the participants believe corruption to be on the rise while two thirds are not comfortable reporting instances of corruption.[32]

These perceptions played a central role in the Arab uprisings in some countries. In its inaugural Arab Opinion Index, the Arab Center for Research and Policy Studies surveyed 12 Arab countries in the early months of 2011, seeking public opinion on the causes of the uprisings in Egypt and Tunisia (figures 1-2 and 1-3). Citizens of both countries signaled out the corruption and nepotism of the Zine el-Abidine Ben

Table 1-1: Ranking of 8 Arab Countries According to the CPI 2010

Country	Rank	Score
Tunisia	59	4.3
Morocco	85	3.4
Egypt	98	3.1
Lebanon	127	2.5
Syria	127	2.5
Libya	146	2.2
Yemen	146	2.2
Iraq	175	1.5

Note: CPI scores range from 0 (highly corrupt) to 10 (very clean).
Source: Transparency International, 2010.

Ali and Hosni Mubarak regimes as contributing factors. Tunisian participants ranked corruption as the second most important factor, following deteriorating economic conditions, while 39 per cent of respondents in Egypt listed corruption and nepotism as the most important contributing factor to the uprising.

Figure 1-2: Causes for the Tunisian Uprising
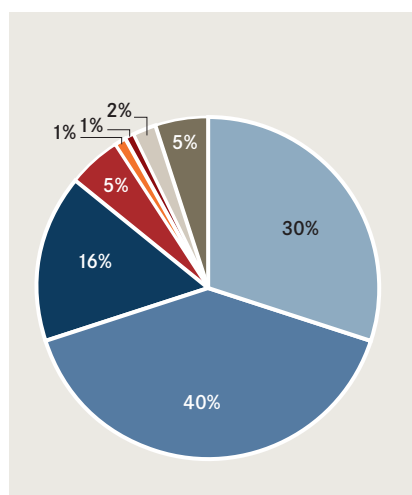
Figure 1-3: Causes for the Egyptian Uprising
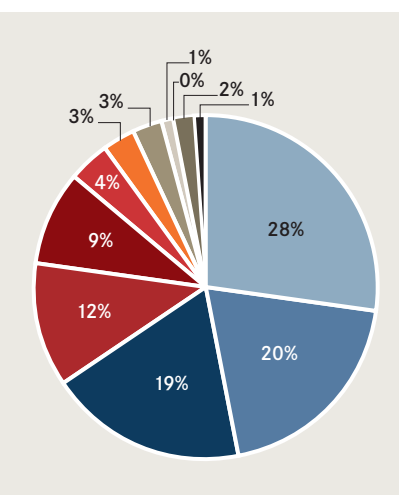
- Deteriorating Economic Conditions
- Corruption
- Inequity, Injustice and Oppression
- Suppression of Freedom and Rights
- Dictatorship and Tyranny
- People's Will
- Poor Management
- Bouazizi/Tunisian Uprising
- Monopoly of Power and the Absence of Pluralism
- External Interventions
- Western Tutelage
- No Answer/ Don't Know
- Other Reasons

Source: Arab Center for Research and Policy Studies, 2011.

The People Want: Civic Activism and the Arab Uprisings

Against this backdrop and in the aftermath of Mohamed Bouazizi's death, Arab citizens took to the streets demanding "freedom, justice and dignity", intrinsically connecting political and economic demands. First in Tunisia, then in Egypt, Libya, Bahrain, Yemen and the Syrian Arab Republic, "The people want", the slogan adopted by protestors, was quickly completed by another phrase: "to bring down the regime". At the forefront of these movements were civic activists with limited experience of political mobilization, alongside political and civic organizations which had been demanding change for decades. Problems of cronyism, corruption and opaque governance were identified as having a direct impact on economic and social justice.

Arab youth, disorganized and outside the institutional framework, played a leading role in launching the uprisings and have continued to to be key players in pressuring new Governments to reform. The youth leadership in the uprisings managed to mobilize massive numbers of individuals, the young activists of Egypt formed the Revolutionary 25 January Youth Coalition that presented key demands to the regime, including the resignation of Hosni Mubarak, the release of all political prisoners and the lifting of the state of emergency. More recently, the regime was toppled once more following the massive demonstrations of 30 June 2013, called for by the Tamaroud petition that asked for the resignation of the first freely elected post-uprising President Mohamed Morsi, with the support of the army and the backing of key opposition parties. In Yemen, select representatives of the revolutionary youth are participating in the national dialogue, while others in Tunisia are organizing into political parties and creating networks to keep the public informed of developments. The Libyan Youth Movement (Shabab Libya), inspired by the 25 January youth coalition in Egypt, is working with the Libyan Transitional Council on the protection of youth rights in the new constitution.

These uprisings were characterized by their horizontal forms of organization and non-linear structures that facilitated quick mobilization and networks between socially and geographically dispersed individuals. Initiated mainly by politically unaffiliated actors, these movements rejected traditional hierarchies. As a young Tunisian stated, "...in our movement we have agreed on a set of ideas, certain goals, and then we discuss how we would like to achieve those goals. But everyone is free in how they want to do it... it is something quite new – a new form of resistance, a new structure that has no structure".[33] Attempts to initiate wide-scale mobilizations were supported afterwards by traditional civil society organizations, labour unions and opposition parties with a long history in the region.

What was also singular about these uprisings was the cross-class and cross-ideology coalitions that have emerged, bringing together businessmen, students, agricultural workers, intellectuals and others under the same cause. These apparent alliances indicate the difficulty of segmenting societies simply along class, religion or ideology (image 1-1). While some alliances may be short-lived, they have certainly empowered individuals and created a sense of solidarity across national boundaries. This sense of empowerment, as will be elaborated, cannot be underestimated.

Image 1-1: Syria Is Being Freed, Cairo

Source: EgyNemo (Courtesy of Artist)

The Impact of Arab Uprisings

A- Finding Voice: Political and Civic Pluralism

Arab uprisings have had a considerable impact on the political, social and economic landscape of the region. On the political front, and even though presidents have left while regimes have remained in place, the region is witnessing increased political pluralism and democratic practices, as well setbacks into conflict and violence. That the path from authoritarianism to democracy is not linear has become self-evident. Indeed, some countries have undergone regime change, some have descended into civil war, while others have initiated a series of quiet reforms

that sought to placate their populations. In those that have undergone regime change, free and fair elections were carried out with significantly high rates of participation, benefitting to a great degree previously suppressed Islamic parties - both the mainstream Muslim Brotherhood and the more conservative Salafist party. In these countries, the path of transition has also been fraught with difficulty given ongoing mass protests, the ever-looming threat of civil unrest, ethnic or religious rivalries and the actions of counter-revolutionary movements. The more recent ouster of Egypt's first democratically elected president will have significant repercussions on the region for years to come. While the debate continues as to whether this was a military coup or not, and even though he may have not governed democratically, the role of the army in the ouster of the president has reinstated them as the major calibrator of politics in Egypt today. At the same time, the massive demonstrations of 30 June 2013 have further reinforced the image of the public as the source of legitimacy. Those demonstrations, billed by the popular press as the biggest in political history, contribute to the larger narrative of the power of individuals to cause change and to redefine the public good. The drafting of a new constitution that meets the aspirations of protesters remains a singular challenge. As will be further elaborated, such significant

transformations will have a long-reaching impact on future scenarios in the region.

In this atmosphere of political pluralism, and as the ground and forms of mobilization are radically transformed, there has been an upsurge in the intensity of civic engagement, and the number of new social networks and civil society organizations. In the aftermath of the uprisings, the numbers of registered civil society organizations, civic initiatives and popular protests has skyrocketed. In Tunisia, for example, between 7,000 and 10,000 new civil society organizations and associations were registered within the first ten months of the uprising.[34] In Egypt, almost 300 new independent labour unions were formed following the ousting of President Hosni Mubarak.[35]

Many of the social movements active today played a critical role in mobilizing people during the uprisings. They are taking part in national dialogues (Yemen) or leading ongoing protests against current governments (Egypt, Tunisia and Libya). The Egyptian Center for Economic and Social Rights documented 315 incidents of protest in the second half of September 2012 alone.[36] Surveys recorded 1,370 protests between May 2011 and April 2012, which doubles the number of protests since pre-revolution years.[37]

Box 1-3

"The Walls Remember": Faces of Yemen's Disappeared

"We feel now that their pictures on the walls speak"
Hala al-Qarshi, daughter of Sultan al-Qarshi who was arrested and disappeared in 1978

Image 1-2: The Walls Speak

Source: Jameel Subai, 2012. (Courtesy of Photographer)

In January 2013, Muthahar al-Iriyani who had disappeared 31 years earlier, resurfaced in a hospital- a broken

man with severe memory loss. One of many forcibly disappeared individuals in Yemen since the 1960s and 1970s, he brought to light the plight of dissenters of all political persuasions who have simply vanished. The silence surrounding these disappearances was initially broken in 2007 by Al-Nidaa newspaper in Yemen, which publicized a series of reports into the matter. In 2012, inspired by the Al-Nidaa reports, Yemeni artist, Murad Subai, created "The Walls Remember" initiative to keep the memory of the victims alive. Using stencil art, he paints the faces, names and dates of disappearance of the disappeared on the walls of the city. Supported by family members of the victims and other civil society organizations, this initiative has reignited discussion on the issue, particularly in the light of the ongoing dialogue and the debate on a transitional justice law. It also serves to subvert official state narrative that denies that such disappearances ever happened.

One of the most noticeable outcomes of the Arab uprisings is the emergence of public spaces of dissent and innovative mechanisms for reimagining the relationships of individuals to power. Even though the institutional structures of the state have yet to be transformed, the forms of mobilization taking place and the ground on

which they are occurring have changed dramatically. New forms of public participation are emerging, particularly by previously marginalized societal groups such as the youth and urban poor. In a dramatic "politics of presence"[38], the tight grip of security over public spaces has been broken as the walls and streets of Arab cities are awash

with various expressions of dissent and engagement with current affairs. Walls are occupied with Graffiti and projections of unfolding events by activists (image 1-2, 1-3 and box 1-3); streets are overtaken by protestors, rappers, musicians and other performance artists engaging with political developments and denouncing human rights abuses; and slogans of solidarity are creating linkages between Arab citizens across time and space. Existing power structures are publicly subverted and new ones imagined.

Image 1-3: The Martyrs of Port Said, Cairo

Source: Maha Yahya, 2013. (Courtesy of Photographer)

Image 1-4: After the Blood, There Is No Legitimacy, Cairo

Source: Maha Yahya, 2013. (Courtesy of Photographer)

Furthermore, new forms and trajectories for producing social change and ensuring political representation have also emerged. While the rapidity of change caught many traditional parties by surprise, emerging social movements were transforming the very terrain on the basis of which demands are made and legitimacy is acquired. Beyond institutional forms, the "Tahrir" squares of Arab cities became a source of political legitimacy. One striking example of this occurred in the aftermath of the election of President Mohamed Morsi who took his oath three times: first in

Tahrir square, to claim revolutionary legitimacy; second in front of the previously dissolved parliament, thus claiming some form of electoral legitimacy; and finally in front of the High constitutional court as required by the Constitutional Declaration that Egypt had at the time. In the same spirit, the debate raging in Egypt and internationally as to whether his ouster constituted a military coup has revolved around questions of legitimacy. While his final speech before his ouster was replete with continuous references to his legitimate and free election by the people, dissenters have argued that he had been stripped of his power and thus legitimacy by the people themselves. More citizens, it was alleged, demonstrated against him than voted for him.

Significantly, this struggle over power and legitimacy has led to the emergence of alternate forms of mobilization, as Governments seek to use non-state actors in subverting opposition groups. For example, in Tunisia, the Committees on the Protection of the Revolution (Lejan Hemayat al Thawra), that supported the uprising and were subsequently established officially on 14 June 2012, are now thought to be manipulated by Ennahada. While Rashed al-Ghannouchi, the co-founder of Ennahda and its spiritual and intellectual leader, considers them as the "conscience of the revolution and its guardians", others have gone as far as dubbing them the Ennahda militias.[39] As one Tunisian participant in a recent youth survey has claimed, "The Committees of the Protection of the Revolution were at first spontaneously created, that is, everybody was part of it. It was natural, we all wanted to protect our houses and our neighborhoods. But now this same committee is involved in some shady things like what happened with the Nidaa Tounes guy. They are the ones that attacked his office and might have caused his death."[40]

The subversion of revolutionary zest has also materialized in a number of different sites, particularly in the struggle over women's bodies. During the uprisings, the appearance of women in public spaces broke through invisible barriers that used to circumscribe the use of such spaces. In the aftermath of the uprisings, and as Seikaly poignantly shows in the case of Egypt,[41] in an effort to reclaim these spaces, the army resorted to past tactics of intimidation by subjecting protestors to sexual abuse, including humiliating virginity tests. Women were also targeted on the streets as reports of mass public rapes and harassment of mainly women in Tahrir square surfaced. A United Nations study revealed that 49 per cent of women reported an increase in sexual harassment after January 2011 and 83 per cent did not feel secure in public places.[42] These incidents were used by conservative politicians and policymakers to displace the discussion from the question of rights to issues of morality. While the Shura council blamed women for these incidents, Reda al-Hefnawy of the Freedom and Justice party suggested that "women should not mingle with men during protests" and Salah Abdel Salam of Al-Nour party argued that "the woman bears the offence when she chooses to protest in places filled with thugs".[43] In response, women fought back. Samira Ibrahim, one of

18 women subjected to virginity tests took the Supreme Council of the Armed Forces (SCAF) to court. As she would later state, "I didn't go to court as Samira Ibrahim. The violations that occurred are against all the women of Egypt. If everyone remains silent, then nothing will change. I urge all the women who were subjected to violence and had their rights violated by the army to file legal complaints".[44]

More critically, sexual violence was also used as a weapon of war in a number of transition countries. In Libya, widespread reports of rapes were made during the uprising against Muammar Ghaddafi and following his fall, with no accountability for these crimes in place. In the Syrian Arab Republic, even more reports have emerged about the horrific use of sexual violence to intimidate and break citizens both male and female.[45] It is also used as a form of collective punishment, as testimonies

show: "In conservative areas, if a young girl is abducted, the honour of the whole village is tarnished. Kidnapping has become an instrument of terror used by the security forces. We don't know where the women are taken".[46] In response to these challenges, and in addition to a large number of initiatives by international, regional and national organizations and human rights activists, a group of female activists launched an online platform that to advance the rights of women in the Arab region and build solidarities around key issues in real time (box 1-4). Similar initiatives have also been launched on a national basis, such as Bahiya Ya Masr.

Image 1-5: Sitt el Banat, Cairo

Source: Karim Hussein, 2012. (Courtesy of Photographer)

On the political front, women, who had been at the forefront of the uprisings, were sidelined to a large extend in the transition councils and bodies. For example, in Egypt, not a single woman was appointed to the constitutional committee referred to at the time as the council of 'Wise Men'. In Libya, while 2 women were included in the 28 member transitional cabinet, the President of the National Transitional Council declared, on the day of the end of Gaddafi's rule of Libya was celebrated, that any law contradicting the Sharia would be considered null and void, including civil laws banning polygamy. As Selwa Bugaighis would later state, "We had never participated before in protests, these were taboo. The revolution made us proud to be there on the front line and men were forced to accept us. But now there are some who think it is time for women to go home".[47]

The political status of women also varied following the first transitional period elections, depending on the electoral laws that were enacted. In Tunisia, while article 16 on parity of the new electoral law calls on all political parties to submit an equal number of female and male candidates in all electoral lists, and stipulates alternation in candidates (female/ male) in the way they are ranked in lists, the majority of political parties placed men at the top of their lists. Nevertheless, women maintained their pre-revolution status and won 57 of the 216 seats[48] (around 27 per cent of the Tunisian parliament), of whom

a large majority are affiliated with Ennahda party. In Egypt, following the 2011 elections, with the abolition of the 64 seat quota for women by the ruling SCAF at the time, the percentage of women in parliament decreased from 12 per cent to 2 per cent. As Hoda el-Sadda would later state, "political groups do not make women's rights a priority. This includes both liberal and Islamist parties. None of the political parties challenged the fact that no quota was imposed for women. Women's rights were compromised by all political groups."[49] In Libya, no female quota was included in the text, but the new law required that 50 per cent of electoral lists be women. Women won 33 out of the 200 seats of the General National Congress in the 2012 first free parliamentary election.[50]

Despite some gains on the political front, there remain considerable concerns around the issue of personal status laws and the rights of women as equal citizens. In Libya, calls for more conservative interpretations of the Islamic law or sharia when it comes to personal status issues have raised concerns. More recently, in February 2013, Libya's Supreme Court lifted restrictions enacted under the Gaddafi regime on polygamy, whilst in April 2013 and following the call of the Grand Mufti on the Government to ban the marriage of Libyan women to foreign men, the Ministry of Social Affairs has reportedly stopped issuing such marriage licenses.[51] In Tunisia, concerns were also raised over new custody

and adoption laws that could potentially undermine women's rights.[52] Similar concerns have been reported in Yemen and Egypt.

These practices also point to parallel sites of sometimes violent struggle, namely discussion around the nature of the civic state, the place of religion and the form of politics. The popular uprisings that have swept across Arab countries opened the way for the full participation of previously banned or exiled political parties with an Islamic identity. The only organized force besides the army, the Muslim Brotherhood, was in a key position to win elections and a mandate to govern. Yet, two years later in the case of Tunisia and one year later for Egypt, a profound crisis is shaking that force. Newly empowered citizens are demanding effective

pluralist and inclusive governance systems; a demand that the Muslim Brotherhood in Egypt seemed unable to fulfill as they sought to capitalize on their decade's long efforts to link the power of religion to politics. This tension brought to the fore the simmering vertical cleavages couched in terms of religion versus secularism. In Tunisia, this tension played a part in the assassination of opposition leaders Chokri Belaid and Mohamed Brahmi, triggering massive demonstrations and changes in government. In Egypt, the sheer number of citizens that took to the streets on 30 June 2013 indicates that the issue is not religion but rather governance. In other words, what is at stake here is the question of pluralism versus "majoritarianism", and whether the religious and cultural sensibilities of majorities should be privileged over other forms of identity.

B- Economic Disruptions

Over the past two years, Bahrain, Egypt, Libya, the Syrian Arab Republic, Tunisia and Yemen witnessed considerable disruptions in their economic activity. According to the International Monetary Fund (IMF), these countries experienced an estimated gross domestic product (GDP) loss of 20.56 billion United States dollars (US$), while public finances were eroded by an estimated US$ 35.28 billion in 2011 alone,[53] with Egypt, Libya and the Syrian

Arab Republic suffering the worst losses in terms of GDP, followed by Bahrain, Tunisia and Yemen. Neighboring countries, such as Jordan, Lebanon and Morocco, experienced the negative spillover effects of instability and new spending packages added more burden on their already strained budgets. Countries of the Gulf Cooperation Council (GCC) managed the effects of unrest with new social programmes paid for through oil dividends.

Figure 1-4: The Economic Impact of Political Unrest on Selected Arab Countries

1- Syria
GDP: 0.57
Tourism: 0.97
FDI inflows: -43

2- Lebanon
GDP: -3.1
Tourism: -24
FDI inflows: -25

3- Tunisia
GDP: -4.0
Tourism: -31
FDI inflows: -24

4- Morocco
GDP: -0.8
Tourism: 11
FDI inflows: 60

5- Jordan
GDP: -3.3
Tourism: -22
FDI inflows: -11

6- Yemen
GDP: -10.7
Tourism: -28
FDI inflows: n.a.

7- Egypt
GDP: -3.1
Tourism: -33
FDI inflows: -100

8- Libya
GDP: 26.6
Tourism: n.a.
FDI inflows: n.a.

9- Algeria
GDP: -1.2
Tourism: 16
FDI inflows: 14

7- Egypt
GDP: -3.1
Tourism: -33
FDI inflows: -100

GDP: Difference between the average real GDP growth in 2011-2012 and 2000-2010, pp
Tourism: Tourist arrivals 2011 vs 2010, %
FDI inflows: FDI inflows 2011 vs 2010, %

Source: Oliver Masetti and others, 2013. Syria figures based on ESCWA estimates.

Consequently, average real GDP growth in the Arab region fell from 4.2 per cent in 2010 to 2.2 per cent in 2011, its lowest level in over a decade. Economic growth is expected to reach 4.8 per cent in 2013, but to remain below the pre-revolution levels.[54] In addition to GDP losses, the countries that witnessed uprisings were also affected by a number of deficits, namely fiscal imbalances, exhaustion of foreign reserves, lowered tourism receipts, falls in foreign direct investment (FDI) and a depreciation of currency. For example, as a result of the sharp slowdown in economic activity, oil production in Libya plummeted and in Egypt, the strikes in the wake of the Egyptian revolution deterred production for months. One of the most tangible effects of the unrest was the sharp decline in FDIs and tourism: FDI plummeted by 50 per cent in both Egypt and Tunisia during the first quarter of 2011,[55] while the decline of tourism was felt in Egypt, Jordan, Lebanon, Morocco and Tunisia, being most severe in Egypt and Tunisia.

The decrease in economic growth and disruptions in economic activities have resulted in greater unemployment; an issue of major concern to Arab youth in particular. For example, in Egypt, unemployment increased from 8.9 per cent in 2010 to 12 per cent in 2011. In Tunisia, during the same period, it increased from 13 per cent to 17 per cent, mainly because of the repatriation of Tunisians working in Libya.[56] In Yemen, there were around 45 per cent of unemployed and a large number are underemployed or marginally employed workers in 2012. Among the youth in Yemen, unemployment is around 53 per cent.[57] It comes as no surprise that unemployment continues to be a major concern for 41 per cent of the youth in Gulf countries and for 46 per cent in other Arab countries.[58]

The retraction of Arab economies since late 2010 was addressed through fiscal and welfare measures that Arab Governments announced in response to the uprisings. The size of the fiscal stimulus ranged from 0.5 per cent of GDP in Egypt to more than 22 per cent of GDP in Saudi Arabia.[59] Jordan saw a nearly 200 per cent increase in subsidy expenditure in 2011 and Tunisia 68 per cent. In Egypt, subsidies absorbed 42.8 per cent of annual revenues in 2011, and accounted for almost 10.4 per cent of GDP.[60] Egypt's public sector salary bill has risen by 80 per cent since the uprisings, to US$ 25 billion annually.[61] Consequently, fiscal deficits and public debt levels have widened sharply.

As will be outlined in Chapter III, ad hoc social spending measures implemented in response to the uprisings are not sustainable. Almost all countries in the region increased public salary wages; some, such as Egypt, GCC countries, Jordan, the Syrian Arab Republic and Yemen, boosted public sector employment in a bid to address rising unemployment; others, including countries that did not witness protests, increased their welfare provisions, either by introducing changes to pension schemes (Algeria, Bahrain, Egypt, Morocco and Oman) or by extending social assistance in the form of cash transfers and subsidies (GCC countries). However, the sustainability of these measures, which were made possible by existing reserves and the 2011 increase in oil prices and production levels, is in serious doubt. In the United Arab Emirates for example, the forecasted inflation rate has almost doubled between 2011 and 2012, and the promised 70 per cent increase in military pensions will further strain the fiscal condition of the country in the long term.

C- Social Unrest

On the social front, the decline in GDP and disruptions in economic activity, accompanied by a spike in consumer prices, aggravated existing social deficiencies and led to a reported increase in the percentage of poor and vulnerable populations in some countries. In Yemen for example, the rates of consumer price inflation increased from 11.1 per cent in 2010 to 19.4 per cent in 2011,[62] while poverty increased from 42 per cent to 54.5 per cent.[63] In Egypt, significant pockets of poverty and food insecurity emerged in urban areas, where poverty increased from 11 per cent to 15 per cent between 2009 and 2011.[64] In 2012, total poverty by the national poverty line amounted to 25.2 per cent in Egypt.[65]

The increase in vulnerability also includes an increase in the proportion of food insecure populations. This fact is not surprising, given that the Arab region imports more than 50 per cent of the food it consumes.[66] Such vulnerability is mostly pronounced in Yemen, the poorest country in the region with 45 per cent of the population living below

the poverty line. In 2012, it was estimated that half of the population was food insecure, representing a 50 per cent increase in figures since 2009, and that 9 out of 10 Yemenis were vulnerable to high food prices.[67] In Egypt, the proportion of the food insecure population increased from 14 per cent in 2009 to 17 per cent in 2011.[68] The Egyptian Government provides food subsidies to help the poor, however its subsidy programmes are not well targeted.[69]

The region has also witnessed large scale population movements in the last few years. On the one hand, with the eruption of the uprisings, there was a considerable flow of migrant workers who fled back to their home countries, particularly from Tunisia and Libya. On the other hand, the eruption of violence in the Syrian Arab Republic has led to a massive influx of both Syrian and Palestinian refugees to neighboring countries. This spillover effect has serious consequences for host countries whose infrastructure is unable to meet the needs of a sudden large influx of populations.

The large scale population movements have also meant a dramatically reduced access to social services and social protection. The destruction of health and education facilities and the inability of host countries to address the need of incoming populations will have significant long-term repercussions. These include interruptions in the treatment of chronic diseases, a severe strain on the health care systems of neighbouring countries and an increased risk of communicable disease transmission. Recent studies are warning of an impending health crisis among internally and externally displaced populations in and from the Syrian Arab Republic. More than 12.9 million people are estimated to lack access to basic services of food, water and shelter there, and the public health care system has ceased to be effective, particularly for those with chronic diseases and for the elderly, persons with disabilities and pregnant women. In addition, vaccination programmes for infectious diseases such as tuberculosis were interrupted, creating the conditions for an epidemic outbreak.[70] In host countries, access to health care is derailed by large out-of-pocket expenses or hospital bed shortages, among other impeding conditions. The health problem is also aggravating social tensions within refugee camps and with host communities.

As for education, a considerable number of students have dropped out of school due to war or economic hardship. A large number of schools have been destroyed in countries that have seen direct conflict such as Libya, the Syrian Arab Republic and Yemen, and access to existing schools has been impeded by political polarization and disruptions in daily activities. In the Syrian Arab Republic alone,

more than 2,400 schools were either partially or fully destroyed by the end of 2012, and school attendance rates, varying according to governorate, were as low as 6 per cent in Aleppo and 60 per cent in Raqqa.[71]

In Libya, as a result of the conflict, the education of over 1.2 million children was interrupted, some having returned to schools while others are still struggling to achieve some form of education.[72] In Yemen 90,000 children[73] still do not have access to education, almost 50,000 children are denied access to their schools in the Aden Governorate, and children have to study in makeshift classrooms, temporary spaces and under adverse conditions.[74] While school dropouts are not exclusively a direct outcome of the political transition, conflicts and economic hardship have aggravated pre-existing deficiencies.

Similarly, the disintegration of state control over educational services and the politicization of educational curricula have potentially serious implications on the prospects of children and the future social cohesion in a number of countries. As box 1-5 indicates, the educational curricula in the Syrian Arab Republic have been revised based on the religious or political inclination of the groups in control of the various parts of the Syrian territory. A similar challenge has been observed in Yemen where according to Wadhah Abdul-Bari Taher of the Yemen Center for Studies and Research, religious figures are using educational curricula to promote a divisive political agenda: "We are now in a very complicated phase due to bad curricula. If this problem is not seriously addressed, the situation heralds a genuine catastrophe."[75]

Box 1-5

The Unravelling Education System in the Syrian Arab Republic – What Next?

In the Syrian Arab Republic, the educational system is unravelling as young Syrians are turning into "a lost generation". At least 1 out of 5 schools is no longer functioning; 2,400 schools have been damaged, 1,500 have been turned into refugee shelters and others are used as military bases, barracks, detention centers and sniper posts. In some areas where schools are still functioning, children are unable to reach them due to insecurity or are uninterested in attending for a number of reasons, including fear of interrogation or harm by teachers and security agents for alleged anti-government activity; fear of rape and sexual assault or recruitment by armed groups; and the prospects of early marriage.

Where students are able to go to school, the situation may not be much better as the educational curricula are politicized. According to a group of activists, at least four different curricula are being taught: (a) the Syrian curriculum, used in government-controlled areas; (b) the amended Syrian curriculum, used in opposition-controlled

areas; (c) the Libyan curriculum, promoted in the rural areas of Edleb and Aleppo; (d) the Jabhet al-Nusra curriculum, in areas it controls with the four main subjects being the "Quran", the "Hadith", the "Fiqh" and the Arabic language. Overall, there is no general rule for what is taught and where it is taught, since this depends on the context and the availability of funding, resources and teachers. However, activists highlight that, in many areas and especially in the northern part of the country, many subjects are being neglected in favour of religious classes of different ideological inclinations.

Collectively, these factors are leading to a "lost-generation" of young Syrians whose vulnerability to radicalization and violence, loss of hope and limited future perspectives could trigger further societal divisions and hamper future peace and reconciliation. Their implications for the future of young Syrians are disastrous, as this situation holds potentially devastating effects at the individual and collective levels.

Source: UNICEF, 2013a; HRW, 2012b and 2013c.

D- Challenged Social Cohesion

Collectively, the issues included above are posing serious challenges to social cohesion and solidarities within countries and across the region. The levels of cohesion in societies are impacted by a complex constellation of political, social and cultural factors. A cohesive society is one that fights exclusion and marginalization, and actively promotes the well-being of its members. It is also one that demonstrates a shared understanding of history and collective memory. As has been exposed above and will be further explored in the following chapters, societal bonds, which hold communities together, are being placed under tremendous strain in different Arab countries.

These solidarities were already strained by significant human rights abuses that took place prior to, during and in the aftermath of the uprisings. Abuses include the murder or disappearances of civilians, imprisonment without due process, the suppression of civil and political liberties, sexual harassment by security forces, other forms of violence against protestors and socioeconomic injustices. Conflicts and transition processes in some countries of the region render the establishment of comprehensive and sound transitional justice measures critical for the promotion of national reconciliation and social cohesion. Civil society activists and organizations can play a critical role in ensuring communal support for such a process. Challenges to social cohesion in Arab countries also include the lack of trust between state and citizens and between citizens themselves, a weak collective view of history and identity, and increased factionalism and sectarian or ethnic politics. The distrust expressed by citizens of their States comes as no surprise, given past social contracts, the overt reliance on the security apparatus and the covert oppression of populations. The latter has, as many observers have documented, ripped families apart, as siblings were sometimes forced to report on each other. In the absence of a palpable change in attitude and a clearer vision of post-uprising Governments, this distrust has increased, as recent polls indicate (figure 1-5).

Figure 1-5: Trust of Arab Citizens in Governments and Key Public Institutions, 2012-2013
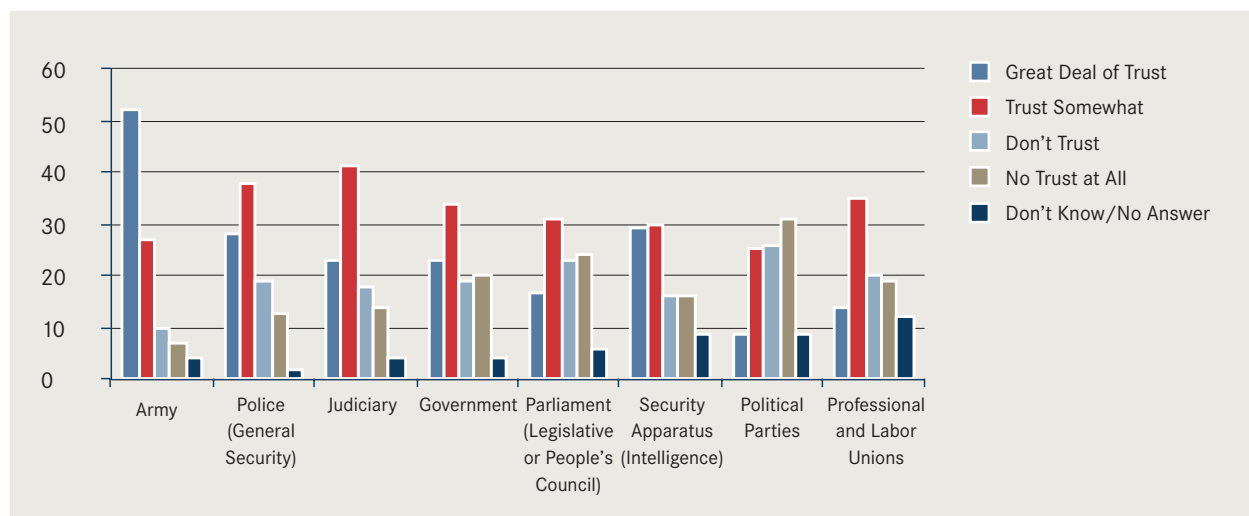
Source: Arab Center for Research and Policy Studies, 2013.

Forging a the collective memory of a country is a fundamental part of building its national identity, through propagating collective memories, shared values and histories, and ensuring a rightful place for ethnic and religious minorities in the national narrative. Failures in this process and the dismantling of previous regimes have awakened dormant animosities and exposed an already fragile social cohesion. In all uprising countries, societal polarization has become acute between counter-revolutionary forces, pro-democracy actors, secularists and Islamists, none of whom are providing a convincing vision for an inclusive and representative future. Tribal and regional fault lines, as well as historic economic and social injustices in Yemen and Libya, threaten a fragile political process there. In Egypt and Tunisia a hidden class struggle, as well as negotiations between the Muslim Brotherhood, the army and the powerful counter-revolutionary forces, may lead to the imposition of a compromise that would potentially thwart the goals of the uprisings. In Bahrain, Iraq, Lebanon and the Syrian Arab Republic, sectarian flames are threatening to engulf entire communities. These fault lines have extended into the very fabric of families, as shown in the following testimonies of two Egyptian participants in a survey: "Fragmentation has reached some very personal areas. Some families even start to suspect their sons and daughters' religion and whether they are still Muslim or not"; "I know from many of my friends that their relationships with their families has been harmed badly due to differences in political positions."[76]

Moving On

Against this background, it is evident that addressing the causes, the short-term impact and the long-term opportunities of the uprisings calls for rethinking the current development agenda. It should be replaced by one that considers the achievement of social justice based on the principles of equitable citizenship rights a fundamental pillar for maintaining social cohesion and consolidating democracies in Arab countries. While there is no indication of a radical departure from previous policies by newly elected Governments and decision makers, civil society activists and organizations, as well as labour unions, can play an active role in consolidating a vision of change and mobilizing the public around it. The active participation of all sectors of society is fundamental to a constructive transition to democracy.

The profound psychological impact of the sense of empowerment that Arab citizens have acquired over the past two years should not be underestimated. Previously considered and referred to as apathetic, apolitical or fatalistic, both the Arab individuals and collectivities now know that they can make a difference. They have found their voice. The real challenge lies in the ability of Arab collectivities to capitalize on the power of this voice and find a platform that can bring together all those who have participated in the demand for change, with the aim of realizing a clear vision for the future.

The following chapters will engage with three key themes that we believe are central to consolidating a vision that promotes social justice and maintains social cohesion: a) the process of defining a new social contract and the place of citizenship and religion; b) the means for addressing key social deficits; c) the challenges and significance of sound transitional justice to a prosperous future. For each of these themes, we will be outlining the key issues, challenges and opportunities, and the role of civil society. This analysis is based on the principle that citizenship, social justice and equity are fundamental requirements for moving forward. It is our belief, to quote Margaret Mead, that one should "never doubt that a small group of thoughtful, committed citizens can change the world. Indeed it is the only thing that ever has."

Image 1-6: The Rights of the Martyrs and the Revolution Are Above Everyone

Denise Bouquet, http://www.flickr.com/photos/66944824@N.05/6347333210.
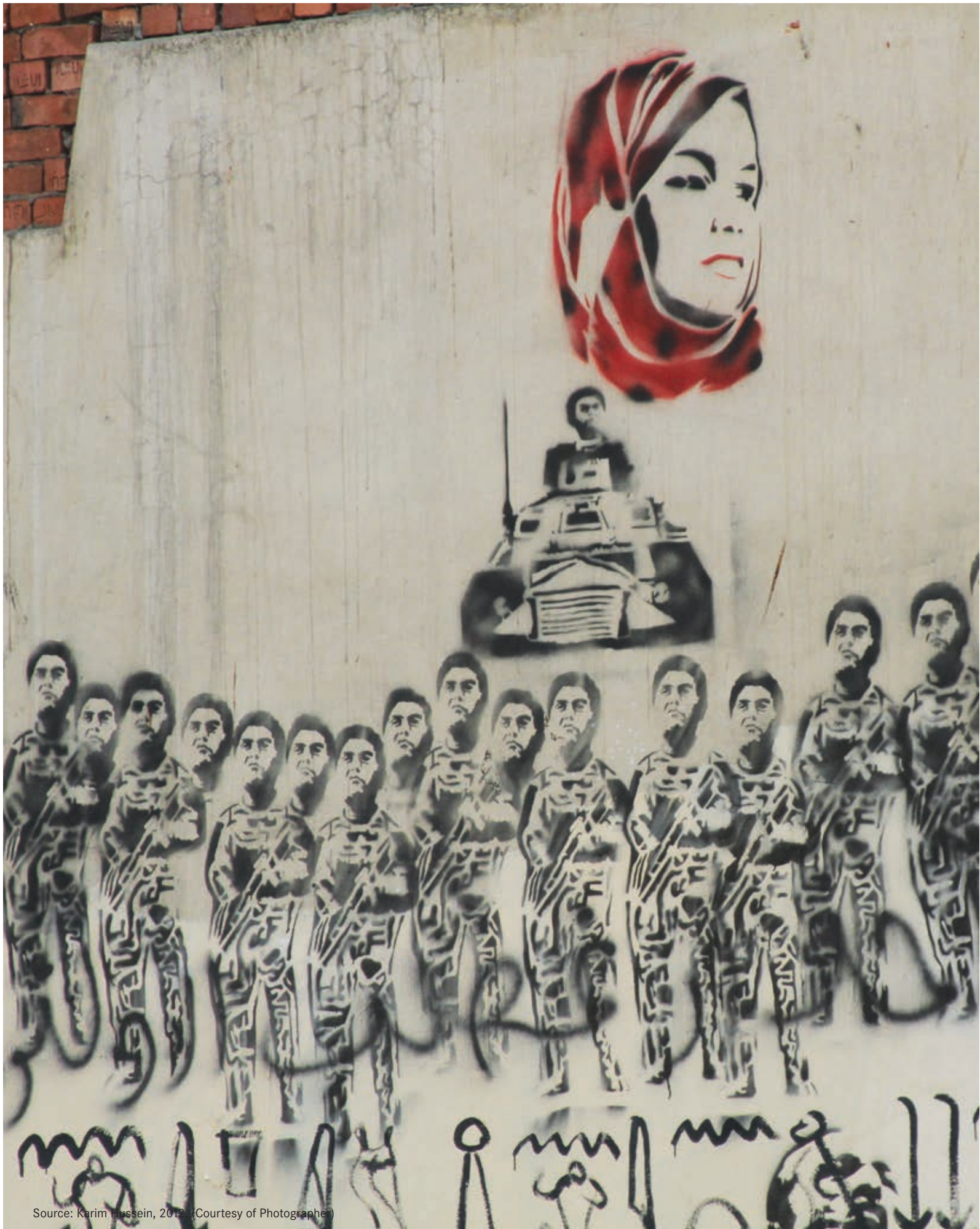
02

The Civil State and the Arab Uprisings: The Cases of Tunisia and Egypt

"This [constitution] is our national soul, our compact with one another as citizens, underpinned by our highest aspirations and our deepest apprehensions"

Nelson Mandela

Introduction

Although the future of the Arab countries that have witnessed uprisings remains uncertain, these popular movements have deeply altered the status quo of state-society relationships. Research on the Arab state system tended to consider state power as unrelated to society. Moreover, the state was described as cruel or ruthless,[1] exercising police oppression while adopting rentier economic strategies.[2] It was also perceived as having succeeded in containing and controlling a society which, in turn, seemed unable to protest and claim better life opportunities. Such an equation resulted in oppressive regimes that monopolized political, economic and even religious representation, and mostly relied on violence to suppress the protests of citizens. The predominant social contract was one in which Arab citizens gave up on political and civil freedoms while the state provided for social and economic welfare.

However, as indicated in chapter one, the nature of this social contract was transformed through the adoption of policies of economic liberalization in the 1980s leading to a two-pronged situation. First, financial and business networks, which were implicitly affiliated with ruling elites under the guise of private sector companies, flourished. These neoliberal policies led to a greater impoverishment of Arab citizens as they consolidated the authoritarian and dictatorial nature of the ruling power.[3] Second, Islamic charities reaped the direct benefits of the new economic situation, as grassroots demand for their services in lieu of services previously provided by the state grew along with increasing poverty.[4] They gained a political and organizational strength that translated into electoral victory in the first elections following the uprisings.

The deficits resulting from those policies on the political, economic and social fronts were key triggers of the Arab uprisings, as Arab citizens called for "bread, liberty, social justice and human dignity". For the first time in recent history what "the people want" had become the cornerstone of political change. As revolutions not only aim to bring down regimes but ideas as well,[5] the uprisings also succeeded in transforming prevailing conceptions of the state as an independent entity with full authority to repress, and of citizens as helpless bystanders whose only venue for action was submission to the repressive authority of the police state. As Tripp argues, "awe of the state" [haibat al-dawla] was nothing more than people's recognition that the state could do them harm.[6] As this myth was dismantled, focus shifted from the need to topple regimes to a reconsideration of the future of the uprisings and the optimal social contract that would meet the aspirations of the people in Tunisia Egypt, Libya, Yemen, Bahrain, and the Syrian Arab Republic, and—to a lesser extent— Lebanon and Jordan.

The State and the Social Contract

Arab citizens today are seeking to avoid a repetition of former patterns of dictatorship but also express concerns for the rights of religious minorities with the ascent of political Islam to power. In addition to the role of the army in politics, the questions of religious freedom and diversity remain key challenges to the smooth and democratic transition of Arab countries towards a new social contract.

The concept of civil state has become a predominant topic of discussion with the outbreak of the Arab uprisings. This chapter underlines the main aspects of the current debate, notably in terms of religious diversity and public freedoms. It focuses on, major transformations in Egypt and Tunisia, where the constitution was considered the cornerstone of a new social contract between the state and society, based on the principles advocated by the citizens who took to the streets during the uprisings. This was expressly stipulated in the preamble of the Egyptian constitution that was endorsed under former President Mohamed Morsi, and in the preamble of the fourth draft Tunisian constitution, both of which acknowledged the civil character of the state.

It is important to clarify here that this chapter will not propose a new, clear-cut and unified definition of the concept of civil state.[7] Rather, through a textual analysis of a number of key documents, it seeks to frame current debates about the subject, by highlighting the most salient definitions that have prevailed in public discussions since the term "civil" came to be commonly used in conjunction with the term "state".

Along the same lines, the discussion of the Egyptian and Tunisian constitutions, that is those of the two countries that have made the most progress in putting forward new constitutions after the ouster of their former president, is not meant to present an evaluation of the texts. Rather, this discussion is an attempt to identify key issues related to definitions of the civil state in the Egyptian constitution that was subjected to a public referendum on 15 January 2012 and the fourth draft constitution of Tunisia, which was presented by the National Constituent Assembly (NCA) on 1 June 2013. To date, this draft constitution is expected to be discussed and endorsed by at least two thirds of NCA members. Otherwise it will be subjected to a public referendum.[8]

It is important to note that significant political events that have occurred since this chapter was first drafted. Mohamed

Morsi, the former President of Egypt, was toppled and arrested by the army, and the 2012 Egyptian Constitution was suspended. A new constitutional declaration was promulgated by interim President Adly Mansour in July 2013 and a new constitution is in the making, scheduled to go to referendum in January 2014 in Tunisia despite the agreed dates, NCA has so far been unable to adopt a final constitution. Perhaps these two developments highlight the critical importance of this period and its significance for understanding the key challenges facing Arab countries in general and Egypt and Tunisia in particular.

Accordingly, this chapter will address the following key questions: do the post-uprising Egyptian and Tunisian constitutions represent a real break with the past or are they simply part of a systematic historical evolution? Furthermore, does the ascent of the Islamists to power represent a threat to religious diversity and the public freedoms in Egypt and Tunisia?

The Civil State: Conceptual Definitions

In a 2006 study of civic activism and civil society organizations in Lebanon, Karam Karam argued that the concept of "civil" is directly opposed to all that is "military" or "religious".[9] For instance, the civil society organizations that emerged after the Lebanese war were described as entities that were anti-sectarian, and opposed to war militias and other military groups. In a similar context, researcher Mary Tadros points to the fact that in the Arab region, the term "civil state" was first used in Egypt, in the early 1990s, in a public debate organized during the 1992 Arab Book Exhibition and entitled "Egypt – Between a Religious and a Civil State".[10] During the debate, Maamoun al-Hodaimy objected to the use of the term "religious state", in the title. He advocated for the replacement of the word "religious" with "Islamic", on the grounds that the major of Egyptian citizens were Muslims and their perception of life matters was dictated by the sharia, by Islamic jurisprudence and doctrine. From this perspective a religious state could only be a Muslim state, and the use of the term "religious state" in this context could implicitly refer to the potential establishment of a Christian or Jewish state.[11] A book outlining this debate was published in the same year by Khalid Mohsen who noted that the title of the debate should have been "Egypt – Between an Islamic and a Non-Islamic State".[12] However, some of the more secular participants, such as Mohamed Khalafallah defended the title chosen, arguing that the difference between a religious state and a civil state was clear, as both were well established political concepts. A religious state, he continued, derived its power from God, whereas a civil state derived its power from the people. Faraj Foda in turn highlighted that the civil state was one that accepts only one identity, that of citizenship.[13] This controversy summarizes in a sense the ambiguity of the term itself and which continues to be debated today. Moreover, despite its popularity, the term has come to hold different meaning to both individuals of a religious and secular persuasion.

As the Arab region became more liberal and its interest in civil society grew, Islamists replaced the terms "Islamic governance" and "Islamic caliphate" with the expression "civil state with an Islamic reference".[14] It was expressly used by Yusuf Al-Qaradawi, an eminent intellectual of the Muslim Brotherhood, in a book on state jurisprudence in Islam first published in 1997. The publication defined the general framework of the Islamic state as a civil state that follows the principles of *shura* (consultation) and *bi'aa* (co-optation), as opposed to a theocratic state. Al-Qaradawi argued that an Islamic state was not a religious or theocratic state that controlled people or their conscience in the name of divine right, nor was it a state of priests or clergymen… Rather, it is a civil state governed by Islam, grounded in the principles of co-optation and consultation, and its men were strong, loyal, protective and knowledgeable. He added that, in its true meaning and proper implementation, Islam does not allow for "clergymen" like in other religious communities as every man is a man of his religion. However, there are scholars who are specialized in Islamic Law, but they are not clergymen; they are deontologists, philosophers and legal scholars.[15] The Islamic state, as perceived by the Muslim Brotherhood, is thus a civil state by nature. It is by no means a theocratic state, which in their view is a Western form of a religious state where citizens are oppressed by their rulers in the name of God and religion. As for Islamic governance, the principles of consultation and co-optation guarantee the existence of accountability.

These principles were clearly reflected in the 2011 agenda of the Freedom and Justice Party, the political arm of the Muslim Brotherhood in Egypt, whereby the Islamic state was defined as follows:

"The State is civil and civilian, for the Islamic State is civilian in nature. It is not a military state ruled by armed forces who get in power by military coups, and it is not ruled like a dictatorship, nor is it a police state controlled by the security forces, nor is it a theocracy – governed by the clergy or by Divine Right. There are no infallible people who can monopolise the interpretation of the Holy Koran and have exclusive right to legislation for the nation and are characterized by Holiness. In fact, the rulers in the Islamic state are citizens elected according to the will of the people; and the nation is the source of authority. The basis of appointment to all positions and functions in the State is competence, experience and the honesty. And just as it is the nation's right to choose its ruler, legislators and

representatives, it also has the right to question them and hold them accountable, to dismiss and replace them".[16]

However, while the Freedom and Justice Party endorsed an ostensibly civil State, governed neither by the Armed Forces or an infallible divine power, the party also called for a legal system based on the principles of Islamic law. Their 2011 agenda elaborated:

"The State envisaged in our program is the national constitutional Islamic modern democracy, based on Sharia (Islamic law) as the frame of reference. By its nature, Sharia nurtures aspects of faith, worship and morality, and also regulates various aspects of life for Muslims and their non-Muslim partners in the homeland. However, in some (few) cases, Sharia regulates these aspects through definitive texts with direct relevance and significance. It can also regulate through general rules and principles, leaving details for interpretation and legislation as suits different times and environments, in the service of justice, righteousness and the interests of the homeland and citizens. This is to be entrusted to legislative councils, while the Supreme Constitutional Court is charged with monitoring the constitutionality of resulting legislation. Meanwhile, non-Muslims have the right to refer to their own rules and laws in the fields of family and religious affairs. This State is responsible for the protection of freedom of belief and worship as well as places of worship for non-Muslims just as it protects Islam, Islamic affairs and mosques".[17]

Based on the foregoing definition, it became necessary to go beyond the Muslim Brotherhood's understanding of the religious and/or civil state, to engage with the Islam versus democracy debate. A number of researchers, particularly the Orientalists, have presented different analyses of democracy in the Arab region, where they argued that Islam was the most important impediment to modernity and as such prevented the emergence of modern states similar to the European nation-states.[18] From this perspective, the theory of "Arab exceptionalism" came to denote the incompatibility of Islam and democracy was emphasized.

In an attempt to address this issue of Islam and democracy, Assef Bayat criticized the way in which the framing of the research around the compatibility of Islam with democracy.[19] In his opinion, the "debate centers almost exclusively on one side of the equation, Islam, as if, the other side, democracy, is free from complexities".[20] The western concept of democracy has not been analyzed closely; rather it has been accepted as a singular reference point with no consideration for its histories, meanings and associated practices. Judgement is passed only on Islam. This process of deception, according to Bayat, commences with the use of the term "Islamic society" by Orientalist scholars, in a singular form, as if that society were a single immutable entity, and as if Islam were the central factor that shaped the dynamics of such a society. The term "Islamic societies",

he argues, should be used instead, for it allows the different components of society to identify themselves as diversified and non-unified entities. In this sense, Islam in the Arab region is indeed not unified, but rather multifaceted and has multiple expressions that vary from one group to another.

For many researchers, the outbreak of the Arab uprisings marked the death of the idea of "Arab exceptionalism" at the hands of citizens demanding change. It also brought down with it the Western assumption that the main problem in existing Arab regimes lies in the traditional thinking as well as in the new approaches of Islam and Islamists, which oppose modernity and the secular nation-state equally.[21]

In this context, the emergence of the concept of a "civil state" seemed as if it was an optimal solution to avert the return of oppressive regimes on the one hand, and mitigate fears concerning public and religious freedoms on the other hand. The civil component of the state came to signal a concept through which a framework for the new social contract that would lay the foundations of a new state would be formed; a state that would be an antithesis to previous dictatorial regimes. Even though the concept itself became popular as a cornerstone of the new social contract of countries going through political transitions, its main principles remained undefined. One can even go further in this to claim that its recent usage in these countries has been based more on rejecting other state formations such as military or religious, rather than a clear framework with well defined legal boundaries that presents a new vision for the state-society relationship.

The concept of the civil state is therefore not a constitutional concept in legal terms. In other words, no unified law acknowledges and defines the concept and forms of a civil state. For example, the French secular state was established by virtue of the 1909 law, which consecrated the total separation between state and religion. In Turkey, secularism was gradually established following the collapse of the Ottoman Empire and the establishment of the Republic of Turkey in 1923, which brought with it the replacement of the Islamic caliphate and its institutions with civil institutions, the mainstreaming of civil education in 1924; and the consecration of secularism by virtue of the 1937 Constitution. As such, translating the concept into actual institutions is a process that differs from one group to another and one country to another.

Prior to delving further into different understandings of the civil state, it is important to examine the evolution of the term's usage in the Arab region, particularly during the uprisings and the context in which the call for its adoption has taken place. The ascent of political Islam to power in Egypt and Tunisia triggered considerable questions around its vision for governance. With the electoral victories of Ennahda (or the Renaissance Party) in Tunisia, and the Freedom and Justice Party and the Salafists in Egypt, many

questions were raised about the nature of the new social contract and the governance agenda that will be adopted. The concerns of religious minorities for their future in the region grew and were expressed differently in various countries, including Egypt, the Syrian Arab Republic and Lebanon, where the Maronite Patriarch Bechara al-Rahi repeatedly expressed his apprehensions about the future of Christians in the Middle East.

In such a context, where the struggles over the shape of the new contract have been read namely though the prism of majority versus minority rights, calls for a civil state have been growing to the extent that they have almost become the common denominator between religious forces (Muslims and Christians) on the one hand, and liberal and leftist forces calling for a total separation between state and religion on the other hand. This raises an interesting question about whether these forces share a unified definition of the concept of civil state.

It is first important to underline that a civil state does not necessarily entail a secular state, as expressly affirmed by the Christian churches of Lebanon in their Political Action Plan in the Light of the Teachings of the Church and Lebanese Specificities, issued in March 2009. Indeed, the document stated:

"Lebanon adopted the form of the 'civil state'; one that respects religions in both doctrine and practice. Both [civil and secular] forms include the principles of state sovereignty and independence in the temporal sphere, in addition to the state's exclusive right to manage political, judicial, administrative, financial and military affairs on a daily basis within society, and globally manage all affairs pertaining to the political and the economical. Both forms also consider the state as the guarantor of the freedom of belief and worship in a multi-confessional country. Nevertheless, the Church will not accept 'state secularization' if it implies a philosophical doctrine with a material and atheist perception of human life and society, even if the state were to consider this concept as a unified political system of governance and were to impose it on citizens in their personal lives, on schools and universities, and on the entire nation. The Church does not accept secularization if it means that the state is not subjugated to a higher moral authority, and only recognizes its own interest as a driver for action. Whereas the Church respects the state along with its political frameworks and programmes, it only interferes in such frameworks and programmes when it comes to their religious and ethical outcomes".[22]

Therefore, the state, in this context, is independent but not separated from the church and should be subjugated to a moral authority, namely the religious authority, since, according to the authors, "the state, irrespective of its nature and organization, should resort to spiritual values as a source of inspiration and reference capable of nurturing and strengthening a fragile social fabric".[23] Furthermore, from this perspective, a civil state preserves the freedom of education and personal status for religious communities and, therefore provides such groups with a private sphere which is regulated by their own systems. Conversely, although secularization recognizes monotheistic religions, it still considers the state as the sole civil authority that controls educational programmes.

Arab uprisings came to provide two key visions for the civil state; namely a rejection of the religious state and a rejection of the military state. Therefore, while the concept of civil state appears to meet the demands of both religious and secular forces, its nature seems to be seeking mainly to mitigate the concerns of religious minorities and fears around the militarization of the regimes that recently came to power. Accordingly, calls by Arab citizens for a civil state, rejecting were based on the following reasons:

a) Protection of minority rights: in this context, the Christian Maronite Patriarch called for establishing "a culture of coexistence in the context of diversity within unity, cooperation and balanced participation in governance and management".[24] For instance, when the Syrian revolution broke out, the Muslim Brotherhood in the Syrian Arab Republic issued their political vision and programme which stated that a "civil and modern state should be established based on a civil constitution stemming from the will of the Syrian people, grounded in national accord, and developed by a freely elected constituent assembly. The constitution should protect the fundamental rights of individuals and groups against any abuse or violation, and should secure the fair representation of all social segments".[25] Nonetheless, the Muslim Brotherhood did not suggest a form of governance and did not provide a detailed definition of the civil state even though they had stated the following in their political principles of 2004: "The Islamic law with its two eternal sources, namely [Al-Qur'an] and Al-Sunna, are the source of our vision to elaborate a civilizational project".[26]

b) Refusal to assign a political role to military forces: especially on the part of the political figures who supported and partook in revolutions and who strongly reject any potential return of former political regimes, notably in their military and coercive dimensions. Indeed many political forces went as far as calling for a full separation between military and political institutions through a clear article in the constitution prohibiting the military from interfering in the political life of the country.

Moreover, many leftist intellectuals are calling for a state that preserves its civil, i.e. non-religious nature, so that no religious group can impose its opinion on all members of society, be they Muslims, Christians or Jews, and so that all people can be treated equally. In Egypt, this political stance was taken by the leftist candidate, Hamdeen Sabahi,

who stated: "We want neither a religion-free secular state nor a military one, but rather a civil state that takes Islam as a reference".[27] Despite the close similarity to the demands of the Muslim Brotherhood, Sabahi's statement was formulated in a way which meant that one of the potential references of the state would be Islam, whereas the Muslim Brotherhood had called for a state with Islam "as the frame of reference".

The liberals go even further in their view of the civil state as one that treats all individuals equally as citizens, regardless of their religious affiliations. From their perspective, the state should have no official religion. Therefore, accepting Islam as the state's religion would stand in direct contradiction to the civil state.[28]

In stark contradiction to these different views radical political Islam totally rejects the civil state concept on account of it being ambiguous and not expressly adopting Islamic law as a basis for governance. Calls for a civil state are perceived by radical political Islam as "an attempt to mislead people and alienate Islam and religion from daily life matters; therefore, such the term [a civil state] is substantively equivalent to secular state".[29] This position was expressed on several occasions and culminated with the threat of radical Islamists to withdraw from the constitutional committee if the civil state is adopted in the drafting of the Egyptian constitution.[30]

One can conclude, from the discussion above, that the term "civil" entails two different characteristics in the context of Arab region: non-military and non-religious. The concept of civil state still bears a generic meaning and lacks an accurate, unified definition. It does not propose a specific form of state-society relationship; it is rather a concept through which other forms of state formations are rejected. The political debate, as it has taken shape so far, seems to be mostly focused on the relationship between state and religion. The following study of the Egyptian and Tunisian constitutional texts will show the different concrete expressions of the civil state concept in those two legal texts.

The Civil State and Constitutions in Political Transitions

A constitution is one of the most important documents that define the state-society relationship. The process of drafting a new constitution, especially in a phase of political transition, should be inclusive of all societal groups. Given that the constitution is considered by some as a reflection of the status quo and the will of the majority, this majority should not consider the constitution an ordinary law but rather the cornerstone of the new social contract which represents all citizens and protects their rights, regardless of the political or religious affiliations of ruling parties.

The path of constitutional formation differs from one country to another. In the course of democratic transition, a number of key principles should be stipulated by the constitution, including the representation of all segments of society, particularly marginalized groups, as well as guarantees of rights and freedoms. Looking at international experience of countries that have experienced political transitions, the constitution was drafted and endorsed by an elected constituent assembly in some, while in others, an ad hoc committee was formed to draft the constitution and submit it to public referendum. Before delving into how the civil state concept was framed in the constitutions of Egypt and Tunisia, this next section will examine the constitutional path taken in South Africa, as a case study of what is described as one of the most significant and comprehensive transitions. The 1996 constitution is considered as the "birth certificate" of the Republic of South Africa.[31]

A- The Experience of South Africa

The South African experience represents one of the most successful ones in the process of constitutional change, as it achieved inclusion and a fair representation of all societal groups. In an attempt to abolish apartheid, two suggestions on the formulation and adoption of a new constitution were submitted by the two largest political parties in South Africa. The African National Congress (ANC) suggested the creation of an elected constituent assembly to draft and adopt the constitution, and the ruling National Party called for a multilateral process to formulate the constitution and submit the draft to public referendum. A two-stage solution was quickly agreed upon. First, a general national conference would be held, which would gather all South African parties irrespective of their representation and size. The conference would lead to an agreement on the fundamental principles of the constitution, and the rules and structure of the transitional government. Second, elections would be organized to form a consensual transitional government, and members of a constitutional committee would be elected to write the final

constitution draft. The first conference, the Convention for a Democratic South Africa (CODESA), was indeed held in 1991; it gathered 238 participants from several parties and around 1,000 international observers. CODESA faced several difficulties such as the boycott of some parties and low female participation, not exceeding 5 per cent. It called for the formation of five working groups and a sixth one that would monitor the work process. Each party appointed two representatives in each group, in addition to advisers. The five groups covered the following topics: a) creating an environment conducive for democratic political action; b) constitutional principles; c) arrangements pertaining to the transitional period; d) future of homeland independent states; e) time frame and implementation of the process.

In 1992, working groups were impeded on account of conflict between the National Party and ANC. As a result, CODESA collapsed, yet negotiations were pursued and both parties agreed on bilateral negotiation channels. An agreement on a transitional government was reached at the national and local levels. There was also consensus on a provisional constitution and the election of a provisional parliament that would formulate a final draft of the constitution on the basis of the rules endorsed by multilateral negotiations. Both the National Party and ANC had to conduct negotiations with all the other forces and parties, and that led to a Negotiation Planning Conference. In 1992 a Multi-Party Negotiation Process (MPNP) eventually emerged and brought together 26 political parties, including some that had boycotted CODESA initially. MPNP was a two-tier process, it included a public entity representing all participants and a council composed of representatives of each party. It was also decided that each delegation should include at least one woman.

The work process was based on the submission of written suggestions to technical committees composed of non-party technocrats appointed by the political parties. These committees acted as facilitators by coordinating reports and reconciling views. These efforts were intermittently disrupted by violence, which led to an agreement between the key parties on holding national elections. Preparations for the elections required many bilateral and multilateral negotiations. Parliamentary elections were successfully held in 1994 and yielded an elected Constituent Assembly (a Senate and a Parliament). The constitution was drafted over

Image 2-1: Respect Existence or Expect Resistance

a period of two years, based on the 34 principles agreed by MPNP, including the approval of the constitution by a two-third majority. In the absence of such an approval, the draft constitution would be submitted to public referendum after it is voted by at least 50 per cent of members. It would then be deemed approved if supported by 60 per cent of voters, under the supervision of the Constitutional Court.

The Constituent Assembly was required to uphold the following three principles: inclusion, access to information and transparency. In an attempt to foster integration, the Assembly not only received suggestions but also took the initiative to consult with different social groups. Furthermore, it boosted transparency by providing public access to all decisions and suggestions, as well as to all its sessions. In addition, public participation followed a three-fold plan: (a) holding a series of meetings at the local and national levels, in order to clarify certain issues related to the plan of action and to constitution drafting, in cooperation with civil society organizations; (b) encouraging public participation in the form of suggestions and opinions about the draft constitution; (c) conducting follow-up actions once the draft constitution was finalized and voted by the constituent assembly. The first stage yielded around 1.7 million petitions, 1,000 workshops and several meetings attended by around 95,000 citizens. All petitions were drafted in the form of reports submitted to the different committees. Two years later, the Assembly distributed about 7 million copies of the final constitution draft in the 11 languages used in South Africa, along with an illustrated

annex that helped to explain the text. The draft constitution was voted in 1996 and enforced in 1997.[32]

Following this overview of the South African experience, other important aspects of constitution drafting will now be highlighted. Indeed, as was evident in this case, drafting a constitution involves other parameters than those previously discussed, such as the avoidance of ambiguous terms which could pave the way for different interpretations depending on the perspective of individual parties. A constitution needs be clear and straightforward. According to many observers, the wording of the Egyptian and Tunisian constitutions was 'poetic', notably in the preamble and in parts related to the uprisings. Such 'poetics' will not do justice to the citizens who took to the streets as would a constitution written in the spirit of the demands that led to the uprisings.

Moreover, and in order to properly lay the foundations of stability, which allows governments to implement their various programmes, constitutions should not be formulated within short time spans. The Constitution of Egypt bore many shortcomings in this respect, as many articles were voted without devoting adequate time for debate. The aim was apparently to draft the text within agreed deadlines rather than to represent the highest number of social groups. When a constitution is not expeditiously drafted and adequate time is devoted to its adoption, debates can be more inclusive and different suggestions can be given due consideration prior to reaching the final stages of the constitutional process.

B- The Experiences of Egypt and Tunisia

The process of constitution drafting differed between Egypt and Tunisia. In the latter, NCA, a council elected after the uprisings, was in charge of drafting the constitution; in the former, an elected Constituent Assembly was formed, including 100 members that represented all segments of the Egyptian society.

Following the overthrow of President Hosni Mubarak as a result of the Egyptian "Revolution of 25 January 2011", the Supreme Council of the Armed Forces issued a statement whereby it suspended the 1971 Constitution. On 30 March 2011, the Council also issued a constitutional declaration that included the following article: "The members of the first People's Assembly and Shura Council (except the appointed members) will meet in a joint session, following an invitation from the Supreme Council of the Armed Forces, within six months of their election, to elect a provisional assembly composed of 100 members that will prepare a new draft constitution for the country, to be completed within six months of the formation of this assembly. The draft constitution will be presented within 15 days of its preparation to the people who will vote in a referendum on the matter. The constitution will take

effect from the date on which the people approve the referendum".[33] This article is ambiguous on the subject of representation, the selection of members and guiding framework. This ambiguity led to a crisis as a result of which many members resigned. This legislative body was formed based on consultations and included 50 parliament members from the People's Assembly and Shura Council, in addition to 50 non-parliament members who supposedly represented all segments of Egyptian society. The selection of parliament members reflected the outcome of the elections won by Islamists, as 25 members were selected from the Freedom and Justice Party, 11 members from Al-Nour, a salafist party, in addition to 14 independent figures or members of other parties. Political Islamist thus dominated this body. After several meetings, individuals representing non-Islamic societal and political groups began to withdraw. Eventually, the number of withdrawals reached 40, including representatives of the Coptic church and the representative of the April 6th movement. These withdrawals were justified by the fact that Islamic forces monopolized the discussions and did not heed other opinions. Finally, the draft constitution was submitted to public referendum, however the participation level was

low compared to the importance of the event. Only 63.83 per cent of voters supported the draft constitution against 36.17 per cent of negative votes, and voter turnout did not exceed 32.9 per cent.

In Tunisia, the elected NCA formulated the draft constitution, which adversely affected the process. Indeed, the outcomes of the elections were considered as a benchmark to approve a new constitution and therefore, the parliamentary majority, namely Islamic forces, giving the most say in the debates. The draft constitution was very controversial, particularly on issues related to the civil nature of the state, and a petition was filed by 60 parliament members out of 217 to reject the fourth constitutional draft, as it was perceived as an "evading the choices of the constituent committees and majority trends within it" and as contradictory to the "NCA bylaws, particularly Article 104 related to the prerogatives of the Joint Committee for Coordination and Drafting which is bound to rely on constituent committees while drafting the constitution".[34]

The processes of drafting the Egyptian and Tunisian constitutions were criticized on several occasions. As constitutional expert, Chibli Mallat would argue, one of the main shortcomings of the Egyptian constitution was that it was treated as an ordinary law and approved by a simple majority rather than an absolute majority of two-thirds.[35] In the case of Tunis, the Presidency voiced objections to the draft constitution and, in a radio statement, the director and official spokesperson of the Presidential Bureau, Adnan Monser, stated: "We fear that this constitution is may be geared towards a particular segment of society, and thus will not yield a balanced and sustainable political system".[36] The term "segment" in that statement seemed to implicitly refer to Ennahda.

As far as civil society was concerned, the option of participating in the process was made available through websites created expressly for the constituent assembly. Many organized conferences and issued statements that had some influence on the process. For instance, in Tunis, many civil society organizations, including the Tunisian-Euro-Mediterranean Association of Youth, voiced their objections to an article of the third draft of the constitution, Article 95, which provided that "the State reserves the right to establish armed forces and national security forces, and no other armed group or body that is not affiliated with the national army or security may be formed express by virtue of the law".[37] The Association believed that the said article legalized military militias, which would threaten the civil nature of the state. The article was subsequently amended in the fourth draft of the constitution to provide clearly for the exclusive authority of the state over all military and security matters.

Before discussing further the constitutional articles that are directly relevant to the civil nature of the state, it is necessary to examine the relation of the former political regimes in Egypt and Tunisia to Islam, in its role as the religion of the majority of citizens in each of the two countries.

1- The Constitutional Path of Egypt

To begin with, it is critical to note that Egypt has never been a secular state despite the existence of positive laws that are largely influenced by French legislation. However, personal status laws in Egypt including those related to inheritance and religious endowments follow the laws of the three monotheistic religions; Islam, Christianity and Judaism.

With the emergence of the Muslim Brotherhood in the 1930's came public discussions of the principle of "our Koran is our Constitution", which was included in their official anthem. . According to their programme, the sharia was to be applied in keeping with the idea that Islam was not just a religion but also a system of governance. However, in the aftermath of the 1952 revolution, the Brotherhood was placed under considerable restrictions. Some of its members were exiled and others were incarcerated. Calls for the application of the sharia were relatively muted. In the 1970s, Egyptian authorities showed some tolerance towards the Muslim Brotherhood, in what seemed to be an attempt by former President Anwar Sadat to open up to the Brotherhood, as he placed leftist and pro-former President Gamal Abdel Nasser followers under tighter control. Such openness translated into renewed calls for the application of the sharia. The articulation of Islam as the state religion" had been included in all the previous Egyptian constitutions, except for the 1958 Constitution on the union with the Syrian Arab Republic, and was added to the 1971 Constitution. The 1971 Constitution also provided that the sharia principles of the sharia were to be main source of legislation. That article was amended by referendum on 22 May 1980 and the new version provided that the sharia principles would be the main source of legislation, and not merely a main source. The 1971 Constitution and the 1980 referendum happened respectively in the aftermath of the 1967 Naksa (or "day of the setback") and the 1979 peace agreement with Israel. The latter had led to an Arab boycott on Egypt and had undermined the legitimacy of the regime and the credibility of then-president Sadat. Reinforcing the role of religion was one of the strategies used by the President in an attempt to restore his political legitimacy. This was mainly apparent in the official discourse of the state and its propensity to use religious expressions and slogans, such as President Sadat's description of himself as "a President and a believer", and of Egypt as the State of "science and faith".[38]

The application of the sharia remained subject to political tensions. On 20 November 1975, the Ministry of Justice formed a committee headed by the President of the Cassation Court to prepare sharia-compliant draft laws. That committee was later replaced with an ad hoc parliamentary

committee that was expressly asked to consult with Al-Azhar. In 1982, six laws were presented by the ad hoc committee. However, these were never ratified as a decision was taken by the Government to suspend the application of the sharia following the assassination attempt against President Sadat.[39]

In the aftermath of the 2011 upheaval and the downfall of former President Hosni Mubarak's regime, a new Egyptian constitution was formulated and approved by public referendum. According to many experts, several articles of the new Constitution were inspired by the 1971 constitution, some even literally. New articles were also added with regard to the role of the military forces and of Al-Azhar. Article 2 of this Constitution provided that Islam was the religion of the State and Arabic its official language. Principles of the sharia were also deemed to be the principal source of legislation,[40] echoing Article 3 of the 1971 Constitution as amended on 22 May 1980 by public referendum.

In the opinion of some scholars, the Supreme Constitutional Court, which had previously adjudicated some appeals, adopted an enlightened and moderate understanding of Article 2. In its capacity as guarantor of the constitutionality of laws, the Court set a particular condition for the interpretation of Islamic fundamental principles and the definition of their boundaries, rendering unanimous agreement by religious scholars a prerequisite to construing Article 2.[41] Indeed, it based itself on its perception of the sharia as not including any principles around which the gates of ijtihad (diligence) have not been closed, nor any legal opinions that have not been unanimously agreed upon by religious scholars and the Supreme Constitutional Court.

However, the new constitution went even further in identifying the constitutionality of laws vis-à-vis religious principles. Article 4 stated:

"Al-Azhar Al-Sharif is an encompassing independent Islamic institution, with exclusive autonomy over its own affairs, responsible for preaching Islam, and teaching theology and the Arabic language in Egypt and the world. Al-Azhar Senior Scholars are to be consulted in matters pertaining to Islamic law. The State shall ensure sufficient funds for Al-Azhar to achieve its objectives. The post of Al-Azhar Grand Sheikh is independent and he cannot be dismissed. The method of appointing the Grand Sheikh from among members of the Senior Scholars is to be determined by law. All of the above is subject to law regulations".

Acknowledging Al-Azhar as the consultative authority in this way gives the right to non-elected authorities to interpret laws, expressly contradicting the principle of legislation that restricts such actions to elected parliament members. It also runs against the principle that grants sole authority to the Supreme Constitutional Court to adjudicate the constitutionality of laws. Irrespective of the religious orientations of Al-Azhar, which are usually considered a guarantee of moderation in the face of extremist political Islam, the Constitution placed Al-Azhar as a higher authority, on par with legislative, executive and judicial powers.

Moreover, the new Constitution introduced Article 219 which provided that "the principles of Islamic Sharia include general evidence, foundational rules, rules of jurisprudence, and credible sources accepted in Sunni doctrines and by the larger community". Many questions remain about the accurate definition of the sharia and its general precepts. Some believe that adding an article to the Constitution to clarify the principles of Islamic law aims to restrict the freedom of parliament members in enacting laws and legislations. The same applies to the Supreme Constitutional Court with regard to the interpretation of the sharia, knowing that the Court's judgments were, to a large extent, limited to its implementation in personal status laws.[42]

While this conundrum generated significant debate around the application of the sharia, other articles in the new Constitution opened the door to potentially discretionary implementation of the Islamic law and to the restriction of freedoms for both Muslims and Christians. For instance, Article 10 of the Constitution provided that "the family is the basis of society and is founded on religion, morality and patriotism. The State is keen to preserve the genuine character of the Egyptian family … and to protect its moral values". This article which allows the State to interfere in the structure of society itself as it defines the "genuine character" of the family, which also generated a number of questions such as: who should define this character and based on what standards, notably with regard to the interpretation of the fundamental principles of the sharia? How does this definition apply to non-Muslim communities? Moreover, while this article was considered by some as paving the way for an "Islamic" intervention in society, for others it did not necessarily reflect any Islamic orientation, since it was literally lifted directly from the 1956 Constitution.[43]

At the same time, the constitution was considered a positive step in the right direction since, for the first time, it directly acknowledged the principle of equality by addressing all citizens (both men and women) in paragraph 5 of its Preamble, which provided for "equality before the law and equal opportunities for citizens, men and women, without discrimination or nepotism in rights and duties". This item also caused controversy for while some considered this statement a positive step towards combating gender discrimination, others saw it as consecrating a dual approach to freedom, by subjecting public freedoms to the civil laws and private freedoms, particularly questions related

to gender, to religious authorities. Such a system, they believed, reaffirms the patriarchal character of the state, upon which the patriarchal political culture is based and according to which the President is the father of the nation; therefore, his orders cannot be refused.

Article 44 provided that "insult or abuse of all religious messengers and prophets shall be prohibited". The assertion seemed ambiguous as it did not set the limits of the offence and prejudice, therefore, the definition remains discretionary. In this context, one example of the application of this article is the prosecution of comedian Bassem Youssef, host of "Al-Bernameg" (The Programme) for contempt of Islam, among other issues.

These new articles and the ambiguity inherent in them presented a margin of manoeuvre for ruling authorities, enabling them to restrict the application of the sharia when it threatened the civil character of the state. From the perspective of the military/civilian relations, the 2011 Constitution, for the first time, included articles that expressly strengthened the "autonomy" of armed forces vis-à-vis the control of elected authorities. In Egypt, the military institution has always been independent from the political/civilian authority, with many economic privileges. Over the years, it was transformed into a sort "social caste",[44] a status further strengthened by its financial autonomy and a budget that was not subject to civilian scrutiny. It also maintained seperate military courts, albeit under certain conditions. Pursuant to Article 198 of the 2012 Egyptian constitution, "civilians shall not stand trial before military courts except for crimes that harm the Armed Forces. The law shall define such crimes and determine the other competencies of the Military Judiciary".

These new articles strengthening the role of the military institution were not part of previous constitutions. For example, pursuant to Article 197, the discussion of the armed forces' budget is the purview of the National Defence Council. The elected People's Assembly is not entitled to hold the armed forces accountable or to review their budget which in turn reinforces their pivotal position in the national economy, giving them greater influence on political authorities and supporting their position as a power "above the State".[45] Furthermore, Article 195, which expressly acknowledged that "the Minister of Defence is the Commander in Chief of the Armed Forces, appointed from among its officers", prevents civilians from holding the position of Minister of Defence.

The Constitution also allowed for police intervention in the daily life and the militarization of society, which represented the fundamental pillars of the previous Egyptian regime. Indeed, Article 199 provided that "the police force is a statutory civil body with the President of the Republic as its Supreme Chief. It shall fulfil its duty by serving the people, demonstrate its loyalty to the Constitution and

law, and preserve order, public security and morality". Here again, the text is ambiguous and subject to various interpretations, as it does not define the concept and limits of public morals.

In conclusion, highlighted shortcomings demonstrate that the concept of civil state was distorted in favour of the military in the Egyptian Constitution, which consecrated the privileges and leverage of the military forces, allowing some of their members to assert control over the political regime. This situation is in contradiction with the concept of a civil state, which would preclude the intervention of military forces in the political or economic domains and restrict their role to guarding the country's borders and safeguarding national security.

With regard to the religious/civil dichotomy, the articles upholding the sharia as a main reference for governance come in the context of a larger historical progression in Egypt which began by considering the sharia as one of the sources of reference for the constitution, to considering it as the source of legislation. The 2011 Constitution consecrated Islam as a key benchmark for governance by giving Al-Azhar substantial prerogatives on the one hand, and paving the way for state intervention in the values of society on the other hand.

2- The Constitutional Path of Tunisia

In 2011, Tunisia witnessed the first Arab uprising known as "the Jasmine Revolution". From its independence in 1956 and until 2011, the country's political history was marked by two main periods: the rule of Habib Bourguiba (1956 – 1987) and that of Zine El-Abidine Ben Ali (1987 – 2011). Since Ben Ali's ouster as a result of the uprising in 2011, Tunisia has been going through a political transition. It began with parliamentary elections that were won by the Islamic Ennahda party (90 seats out of 217),[46] on the basis of which they also headed the first coalition government in the post-revolution period.

Following Tunisia's independence, an intense internal debate was generated by the internal independence agreement with France. This agreement was said to provide for the continuation of the previous protectorate agreement, which had granted France absolute authority in the fields of defence and foreign affairs of the country. The agreement created conflicts and divisions within the Constitutional Liberal Party (also known as Destour) between those who opposed the agreement and those who supported it. Those in opposition to the agreement were led by Saleh Ben Youssef, who was supported by Al-Zaytuna scholars and influenced by Gamal Abdel Nasser's Pan-Arabism. Conversely, Habib Bourguiba was one of the strongest advocates of the agreement, along with members of the Tunisian bourgeoisie and the middle-class who studied in the West and were influenced by Enlightenment thought and French secularism. The struggle between the two

groups was over the means with which to adopt modern policies under Western influence as well as Arab nationalist policies that consider Islam a fundamental element of Tunisian social identity.

Habib Bourguiba, who was the first elected President of the independent Tunisian Republic, was a big admirer of Mustafa Kemal Ataturk and tried to adopt some of his policies, with a view to transforming Tunisia into his vision of a "modern" state. The school of Al-Zaytuna was closed and the 1956 Code of Personal Status, one of the first civil codes in Arab countries, was adopted. One of its most important provisions was the abolishment of polygamy (Article 18) and of arranged marriage. Bourguiba also tried but fail to abolish fasting during the month of Ramadan and ban the veil. With time, and in part as a reaction to this approach, Islam came to represent the optimal benchmark for the opposition. The Ennahda party emerged as Ben Ali's key opponent, who announced on the second anniversary of his election that he would not allow any party to mix politics and religion. Islamic parties remained opposed to the regime while its most eminent figure, Rashed Al-Ghannushi, only returned from his voluntary exile after the collapse of Ben Ali's regime.

Nevertheless, it would be erroneous to say that Tunisia was a secular State, as the pre-revolution Constitution of 1959 considered Islam as the State religion (Chapter I) while Article 38 provided that "the President of the Republic is the Head of State. His religion shall be Islam". Article 40 also provided that the right to "stand as a candidate for the presidency of the republic, is that of any Tunisian who has exclusively the Tunisian nationality and does not possess any other nationality, who is Muslim, and whose father, mother, and paternal and maternal grandfathers and grandmothers are all of Tunisian nationality without discontinuity".[47] Furthermore, the Tunisian National Pact of 1988 provided that the Tunisian people's identity was "Arab Islamic", and that the Code of Personal Status and complementary laws thereof were enacted after the country's independence to endorse a set of reforms, including abolishing polygamy, granting women the right to get married without a guardian at adult age and equal rights to file for divorce. The aim of these reforms was presented as the liberation of women and their advancement, reflecting an authentic and traditional call that relies on solid diligence (*ijtihad*) and is based on the purposes of the sharia, which bear witness to the vitality of Islam and its openness to modernization. The Tunisian Republic should foster this rational orientation in Islamic jurisprudence and strive to reflect it in its education programmes, the activities of religious institutions and the media.[48]

The relationship between religion and state has generated considerable tensions in Tunisia. The pre-revolution regime exerted tight control over political Islam but, at the same

time, repeatedly asserted that Islam was a main component of Tunisian civilization and culture, in view of increasing the regime's legitimacy. The Islamic opposition viewed this strategy as repressive. Rashid Al-Ghannushi declared, from his exile, that the regime was against Islam and was but a poor copy of the Mustafa Kemal Ataturk experience. He stated the following: "In one of his speeches, Bourguiba commended Ataturk but admitted that the latter had committed one single mistake. The Turkish embassy in Tunisia had objected, questioning the mere possibility of Ataturk making a mistake. What was that mistake? According to Bourguiba, it was consecrating the secular character of Turkey in the Constitution. Instead, Ataturk should have characterized it as an Islamic State that implements secular principles. For when a State asserts its Islamic nature, it becomes the guardian of Islam and its related institutions, and prevents any popular party from establishing schools, institutions, associations or any sectors independently from the State".[49] Hence, Islamists believe that the Tunisian State controlled Islam, thus giving itself the right to close Al-Zaytuna school, nationalize endowments and place mosques under state control.

In the same vein, the preamble of the fourth draft constitution provides that the constitution was based "on the teachings of Islam and its open and moderate objectives".[50] The word "teachings" here, creates a certain ambiguity when compared to the expression used in the third draft, which was "on the fundamentals of Islam". This triggered a debate around the difference between teachings and fundamentals. The Tunisian Association for Legal Sciences objected to the term "fundamentals of Islam", arguing that such fundamentals do not exist for some Tunisians or that there is disagreement with regards to their nature. Are they ideological, ethical or rituals related to modes of worship? The Association also objected to the expression "open and moderate objectives", since "goals are devised by secular thinking to break constant and non-constant legal precepts. In addition, the words "openness" and "moderation" were used by the two former mandates to undermine the pillars of Islam, threaten its inclusiveness and push citizens to free themselves of all religious commitments".[51]

Others also objected to the preamble on account of the difference between the "teachings of Islam" in the approach of Bourguiba, who abolished polygamy and unilateral divorce, and those "teachings" as conceived by Ennahda. Therefore, disagreement on terms (fundamentals and teachings) is perceived as insignificant, since "both terms are related to a specific entity, namely Islam. Everybody knows that the conceptions and teachings of Islam are multiple, from Indonesia to Marrakesh today, and from the times of the early caliphates to the Ottomans. It would be futile to believe that the expression of the preamble, 'open and moderate objectives', is an accurate definition of Islam. The wording remains generic, as all Islamic

political currents, from Ennahda to Wahhabis including the Liberation Party (Hizb Al-Tahrir), assert that Islam is a religion of moderation and tolerance".[52]

With regard to the issue of civil state, Article 2 of the fourth draft constitution provides that "Tunisia is a civil State that is based on citizenship and the will of the people". Article 1 provides that "its religion is Islam". Many constitutional scholars and observers considered this as a prelude both to a religious state and a civil one, thereby creating duality and contradiction within the philosophy of the constitution: "On the one hand, the constitution is rooted in the logic of the civil state, citizenship, supremacy of law and the separation of powers ..., yet on the other hand, it adopts the logic of religion with all is subsequent implications on the role of the state and its nature".[53] This duality is also obvious in Article 141 related to the amendment of the constitution, as it expressly provides that:

"No amendment to the Constitution may bring prejudice to:
- Islam, as it is the religion of the state;
- The Arabic language, as it is its official language;
- The Republican system;
- The state's civil nature;
- Gains in human rights and freedoms that are guaranteed under the present Constitution;
- The number and duration of presidential terms."

Following from this, different questions were raised: how can the Islamic and civil identities of the state be reconciled, and how can their boundaries and the relationship between these two identities be determined? Through the provision that restricts potential amendments of the constitution to those that would not contradict the principles of Islam, the authority of Islam in the new constitution, in contrast to the 1959 constitution, changes from being a descriptive-factual one to a procedural one.

In this context, the legislative expert Yadh Ben Achour considered that conflicts and contradictions within Tunisian society were clearly reflected in the current draft constitution. He stated that in the current situation, we cannot expect a convincing victory for proponents of either religious or secular visions of the state, and therefore should not be surprised to find such contradictions in the draft constitution, and its dual discourse on the themes of identity, universalism, nationalism, and the political and legal systems.[54] Furthermore, according to Samia Abbou, Vice-President of the Public Legislation Committee of NCA, sovereignty was taken away from people and placed with members of parliament. "The constitution preamble", she argues, begins with the expression 'We, the representatives of the people of Tunisia', rather than 'In the name of the Tunisian people' as in the 1959 Constitution, which began with "In the name of the people, We, Habib Bourguiba".[55] In the new draft constitution, only at the end of the Preamble

does one find: "We, in the name of the people, draft this Constitution with God's blessings".

This ambiguity around the constitution as the highest reference drafted in the name of the people increased with Article 146 of the transitional regulations, whereby it stipulates that "the constitution shall enter enforcement gradually by issuing the relevant legislative provisions ... and those provisions related to the authority of monitoring the constitutionality by challenging shall not come into effect before three years from the starting of the constitutional court its other tasks. All other courts are not authorized to monitor the constitutionality of the laws". In this way, the article does not determine the time frame of the transitional period and it impedes the oversight of the constitutional court for three years which in gives the prevailing political powers considerable leeway to pass laws that whose legality is difficult to challenge. This provision tying the enactment of the constitution to the promulgation of legislative texts is a cause for concern, as constitutional expert Salim al-Loughmani asks: "How can the top of the legal pyramid wait for the promulgation of other less important laws to become enforced?"[56]

The third contentious issue is related to the hierarchy of laws. A constitution is the most important legal text, yet Preamble of the draft Tunisian constitution provides as follows: "Building on the fundamentals and the open and moderate objectives of Islam… We, in the name of the people, draft this Constitution with God's blessings". In other words, the Islamic principles are placed at the top of the legal hierarchy, thereby creating more ambiguity and room for interpretation, notably with regards to the controversy around the religious or civil nature of the state. In this context, the general rapporteur of the curent Tunisian constitution, Habib Khodr, had indicated that he did not believe in "a religious state; the Prophet (peace and prayer be upon him) did not establish a religious state. A state where the governor is deemed sacred and opposition is viewed as godless is not a state established by Islam. A civil state is not as it is understood by some, i.e. it is not hostile to religion".[57] This statement converges with the opinion according to which an Islamic state is also a civil one.

However, Article 6 provides that "the state shall heed religion, uphold the freedom of belief and religious rituals, protect sanctities, and secure the neutrality of mosques and places of worship away from partisan use". Although the draft constitution expressly guarantees the freedom of belief, some are concerned that the term "religion" is not used in plural, i.e. "heed religions", as if Islam was implicitly recognized as the sole religion to prevent the state from officially recognizing other religions. In that sense, the use of the term "religion" in singular rather than plural is, by itself, restrictive of religious freedoms and diversity. The said article can therefore be considered

an attempt to "elude the obligations stipulated by Article 18 of the Universal Declaration of Human Rights, which the Islamic Action Organization refuses to recognize, and which provides as follows:

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".[58]

The draft constitution also reduces the prerogatives of the President in favour of the Prime Minister. That change triggered a number of disputes and led to the suspension of the Tunisian National Dialogue. Article 76 for example provides that "the President of the Republic shall represent the State. He will formulate public policies in the fields of defence, foreign relations and national security ... in compliance with the general policy of the State". Nevertheless, such prerogative is automatically restricted in Article 90 which provides that "the Prime Minister shall determine the State's general policy and ensure its execution".

Finally, other concerns also prevail with regard to the freedom of the media and its potential restriction. Article 124 of the draft constitution provides for the creation of a media commission which shall "oversee the modulation and development of the media sector and shall guarantee the freedom of expression and of the media, and the right to access information", among other tasks. This article was rejected by the Civic Coalition for the Protection of the Freedom of Expression and Opinion, which comprises seven organizations and many media professionals, as it considered the media commission a "fabrication" that does not exists in any democratic state, and a non-independent tool whose members are to be elected by the upcoming parliament. Moreover, the draft constitution does not expressly provide for the protection of the right to freedom of expression, pursuant to Article 19 of the International Covenant on Civil and Political Rights, which was ratified by Tunisia in March 1969.

Therefore, the draft constitution appears to be laden with many "traps" and based on two contradictory points of reference: civil and religious principles of governance. Besides, as was indicated, it does not provide a time frame for the transitional period and impedes the Constitutional Court for three years as of the ratification of the draft constitution. It also paves the way for disagreements about the President's prerogatives, which do not exceed 10 per cent of those that were provisioned by the 1959 Constitution. Together these issues allow the parliamentary majority to implement its own political projects without any constitutional hurdles, a potential situation which raised questions about whether Ennahda intended to benefit from the potential approval of the constitution with a view to turning Tunisia into a religious State. Such fears were further consolidated when Rashid Al-Ghannushi stated that the upcoming elections in Tunisia would be "comprehensive", including both legislative and presidential elections, and Ennahda suggested that they take place between 15 November and 15 December 2013.[59] These concerns are perhaps what led Tunisian President Al-Munsif al-Marzuqi to declare that in the event that the fourth draft constitution is approved, the country will slip into a "historic stalemate",[60] and that he "will not allow for the constitution to be passed in its current version".[61]

The role of military forces in Tunisia is different from that played by the military forces in Egypt, and the two constitutional texts cannot be compared in that regard. The main issue in Tunisia lies in the relationship between state and religion. there is incongruity, or rather antagonism, between the civil dimension of the state, as confirmed by the draft constitution, and the religious dimension which is asserted as part of Tunisian identity. Islam is not merely viewed as the religion of the majority of Tunisians, but rather as a key benchmark according to which the constitution is or is not amended.

The Constitution: Approaches to Moving Forward

The Arab uprisings, which have faced considerable challenges in meeting the demands of Arab citizens for dignity and freedom, have succeeded in returning the political process to its rightful place with the people. Popular demonstration with millions of participants have become part of public consciousness and discussion particularly in Egypt. People have broken through the barrier of fear. The recent experience of "Tamarod" [Rebel] in Egypt, if anything, revealed a deep rift between people's confidence in the official institutions of the state and their belief in grassroots action and its impact. In the absence of political venues for protest, citizens have turned to the streets. The biggest challenge remains to bridge the gap between the popular upheavals and access to political power by those who represent the "street", while maintaining the right of citizens to hold all those who ascend to power accountable. Until now, the lines between the "civil" state and military forces remain murky at best, particularly in light of the

large role played by the army in the 30 June uprising in Egypt to the extent that for many it was simply a kind of military coup against an elected authority.

Undoubtedly, many more challenges will emerge. Current tensions surrounding the drafting of the constitutions are simply one phase in a process of change and a quest for a new social contract. Lessons learned from past experiences should be taken into account, particularly the adoption of a participatory approach capable of engaging citizens in the process and addressing their concerns while establishing a stable environment though which economic and social issues can be addressed. At the same time, the content of the constitution should be devised carefully, particularly with regard to the role of military forces. Some of these challenges will be tackled further in chapter five, which considers the possible trajectories of the uprisings and their potential future.

c'est un nouveau dép[...]

si tu veut tu peut [...] ?

changé ta vie viv[...]

la Revolution

03

Social Justice and Equity:
A New Welfare State

"There must exist a paradigm, a practical model for social change that includes an understanding of ways to transform consciousness that are linked to efforts to transform structures"

bell hooks

Introduction

Over the past two years, citizen demands for social justice have taken centre stage in Arab countries. However, the means by which to achieve this goal have yet to be outlined. Much of the debate and discussion have focused on the political challenges to the ongoing transitions, leaving the socio-economic challenges and the transformations required to ensure positive outcomes unaddressed.

The demand for social justice is rooted in long-term structural problems that have resulted in considerable development deficiencies. The dominant social contract[1] between States and citizens in Arab countries does not recognize the fundamental right of citizens to development. At the same time, the history and politics of the Arab countries in general have resulted in a socio-economic approach focused on economic growth while neglecting development, inclusion and political participation. As indicated in chapter one, over the last three decades, inequalities in living conditions and opportunities have increased in most Arab countries along with the number and percentage of vulnerable populations. At the same time, despite considerable improvements in human development indicators, outcomes were not commensurate with public spending. On the eve of the Arab uprisings, many Arab countries faced interconnected deficits in four key development areas: education, labour, health and social protection—that is, in areas that should be considered the basic rights of citizenship. Given the weakness or in some cases the absence of institutional channels for participation, citizens were unable to hold their Governments accountable for these deficits.

While most Arab Governments responded to the uprisings with crisis management, post-transition Governments have perpetuated the same developmental approach that played a role in triggering the uprisings. This approach is obviously unsustainable, particularly in the context of the fiscal and economic deficits aggravated by disruptions in economic activity due to continued political unrest. As Arab citizens have asserted, in the absence of long-term measures that address the structural social deficits and instate a participatory approach to policymaking, the legitimacy of Arab Governments will continue to be questioned in the street— as well as at the ballot box. Arab citizens are not only demanding more of their Governments but are asking for a new and different approach to the governance of their daily lives, as a right of citizenship. As this chapter will demonstrate, addressing these deficits requires a move from assistance to a development-based approach to ensure that all citizens can equally enjoy the rewards of growth. Policy reforms must also be accompanied by measures that increase voice and accountability and ascertain that changes are the product of consensus and broad-based participation.

Against this backdrop, this chapter will address the implications of demands for social justice in Arab countries. It begins by taking stock of the key development deficits in the region on the eve of the uprisings and shows how these deficits were mutually reinforcing. It then provides an account of the policies adopted by Governments in response to the popular uprisings and demonstrates that while these measures had little impact on the outcome of the protests, they emphasized the weakness of the current social contracts. Using two examples, the chapter then considers the various roles that civil society organizations have taken on to absorb the impact of the uprisings. The chapter concludes with a reflection on the key areas that must be addressed to meet citizens' demands for social justice.

A Legacy of Non-development: Interrelated Social Deficits

Historically speaking, and as outlined in chapter one, the social contract between States and citizens in Arab countries has been characterized by what many have termed an authoritarian bargain, whereby citizens became resigned to foregoing their right to participate in public affairs in exchange for social welfare and security. In turn, this contract meant that social policy options and programmes were not based on the right of citizens to development. Rather, they were viewed as part of a larger welfare system grounded in assistance and safety nets.

Moreover, liberalizing the economy at the expense of social and political reform, and under the assumption that this would lead to long-term prosperity, meant that the dividends of growth were not shared equally among citizens. As the following sections show, these short comings resulted in four key interconnected social deficits that have undermined the rights of Arab citizens to development. In time, as outlined in chapter one, these deficits played an important role in triggering the uprisings.

A- Much Left to Learn: Educational Access and Opportunities

Returns on education in Arab countries have been low for many Arab citizens. An increasing number of fresh graduates in the Arab region today are not equipped with the proficiencies needed to enter into an increasingly competitive labour market or with the social literacy skills to cope with the increasingly complex challenges of modern life. Employers often complain that graduates are not properly prepared for the workplace when they are hired and that learning curricula are not geared towards the demands of the modern private sector. Similarly, insufficient focus is placed on the revision of vocational education and training (VET) in order to address market needs. This perception is shared by the graduates themselves. A third of the youth surveyed in a study by the International Finance Corporation and the Islamic Development Bank expressed strong doubts about the quality and relevance of their education; only 39 per cent said they would still choose the same major if they had a second chance.[2] These deficiencies are not only impacting the employment opportunities of Arab citizens but also undermining their abilities as potentially active citizens.

The education deficit is the result of a number of interrelated factors: First, despite the strides made in the key education indicators of Arab citizens, this progress has not been uniform within and across Arab countries. Arab Governments have invested about 5 per cent of their GDP and 20 per cent of their government expenditures in the past few decades on financing education, much more than other developing regions with similar income levels.[3] This has resulted in promising progress in a number of key areas including school enrolment and universal primary education, with substantial increases in primary net enrolment. Adult (15+) literacy rates have also increased to 75 per cent, reducing illiteracy by half over the last 20 years.[4] Marked advances were further evident in gender parity in education.[5] However, this progress is not uniform. Five million children are still out of school[6] and around 47.6 million adults (15+), that is, 23 per cent of the region's adult population, remain illiterate, two thirds of which are women (see figure 3-1).[7]

Second, and as indicated in chapter one, inequality based on wealth, gender, type of school (public or private) and

Figure 3-1: Adult (15+) Literacy Rate by Region (2005-2011)
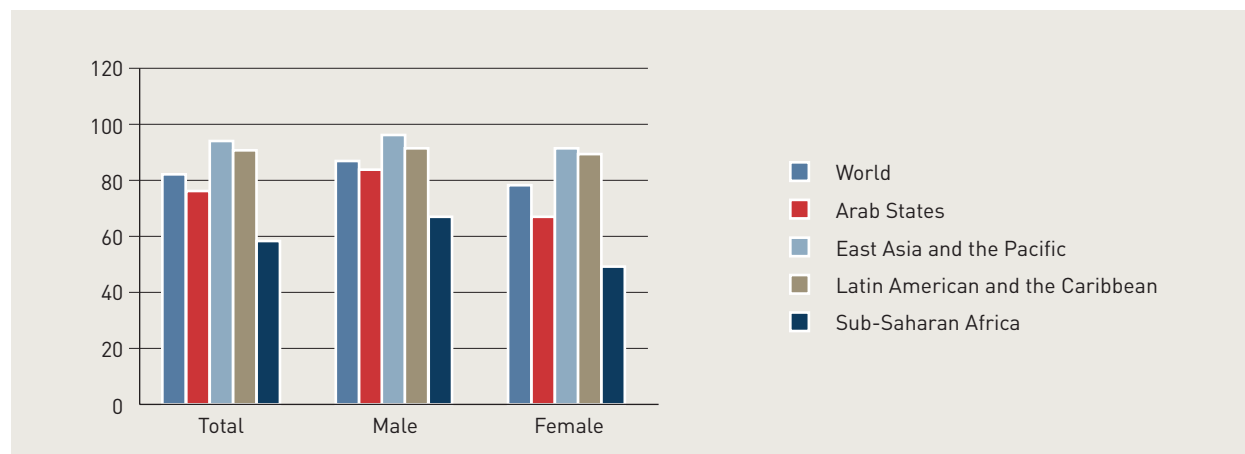
Source: UNESCO, Institute for Statistics Data Center. Available from: http://stats.uis.unesco.org, accessed June 2013.

geographic location remains a key barrier to access to education in some Arab countries. School retention is a particular problem among the bottom income quintiles within countries. For example, in Egypt and Morocco, children in the poorest quintile are more likely to drop out of school before their 16th birthday.[8] Inequality of opportunity also varies by gender: 60 per cent of Arab children not enrolled in schools are girls.[9] Often, gender disparities are aggravated by lower income levels: In Yemen, the proportion of 7 to 16-year-olds who had never been to school in 2005 was

21 per cent, but increased to 43 per cent of the poorest children in the country and 58 per cent of the poorest girls in the same age category.[10] Education deficits are also marked by regional inequalities whereby the out-of-school ratio for Arab children residing in rural areas is 30 percent, compared to 18 per cent for children in towns and cities.[11] The shortcomings of the educational system and the difference in quality between public and private schools also perpetuate inequality.

Third, the quality of primary education, particularly in public schools in countries across the region, leaves much to be desired. Many of the students are promoted to secondary levels without acquiring basic literacy and numeracy skills. In Tunisia for example, almost 3 out of every 4 children begin grade four without being able to count.[12] Similarly, a 2006 assessment of reading skills among grade four students in 40 countries revealed acute deficits in learning achievements in Morocco, with over 70 per cent of the students scoring below the minimum benchmark.[13] This in turn augments the number of school drop-outs, as many of these children are unable cope with the learning challenges presented at the upper levels. More critically, the quality of education relies on rote learning rather than analytical thinking. This tends to limit the development of problem-solving, creativity and other transversal skills in children. Furthermore, insufficient attention is paid to the maths and sciences, resulting in lower performance on international test scores. For example, all of the 11 Arab countries that participated in the Trends in International Mathematics and Science Studies (TIMSS) for students from grades 4 and 8 scored below the scale average in 2011.[14] Given the importance of these topics for technological innovation and progress, Arab educational systems may be producing a mix of competencies that is not conducive to development.

At the same time, educational systems in the Arab region have failed to provide citizenship education or to encourage informed civic debate. This means that students develop little or distorted knowledge about history, identities and the values of citizenship, tolerance and pluralism, as well as mechanisms to make their voices heard.[15]

As a result, the link between human capital accumulation, employment and growth in most Arab countries remains weak. The high investment in education in the region occurred without properly addressing the quality of education, the deficits in the economy and the linkages between the two. As the following section will show, labour market segmentation and low demand for skilled labour have made it difficult to reap the full benefits of increased education, optimize the use of labour and induce positive development outcomes. In comparison, East Asian countries were able to maximize returns on education by allocating the accumulated knowledge into innovative, high productivity activities that stimulate growth and lower the level of poverty.

B- To Work or Not to Work: Challenges of Labour Markets

The educational deficits outlined above, and the 'trickle-down' economic model[16] adopted for the most part in Arab countries, have led to a considerable gap in both the quantity and quality of jobs. This model was not only unable to create the requisite number of jobs needed to absorb new entrants into the labour market, but the quality of jobs created was of low value. In other words, even though the responsiveness of employment to output growth was significant, as indicated by the high employment elasticity ratio that averaged 0.69 during the same period, compared to 0.32 in Asia, most of the jobs created were in low-productivity sectors such as agriculture, construction, low-skill manufacturing and the lower tiers of the service industry.[17] In part, this is the result of limited economic diversification policies, as well as a costly and complex regulatory environment. Despite initiatives in doing business, a non transparent and poor investment climate as well as current macro-economic instability has further hindered private investment in productive sectors (such as medium and high-tech manufacturing), limiting job creation potential. As noted earlier, this distortion has resulted in an oversupply of dynamic and educated youth who are unable to find decent jobs.

This approach to economic policy, characteristic of the current social contract, has also resulted in a high demand for public sector jobs and increased labour market segmentation. The employment guarantees and compensation packages have furthered demand for public sector jobs, especially among the well-educated and, in the case of GCC countries, among the national population. Despite variations between countries, the public sector represents on average a third of total employment in the region and its wage bill constitutes 38 per cent of government expenditures—double the world average.[18] At the same time, labour mobility is hampered by the different conditions of access to labour markets. As a result, Arab labour markets are increasingly segmented along public/private and formal/informal lines, as well as according to gender and nationality.[19]

Such distortions of the labour market have beset the Arab region with one of the highest unemployment rates in the world. On the eve of the Arab uprisings, the overall unemployment rate was about 13 per cent or roughly 14 million people.[20] Labour market statistics compiled for the most recent year available show that unemployment rates vary significantly between countries. For example, the unemployment rate is estimated around 4 per cent in GCC countries compared to 8 per cent in Egypt and 14 per cent in Tunisia; they are highest in poor and conflict-affected countries, where the rates are more than double the regional average. In Palestine for example, unemployment stands at 25 per cent.[21]

This high unemployment rate is sustained in part by low female labour force participation. Only 26 per cent of women are employed in the region, compared to a world average of 51 per cent.[22] Obstacles to female employment range from culture to policy-related issues

such as compensation for maternity leave. Consequently, women in the region are overrepresented in unpaid family work; those with jobs are mostly trapped in low-productivity jobs in agriculture and the services sector. In 2008, the agricultural sector provided 39.3 per cent of women's jobs in the Arab region, compared to 27.8 per cent for men; this trend was especially pronounced in poor countries.[23]

Unemployment in the region is also marred by the highest youth unemployment rate in the world. Current estimates placing it somewhere between 23.2 per cent[24] and 27 per cent,[25] compared to a world average of 13.9 per cent.[26] For young women in the region, the situation is even worse, with female youth unemployment averaging 37 per cent.[27] Youth unemployment also varies significantly between countries, with particularly higher rates in poor and conflict-affected countries where it is estimated to affect more than 45 per cent of young people.[28] Given the youth bulge in the Arab region, addressing youth unemployment is of critical importance. By way of illustration, the opportunity cost lost to youth unemployment in the Arab region is reported to be anywhere between US$ 40 to US$ 50 billion; an additional 35-40 million jobs are required to prevent unemployment from rising.[29]

Higher education in Arab countries is also closely correlated with youth unemployment. Data from 2009 or the most recent year for which they are available show that over 43 per cent of those with tertiary education are unemployed in Saudi Arabia; 24 per cent in Palestine; 22 per cent in Morocco and the United Arab Emirates; 14 per cent in Tunisia; and over 11 per cent in Algeria.[30]

Fewer job opportunities in the region have forced many to engage in whatever work they can find, including informal, low-level employment. Informality is difficult to measure but most estimates place it at a figure of one-third to one-half of total employment in the Arab region. For example, in 2009, the informal economy accounted for 40-50 per cent of the non-agricultural employment in Algeria, Egypt, Morocco and Tunisia and 20 per cent in the Syrian Arab Republic.[31] Such high rates of informal employment in the Arab region are a source of concern because they are usually correlated with equally high levels of poverty and vulnerability. Informal workers typically earn low pay, have unstable income and have little or no social protection. They generally work under precarious conditions and have little chance of upward mobility. What is significant in this context is that most informal workers are youth, women and older persons who are highly vulnerable to illness, disability and economic shocks, and lacking the social protection guarantee provided under formal employment schemes.

As a result, in the absence of the right to productive employment or structural reforms for inclusive economies, the link between employment and the right to development remains weak. As current patterns indicate, the likelihood of substantive increases in unemployment as well as informal employment in Arab countries is high, particularly in the context of the uprisings and subsequent conflicts. In turn, this implies increases in vulnerable populations that, as will be shown in the next two sections, are left with minimal or no protection against illness and poverty.

C- A Right to Health or Right to Hospitalization?

In the last few decades, most Arab countries exhibited considerable improvements in key health indicators such as life expectancy and infant and maternal mortality. For example, infant mortality fell over the last 3 decades from 137 to 44 deaths per 1,000 live births, outpacing decline in countries in other regions.[32] In terms of maternal health, the maternal mortality ratio in the region as a whole has declined from 303 deaths per 100,000 live births in the 1990s to 191 deaths per 100,000 in 2008.[33] However, access to healthcare remains elusive to many, as the health sector to some extent mimics the segmentation of labour markets. Access to health continues to be determined by a number of factors such as geographic location, while health security is determined by the structure of insurance markets.

The progress in health indicators masks a number of serious inequities. First, gains in health are marked by an inequality of opportunity between and within countries. Comparatively speaking, the least-developed continue to struggle with high infant and under-five mortality rates as

well as high maternal mortality rates. Within countries, poor, rural populations and other vulnerable groups are particularly disadvantaged. For example, in Morocco, children under five who belong to the poorest quintile are three times more likely to die than children in the richest quintiles.[34] Geographical location is also a key factor: a study on the utilization of antenatal healthcare services in the Sudan showed that this care was five times higher among urban women, compared to women in rural areas.[35]

Second, in the absence of the right to health and the current structure of the labour and insurance markets, large numbers of Arab citizens are left without or with only minimal health coverage. Given that public health coverage in most Arab countries benefits mainly public and other formal sector workers through contributory insurance schemes, the informal workers who constitute a large portion of the labour market are left, in most cases, to fend for themselves. At the same time, the average coverage of public health insurance is around 30 to 40 percent of the population,[36] keeping in mind that these

schemes often privilege urban areas and are for the most part skewed towards curative care.

These deficiencies are further compounded by decreases in public investments in health services and an increasing trend towards privatization. During the last decade, the share of public health expenditures as a proportion of GDP was consistently below international averages. In 2009, public spending on health as a share of GDP in the region as a whole was 2.8 per cent, compared to a world average of 6.1 per cent.[37] This occurred in tandem with increased privatization and out-of-pocket payments for health care. In fact, more than half of total health expenditure is covered out of pocket in the Sudan, Lebanon, Egypt, Yemen and Morocco.[38] In the absence of a proper regulatory environment, there is no guarantee that the increase in private out-of-pocket

expenditure on health is met by a higher quality of service. Unequal access to health care, expensive market-run services and the focus on curative care have translated into a right to hospitalization rather than a universal right to health, a right that is conditioned by the ability of individuals to pay for services. This shift undermines the development of human capital and results in a vicious circle of deprivation and illness. High out-of-pocket expenditures increase the vulnerability of poor families to poverty and result in poorer health outcomes, such as malnutrition, disease and disability. They also impact economic productivity, thus driving people further into destitution. In the absence of a comprehensive approach to social policy and social protection that invests in citizens, realizing the aspirations of Arab citizens for social justice will be increasingly difficult, if not impossible to achieve.

D- Social Protection as Development: A Measure of Justice

The triple deficits outlined above have been further aggravated by an approach to social policy and social protection that is delinked from the broader citizenship rights usually rooted in the constitutional process of each country.[39] In part, this approach is reflected in the continuous disconnect between economic and social policies that have characterized the developmental approach of most Arab countries. On the one hand, with economic growth, it was assumed that social development would automatically follow. From this perspective, social policy was meant to cushion the impact of structural adjustments on the lives of individuals until such a time when they would begin to reap the benefits of growth. On the other hand, the economic costs of social policy and thus the fiscal space necessary for its implementation were seldom considered. In this context, social policies and social protection programmes were geared towards assistance, not development.

In turn, this approach has de-emphasized the larger policy nexus in which social protection programmes are implemented, while turning attention away from larger questions of development.[40] In other words, social protection mechanisms were not approached as one element in a broader social policy framework aimed at redistribution, risk management, poverty reduction and investment in employment and social policies. Social issues are also not considered a part of the broader question of distributive justice and economic, political and cultural development; nor are the political and institutional arrangements needed to generate social development and ensure the protection of the most vulnerable taken into account.[41]

As a result, the social policy landscape of Arab countries has been marked by a fragmented and project-oriented approach to development which promotes the idea that the

provision of improved services for the poor is best carried out at the local level. The role of social policy remains restricted to remedial measures that aim to address basic needs or provide safety nets for the vulnerable, while the role of the State in the formulation and implementation of policies needed to address the root causes of poverty are overlooked. For example, even though the national agenda of Jordan sought to adopt an inter-sectoral approach to development at the macro level, most outcomes were focused on specific projects rather than broad-based policies. Poverty reduction was targeted through narrowly defined projects, such as increasing the coverage of some programmes or linking support from the national aid fund to educational outcomes. Few cohesive measures were implemented to address the root causes of poverty. Consequently, despite reductions in poverty as a result of direct government support, measures such as conditional cash assistance and other transfers of funds will not be sustainable in the long run.[42]

Moreover, despite progress on a number of fronts, as well as promising initiatives to expand coverage and reform social assistance programmes, the "projectization" approach to social protection and the lack of coordination between different service providers have resulted in a number of key deficits. As noted earlier, contributory social insurance schemes exclude the majority of workers in the informal sector as well as temporary, agricultural and migrant workers. Increasingly, countries in the region have made positive strides to expand the scope of coverage and offer short-term benefits to traditionally unprotected groups, such as the unemployed,[43] agricultural workers, the self-employed and nationals working abroad[44] (table 3-1). However, these programmes remain insufficient, as only one third of the region's workers are covered by public pension schemes with variations ranging from 8 per cent in Yemen to 87 per cent in Libya.[45] Moreover,

even when the partial coverage of the self-employed is included, the coverage rate of contributory schemes in the region remains below 50 per cent.[46]

An additional concern in this framework is the limited access to social security for women resulting, as noted earlier, from the low level of women's economic participation in the formal sector. It is reported that few countries reach coverage rates of more than 10 per cent of the population for women.[47] Obstacles to female economic participation include the reluctance of private sector employers to sustain the salaries of female workers during maternity leave. In parallel, a large percentage of women work in agriculture. In Yemen, for example, it is reported that 80 per cent of agricultural labour on small farms is conducted by women as contributing unwaged family workers.[48] It is highly unlikely that these women are covered by any form of social or health insurance.

Table 3-1: Expansion of Public Schemes Coverage in Arab Countries

| Country	Unemployed	Employees in Agriculture	Self-employed	Foreigners
Algeria	X	X		X
Bahrain	X		X	X
Egypt		X		X
Iraq		X		X
Jordan			X	X
Kuwait	X	X		
Lebanon		X		
Libya		X	X	X
Morocco				X
Oman	X	X		
Tunisia				X
Saudi Arabia			X	
Syria		X	X	X
Yemen				X

Sources: UNDP and ILO (2012), p.93. and Loewe, M. (2009), p.12.

Image 3-1:
Poverty Is a Heavy Curse, Yemen

Sources: Murad Subai, 2013. (Courtesy of Artist)

Figure 3-2: Coverage of Non-Subsidies SSNs in the Middle East and North African Region Relative to Other Regions
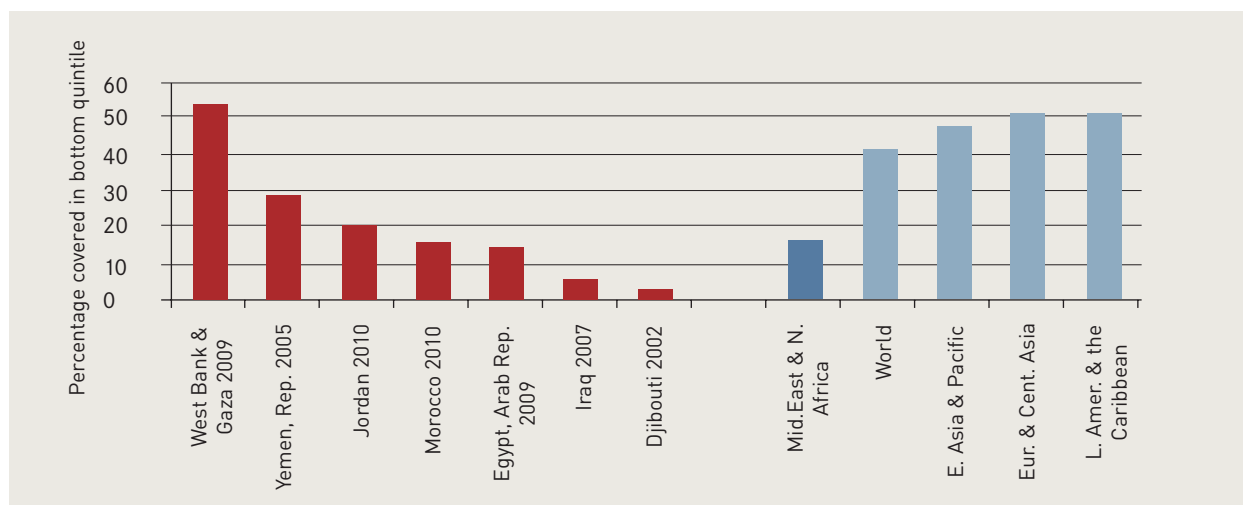
Source: Silva and others (2012), p. 22.

At the same time, non-contributory programmes or social safety nets (SSNs) such as conditional and non-conditional cash transfers have had an insufficient impact on poverty and inequality in the region. While the needs of those who are not covered by the social insurance systems are large, SSNs are small and not flexible enough to quickly respond to emerging crises. Moreover, most non-subsidy SSNs are fragmented and suffer from low coverage and poor targeting. A World Bank report covering the Middle East and North Africa revealed that two out of three people in the lowest quintile are uncovered by non-subsidy SSNs; coverage in the bottom quintile is only 23 per cent—less than half the global average.[49] Only in Palestine was the average coverage rate of non-subsidy SSNs programmes more than 50 per cent for the poorest quintile (see figure 3-2).[50] In the same context, a 2006 assessment of the national welfare fund of Yemen indicated that close to 45 per cent of beneficiaries were not poor, but nevertheless received close to 47 per cent of total aid provided by the fund. As a result, the fund only covers 14 per cent of Yemen's poor.[51]

In the absence of alternative approaches to social policy and protection, the Arab region continues to have the highest levels of food and fuel subsidies in the world, representing on average 5.7 per cent of the gross domestic product (GDP) as opposed to 1.3 per cent in the average benchmark country.[52] In Egypt, for example, subsidies make up around a quarter of the annual budget.[53] Compared to other SSNs, subsidies are administratively easier to implement and may have an impact on poverty; however, they also tend to benefit the rich far more than the poor. In Egypt and Jordan, for example, more than half of the fuel subsidy benefits are captured by the richest quintile of the population.[54] The high cost of subsidies undermines investment in more effective types of programmes that could better serve the poor, such as conditional cash transfer programmes,[55] which allowed countries like Brazil and Mexico to make relative strides in poverty reduction.

Similarly, other forms of social protection programmes have not impacted development outcomes to the extent that they could have. Active labour market policies and initiatives abound in the region. They include, among others, employment services; career guidance and job counselling;

employment subsidies; training programmes; public works programmes; and microfinance programmes. However, their targeting and implementation in most countries of the region have not been very successful.[56] In Yemen, for example, the number of training programmes and microcredit opportunities provided by the National Welfare Fund are minimal compared to the large number of fund beneficiaries.[57]

In this context, the role of civil society organizations (CSOs) in social protection has also focused on sectoral level projects and community-based programmes. While these have succeeded in shielding families in need and providing much-needed assistance, they have not been able to contribute effectively to larger development goals. In part this is a key outcome of the absence of a comprehensive vision guiding social policy and social protection formation, as well as the lack of participatory mechanisms that would allow CSOs to partake in policymaking.

The collective impact of such deficits, as outlined in chapter one, is that on the eve of the Arab uprisings, around 39 million Arab citizens were considered poor[58] and inequality of income and opportunity was a major challenge. In Egypt for example, 11.6 million people were living on US$ 2 per day (ppp) in 2008 and the income share held by the lowest quintile of the population was 9.3 per cent, as opposed to 40.3 per cent for the highest quintile.[59] Children and rural populations in particular were disproportionately affected by poverty. At least one in every four children live below the national poverty line in Egypt, Iraq, and Yemen, and rural poverty rates are twice those of urban areas in Iraq and Yemen.[60] People who were born to poor households were also more likely to suffer from inequality of opportunity in accessing services, leading to lower human development outcomes. For example, a child in rural Upper Egypt was 3.4 times less likely than a child in urban Lower Egypt to attend primary school.[61] Similarly, in Jordan, 70 per cent of adult males living in households of the lowest income quintile have primary education or no formal education, compared with 21 per cent of those living in households belonging to the richest quintile.[62] In the aftermath of the economic disruptions that accompanied the uprisings, some of these figures will probably have increased.

Arab Uprisings and Crisis Management

Despite dramatically different circumstances in context and outcomes, the response of Arab Governments to the popular uprisings was for the most part reactive crisis management. Governments ordered social handouts, accompanied by various degrees of political concessions, violent repression and security clampdowns. Irrespective of the subsequent trajectory of events, all countries sought costly policy measures that aimed to soothe public discontent and

provide a "band–aid" solution to historic grievances and structural policy deficiencies. Given the weak prevailing social contract and the lack of participatory policymaking, such responses were hardly surprising.

The social policy measures undertaken by most Arab countries have included boosting public salaries, reducing taxes and re-expanding public employment. A number

of social protection reforms were issued post-2010 in several countries, including ones that did not experience protests, notably increased old-age pensions and ramped-up subsidies and cash transfers (table 3-2).

In addition to costly social handouts and policy measures, several Arab Governments announced political reforms. Some dismissed or reshuffled cabinets; others announced constitutional and electoral reforms, initiated national dialogues and introduced changes to the security and judicial systems. These measures were sometimes accompanied by lip-service paid to the promotion of human rights and

civic engagement. In most countries, these measures were seen as politically motivated and without lasting impact (table 3-3). The following section maps select social policy responses to the uprisings in the areas of wages, employment creation and social protection between 2011 and 2012. These policy responses are presented for three groups of countries. This grouping is based on the social-security policy mix and responds to two criteria: 1) whether there was a change in leadership and 2) the nature of the regime and the army's involvement in the ensuing wide-scale conflict.

Table 3-2: Social Policy Measures Announced by Arab Governments in Response to the Arab Uprisings during 2011-2012

Country	Increases in Public Sector Salaries	Expansion of Employment in Public Sector	Increases in Subsidies	Changes in Pensions	Unemployment Benefits	Cash Transfers	Other Social Assistance Programmes
Algeria			X	X			
Bahrain	X	X		X		X	
Egypt	X	X	X	X			
Jordan	X	X	X	X		X	X
Kuwait	X		X	X		X	X
Libya	X		X			X	
Morocco	X		X	X			X
Oman	X	X	X	X	X		
Qatar	X					X	
Saudi Arabia	X	X	X		X	X	X
Syria	X	X	X			X	X
Tunisia			X		X	X	
UAE	X		X				
Yemen	X	X				X	

Table 3-3: Political Reforms Announced by Arab Governments in Response to the Arab Uprisings during 2011-2012

Country	Constitutional Reforms	Restructuring Government and Security Apparatus	Improving Judicial and Audit Systems	Fostering Political Dialogue	Improving Electoral Systems	Enhancing Civic Participation	Creating instruments to Fight Corruption	Granting Amnesty and Pardons	Legislation Reforms
Algeria				X		X			
Bahrain				X		X		X	
Egypt	X	X			X				X
Jordan	X	X		X	X	X	X	X	X
Libya								X	
Morocco	X		X	X		X	X	X	X
Oman		X	X						
Qatar									
Saudi Arabia			X				X		
Syria		X	X	X	X	X		X	X
Tunisia	X				X	X			
Yemen				X					

A- Presidents Change but Regimes Endure: Policy Responses in Tunisia and Egypt

Policy responses in countries that underwent at least partial regime change came in the form of swift social handouts, including salary increases for public sector employees and an expansion of subsidies and cash transfers, coupled with direct and indirect forms of repression by security services. In Tunisia, around US$15 million were allocated by the former President Zine El Abidine Ben Ali for economic aid in Sidi Bouzid,[63] the city where the self-immolation of Mohamed Bouazizi initially sparked protests. The Government also made promises to address increases in food prices and to create around 300,000 new jobs.[64] In the case of Egypt, in January 2011, the former Egyptian President, Hosni Mubarak, ordered the Government to maintain current levels of subsidies and provide more jobs.[65] At the same time, his Government agreed to raise public sector salaries and pensions by 15 per cent.[66]

Collectively, these initiatives increased public spending and expanded public deficits, thus adding to the financial burden and increasing economic risks. The returns on this investment were meagre; they proved unable to stem the tide of change. In Egypt, for example, the fiscal deficit reached 11 per cent of GDP during the 2011-2012 fiscal year; in Tunisia, the deficit increased from about 1 per cent of GDP in 2010 to 6.3 per cent of GDP in 2012.[67] These measures have left incoming Governments with mounting economic and social challenges, particularly in the face of continued unrest. Without a genuine increase in participation and consensus-building mechanisms, along with an agreement on a long-term and integrated vision for development, it is likely that the current difficulties will persist, resulting in an economic downturn and mounting popular discontent. Sooner or later, these short-term fixes are bound to cause a backlash if they are not translated into an inclusive and long-term socio-economic policy that redresses structural deficiencies.

Image 3-2: My Only Fault Is That I Live in Poverty, Cairo

Source: EgyNemo. (Courtesy of Artist)

B- Resilient Yet Vulnerable: Response in Algeria, Morocco, Jordan and GCC Countries (Except Bahrain)

Arab monarchies, as well as Algeria, responded to the uprisings elsewhere with pre-emptive social handouts, some political reforms and relatively discreet security measures. Even though the scale of demonstrations in these countries was relatively small, most Governments were quick to respond with minor policy initiatives coupled with a haphazard expansion of welfare programmes. For example, the wages of civil servants were increased, as were old age pensions, in Algeria, Morocco and Jordan; subsidy cuts were reversed in Jordan; and both Morocco and Jordan pumped money into healthcare and social assistance projects.

In parallel, the countries of the Gulf Cooperation Council (GCC) responded to the growing unrest in neighbouring Bahrain and Yemen by tapping into their oil revenues. All GCC countries boosted the pay of public sector workers; in some cases this was accompanied by lavish one-time bonuses or grants. The majority of countries also increased subsidies, and some introduced increases or improvements to the pension schemes (Kuwait, Oman). Countries such as Saudi Arabia and Oman tried to address unemployment by creating thousands of new job opportunities in the security sector and providing unemployment benefits.

These measures will have different impacts on the countries in question. While resource-rich countries may be able to sustain such high levels of spending for a while, those with fewer resources may be forced to rely on external aid in the foreseeable future.

C- Different Shades of Violence: Responses in Libya, the Syrian Arab Republic, Yemen and Bahrain

In countries controlled by sectarian minority regimes (the Syrian Arab Republic and Bahrain), or exclusive tribal formations (Libya and Yemen), the tolerance for dissent was significantly lower. Comparatively speaking, Libya, Bahrain, Yemen and the Syrian Arab Republic reacted to the onset of protests by offering social handouts accompanied by considerable levels of oppression. However, the regional context of the unfolding conflicts had a significant impact on their development.

In Libya, the first rumbles of discontent in the eastern province were met with violent repression. The now-defunct regime also attempted to placate citizens by announcing a 150 percent raise in public sector wages, an increase in food subsidies and the distribution of handouts for every family. These measures were too little, too late for many Libyans with more substantive demands. As a result, the country endured a nine-month armed conflict that claimed thousands of lives. The uprising, aided by a foreign military intervention, ended the repressive rule of Muammar Qaddafi. Libya, however, continues to suffer from internal schisms between informal militias and tribal groups.

In Bahrain, a defence treaty was invoked to quell the uprising. At the same time, the King called for a national dialogue and proposed constitutional reforms. A series of social benefits were also announced, including fixing the minimum wage for public and military employees; increasing public sector wages and pensions; and a generous handout to every Bahraini family. However, the limited nature of political concessions, the regional nature of political interventions, publicized human rights abuses and the selective targeting of individuals through employment policies have further aggravated the situation as Bahraini citizens continue to take to the streets. It is not clear whether additional measures will be proposed to address the sources of social and political discontent.

In Yemen, a GCC-mediated intervention averted an all-out war between rival sectarian and tribal groups. This intervention occurred after an increase in social spending—including wage increases for the military and security forces; additional food subsidies; and the halving of income taxes—proved insufficient to hold back the tide of street protests. Before stepping down, President Ali Abdullah Saleh also approved the hiring of thousands of new graduates into the public sector and the expansion of social services provision to half a million poor families.[68] The ongoing National Dialogue in Yemen is meant to determine the shape of the new social contract and the rights of citizens to development.

The unchecked assault on demonstrators by security forces in the Syrian Arab Republic has degenerated into a harrowing civil war. The Syrian regime perceived anti-government protests as an all-out rebellion and reacted with violent brutality. Initially, the Syrian Government, hoping to quell the unrest, offered some political concessions

and announced a number of welfare measures, including an increase in public sector salaries,[69] reductions to tax and customs duties,[70] and a programme to create 50,000 public sector jobs.[71] In terms of social protection, the Government boosted cash transfers and fuel subsidies[72] and announced new programmesto support rural and agricultural communities.[73] Many of the announced reforms were never implemented and more than two years later, the country has been ravaged by a civil war which, at the time of writing, has cost at least 100,000 lives, with a further 80,000 issing, and has caused the displacement of millions of citizens both within the Syrian Arab Republic and to neighbouring countries. As a result of the fragmentation of the country, with different regions now under the control of different factions, the delivery of social services has been severely undermined. As outlined in chapter one, access to health, education, employment and social protection have been dramatically constrained and, as we shall see shortly, civil society organizations have taken over the delivery of services once within the purview of the State.

D- Governments' Responses to the Uprisings: At What Cost?

The Arab uprisings have resulted in political change and greater freedoms in some countries, while degenerating into violence in others. Longstanding developmental challenges and deficits have also become much more apparent. They include issues such as high food and energy prices, rising unemployment, weak economic diversification and inequality. More critically, the physical and human toll in countries that have descended into conflict will affect the citizens of the region for decades to come. The uprisings could not have come at a worse time for regimes that have already been struggling to stave off the effects of the 2008 economic crisis.

The fiscal and welfare measures announced by Arab Governments in an effort to maintain social cohesion could further contract their economies, especially in those countries with fewer resources. The size of the fiscal stimuli adopted by Arab Governments in the wake of the uprisings ranged from 0.5 per cent of GDP in some oil-importing countries to more than 22 per cent of GDP in Saudi Arabia,[74] mainly to cover increased subsidies and wages. Jordan saw a nearly 200 per cent increase in subsidy expenditures in 2011; in Tunisia the figure was 68 per cent.[75] In Egypt, subsidies absorbed 42.8 per cent of annual revenues for 2011, and accounted for almost 10.4 per cent of GDP.[76] Egypt's public sector salary bill has risen by 80 per cent since the uprising to US$ 25 billion annually.[77] As a result of increased spending, fiscal deficits and public debt levels have expanded sharply since the onset of the uprisings. More critically, whatever remains from national budgets will not be enough to invest in the creation of jobs and in basic social services.

The survival measures adopted by Arab Governments underscore their overreliance on social safety nets and public sector employment to placate their citizenry. However, this practice threatens to backfire for several reasons: First, subsidies and other transfers are costly, even in oil-rich countries. Current spending on fuel, water and electricity encourage unrestricted and unsustainable patterns. In the long term, it will be difficult to reverse these new entitlements. Moreover, in the absence of reliable targeting mechanisms there is no guarantee that social transfers will actually reach those who need them the most. At the same time, these policies have only managed to offer short-term solutions rather than address structural issues, particularly those related to employment. Without viable alternatives the announcement of additional public sector jobs is further increasing an already bloated sector, a policy that is neither sustainable nor productive in the long term. In the absence of coherent social security schemes, the increases in pensions will also exacerbate existing deficiencies in terms of coverage and sustainability. More critically, without the requisite long-term structural transformations, countries of the region will continue to be trapped within a rentier framework.

Civil Society Engagement during the Unrest

As indicated in chapter one, the popular uprisings of 2011 brought with them an upsurge in civic activism including an increase in civil society groups, coalitions and movements, as well as a transformation in the quality and depth of civic engagement. In some countries, the temporary or complete absence of the State has triggered an unprecedented response from civil society. Civic activists and civil society organizations were able to fill in temporarily for absent state institutions during transition periods, by providing a wide array of services ranging from emergency relief to the provision of security, education, healthcare and social assistance services. In countries in conflict, they have to some extent replaced state institutions. It is important to note that the main activities undertaken by civil society groups during this period have varied between countries, depending on the nature of the transition, the relationship between the civil and political spheres and the availability of funding.

In what follows, two examples are presented of the new roles played by civil society actors in the provision of assistance and basic social services. The examples come from Egypt and the Syrian Arab Republic. The aim is not to quantify the provision of these services but to assess their impact and potential, given the scant and anecdotal evidence available.

A- Egypt's Popular Committees

During the 18-day uprising of 2011, the police stopped performing their duties. Simultaneously, thousands of convicted criminals were released from prison and reports of violence intensified. To fill the security void, young Egyptians quickly organized themselves into 'popular committees' that took on the responsibility of protecting neighbourhoods. In time, the committees became advocates of community development. They managed the provision of essential services such as gas lines, lighting and health clinics in impoverished urban slums. In other areas of the country, they conceptualized projects to enhance the environmental aspects of towns and support group education.[78]

Despite these initiatives, the role of popular committees in Egypt remains contested. Their engagement was limited to specific issues at the community level and did not engage with wider policy measures. Moreover, many lacked a grassroots, participatory approach to community work, excluding the poor and reinforcing tribal hierarchies in rural communities.

B- Civil Councils in the Syrian Arab Republic

In the Syrian Arab Republic, the loss of territorial control by the Central Government and its absence from large areas rendered the role of newly formed local civil councils essential. This model of local administration councils emerged in late 2011 in Al Zabadani district, where the protracted conflict necessitated coordination between civilians and armed groups to meet the emergent needs of the local population. As the Syrian regime has lost control of additional regions, particularly in the North, state services in those regions collapsed and new local councils were established. Lead by civilians, these councils include representatives of the local militias as well as activists and local leaders. They have created structures for the provision of public services including the distribution of bread, gasoline, natural gas and garbage collection as well as mediating between different groups. They have also taken charge of providing such services as healthcare and education, and have formed an improvised police force and justice system.[79] Locally led, with no common structure or central authority, these councils in many ways mirror the structure of the on-going conflict.[80] While these councils can form a critical lynchpin in future humanitarian support and reconstruction efforts, given their knowledge of local needs and conditions, their effectiveness is undermined by a number of structural weaknesses: first, they may lack autonomy, given the attachment and even dependence of some of these councils on militant groups in control of the areas in which they function. Second, they are highly fragmented and lack a participatory approach, because council members are selected rather than elected and are often influenced by military leaders, clan structures and community elders. Third, they may lack the necessary expertise in identifying needs and the provision of services and often have a weak governance structure.

The Way Forward

This chapter has demonstrated that the interconnections between four key social deficits are closely connected to the particularities of Arab social contracts which have ignored the rights of citizenship. Obviously, the "growth first, and prosperity will follow" model has not proven successful. First, economic growth has been exclusive and has resulted in further market segmentation and the marginalization of individuals. Second, the role of social policy was reduced to remedial measures rather than an investment in social capital. Third, delinking the economic from the political has created considerable room for the expansion of clientelism and meant that the economic benefits of growth were reaped by a few at the expense of the many. Fourth, and more critically, in the absence of a participatory infrastructure, citizens were not sufficiently empowered to demand their right to development.

To address the key demands of Arab citizens for social justice, the right to development—and with it, the right to quality and opportunity in education, health, labour and social protection—is of key importance. Experiences from around the world, notably East Asia, have shown that there is a positive relationship between sustainable economic growth and investment in social capital, and that healthy and educated citizens are by far the most productive.[81] For this reason, Governments should promote investments

in infrastructure, health, education, technical knowledge and vocational training in order to improve productivity. They can also finance development projects, encourage investment and trade, provide easy access to credit and undertake fiscal reforms to improve taxation and redistribute wealth.[82] At the same time, social protection policies must be used as an instrument of development rather than a means to simply cushion individuals from the impacts of economic restructuring. As noted earlier, social protection mechanisms should be one element in a broader policy framework that focuses on redistribution, risk management, poverty reduction and investment, especially in employment and social policies.

Achieving these goals means the adoption of a new development paradigm: one that holds inclusive growth, social justice and participatory modes of governance as key tenants. It also means a reconsideration of the role of the State in implementing this model as well as a discussion around the legislative and regulatory environment and the participatory mechanisms necessary to protect the rights of citizens. Various elements of this paradigm also require a fundamental restructuring of the economic and productive capacities as well as the institution of participatory mechanisms for economic and social policies. This also entails fostering a broad-based social dialogue between different stakeholders, including

Image 3-3: Street Children, Cairo

Source: EgyNemo. (Courtesy of Artist)

government agencies, civil society organizations, new social movements and labour unions on the priorities of the coming period. The adoption of development-oriented policies requires political commitment and support at the highest levels of Government; building institutional and human capacities; and nurturing a transparent fiscal space. Finally, and in the long run, it also requires the institutionalization of citizenship education and civic values through school curricula, and at all levels of schooling.

At the same time, even though the efficiency and impact of the work of new civil society actors remains largely contested, their participation is urgently needed to fill the void created by the absence of local government. The examples of Egypt and the Syrian Arab Republic have shown that, during the crisis, civil society was to a certain extent able to cover gaps in the provision of key public services. It nevertheless failed to develop a full strategic response, given its lack of institutionalization, autonomy and funding. Additionally, the work of civil society groups has tended to be fragmented, small scale and operated by a large number of informal, voluntary networks. Further research and analysis of the specific role and functions of civil society groups in the aftermath of the uprisings is needed to draw more concrete conclusions.

The question here remains: What role will civil society play in the provision of services once the crisis is over in countries affected by conflict? The key challenges facing civil society include how to move away from humanitarian and relief work towards an integrated approach to service provision, while attending to issues of capacity and institution building, advocacy and participatory policymaking. The experience of civil society organizations in Lebanon over the course of its 15-year civil war points to their tremendous capacity to reinvent themselves once the crisis ends. Today some of the largest and most effective organizations on the ground are the ones that were most active during that period.

To maximize the contribution of these social actors to development, States must instate a participatory framework for policymaking; one that allows civil society organizations and activists to contribute to the process as development partners, not just implementers of community-based projects. Such a framework could also include mechanisms to regulate, coordinate and empower these groups in order to reduce inefficiency, ensure equity and promote a human rights approach to services. Until then, their role is far from complete—and Arab citizens' right to development will remain elusive.

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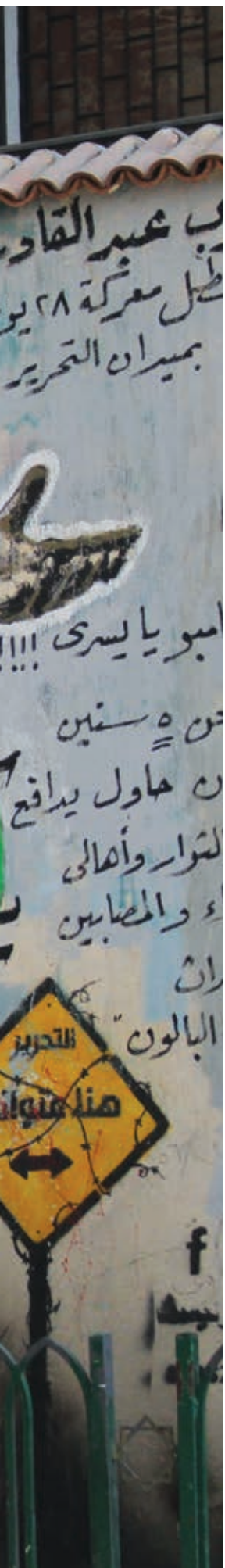
Atoning for the Past: Social Cohesion and Transitional Justice

"Justice is like beauty, it is in the eye of the beholder"

Olusegun Obasanjo

Introduction

Political transitions from authoritarian regimes bring to the fore issues of justice for victims of past atrocities. Transitional justice, in such contexts, is a key element to deal with the wrongs of the past and pave the way to rebuilding shattered social cohesion.

Transitional justice is an umbrella term that combines different techniques and mechanisms to tackle human rights abuses during periods of conflict or repressive rule, and achieve justice for the victims of violence. There is no unique model for applying transitional justice across societies. Each country and setting requires its own transitional justice package depending on the phase of transition and the contextual specificities of the case. However, a common thread among all transitional justice experiences is the importance of civic engagement and participation. Civil society is indeed a vital partner in the processes of driving a thriving culture of justice for victims and actively restoring social cohesion.

During and in the aftermath of political change, transitional justice is key for maintaining social cohesion and restoring trust between citizens and their state, and between citizens themselves. Trust is paramount for achieving social cohesion that is often lost during times of conflict and oppressive rule. Transitional justice is a driving force behind achieving national reconciliation, establishing solid bonds among citizens and across population groups, and hence rebuilding social cohesion.

Demands for transitional justice in Arab countries are not new. Lebanon, Iraq and Morocco are but three examples of countries in the region that have a legacy in the implementation of some transitional justice mechanisms. However, in the aftermath of the Arab uprisings, these demands have snowballed. Egypt, Yemen, the Syrian Arab Republic, Tunisia and Bahrain have now joined the fray. Despite similarities in the impetus for requesting transitional justice, the differences in context entail setting different mechanisms which will have varied implications for social cohesion.

This chapter discusses the importance of transitional justice for restoring social cohesion and achieving reconciliation, presents different transitional justice mechanisms and outlines the different transitional justice experiences in Arab countries. A participatory approach to transitional justice will be emphasized, and successful cases where civil society played a pivotal role will be highlighted. Finally, the chapter concludes with lessons learned and underlines key challenges facing transitional justice in the Arab region.

The Necessity of Transitional Justice to Social Cohesion and Democracy

Oppression and abusive regimes, as well as armed conflict, leave behind scarred societies and victimized groups. To achieve full-fledged and successful transitions into stable democracies, justice must be served to all victims. It is a key requirement to restore their trust in government, to reintegrate them within the broader social structure and to reconcile conflicting groups. The ultimate goals of transitional justice are achieving national reconciliation and rebuilding shattered social cohesion, while addressing the delicate process of social reintegration. Indeed, one of the important challenges that face the successful implementation of transitional justice is finding a balance between reinstituting both victims and perpetrators into the social fabric without jeopardizing social cohesion.

A- Transitional Justice and Social Cohesion

Societies in transition often suffer from a shortage or absence of trust, social capital and social cohesion.[1] Two levels of trust are needed to rebuild social cohesion: trust between citizen and state, or what can be referred to as vertical social capital, and trust among citizens themselves, including that between warring communities, or horizontal social capital. In the absence of trust, social capital is diminished and social cohesion is not possible.[2]

The ultimate goal of transitional justice is reconciliation, a vital end based on creating solid bonds between different societal factions and re-establishing social cohesion. All transitional justice mechanisms contribute to this process, starting with enhanced trust. One challenge is to move beyond legal and traditional transitional justice measures, such as truth-finding, to reach the desired stage of cohesion, rebuilding society from within.

B- Beyond the Political: Social and Economic Rights

Whereas the focus of transitional justice is often on violations of civil and human rights, Governments in transition countries should also consider the violations of social and economic rights. Economic problems such as slow growth, discriminatory economic systems and unbalanced outcomes of economic development often lie at the heart of popular unrest. Endemic social problems are also ripe in oppressed societies, ranging from gender and religious discrimination to clear violations or absence of fair social contracts. Violations of social and economic rights are rampant in many Arab countries, in particular those that witnessed mass protests. Examples of such violations include the destruction and/or confiscation of property and land, forced displacement, starvation, market-price manipulation, damage to infrastructure, and the neglect of health and education systems. In Tunisia, Mohamed Bouazizi set himself on fire due to the dire economic conditions that he and his family had to endure. He suffered from economic inequality, and the violation of his rights—along with the socioeconomic rights of millions of Arab citizens—sparked the uprisings. As the South African experience shows, consensual and participatory approaches to transitional justice should tackle political, civil, social and economic rights of victimized groups in affected societies (box 4-1).

Box 4-1

Socioeconomic Rights in South Africa

"My Government's commitment to create a people-centered society of liberty binds us to the pursuit of the goals of freedom from want, freedom from hunger, freedom from deprivation, freedom from ignorance, freedom from suppression and freedom from fear. These freedoms are fundamental to the guarantee of human dignity." Nelson Mandela, 1994.

Despite their importance to consolidating a sound transition to democratic rule, socioeconomic injustices are seldom considered in transitional justice programmes. This is in part due to the fact that human rights abuses and violations often take precedence over socioeconomic matters, which require a different and perhaps more drawn-out process.

The situation of South Africa in its democratic transition from apartheid is a case in point. Decades of systematic discrimination and segregation by a white minority resulted in precarious socioeconomic conditions for the black majority and in their deprivation of the most basic socioeconomic rights. However, post-apartheid Governments attempted to deal with such injustices through the Truth and Reconciliation Commission. In addition to addressing political and civil rights violations and human rights abuses, the Commission also investigated cases of land dispossession, discrimination in education and health, the complicity of the private sector and businesses in apartheid activity and other such issues.

Other initiatives and actions also sought to provide those who suffered under apartheid with socioeconomic rights and opportunities. South Africa's new Constitution was adopted in 1996 and entailed a comprehensive bill of rights that encompassed socioeconomic rights. Labour legislations such as the Labour Relations Act 66 (1995) and the Employment Equity Act 55 (1998) aimed at creating a basic floor of minimum employee rights, prohibiting economic discrimination, amending previously existing gaps in skills and education between the black majority and white minority, and tailoring affirmative action plans. Those plans targeted the elimination of workplace discrimination and opened up the labour market to a previously marginalized majority.

Additional measures were taken to ensure basic rights such as access to land and housing, as well as basic social services such as access to water and health care, and other such rights that the majority of South Africans had also been denied for decades. Several policy measures were taken to address the restitution of dispossessed land through direct restitution or equitable redress (alternative land or material compensation); and the redistribution of land to the poor for residence and agricultural productivity, in an attempt to improve their livelihoods. Moreover, a land tenure reform was implemented to build a non-discriminatory system of land rights for all South Africans. Other actions, such as the Working for Water Programme, a labour-intensive public works employment programme that aims to rehabilitate damaged land and conserve water resources, sought to increase access to those resources in a participatory manner, while creating employment opportunities for disadvantaged South Africans. Even though considered insufficient by some, these measures did seek to redress the deprivation of a majority of South Africans of their basic right of citizenship.

Source: Liebenberg, 2000.

Source: Aljaja, http://www.flickr.com/photos/aljaja/10014625725/sizes/o/in/photostream/.

The Conditions, Approaches and Mechanisms of Transitional Justice

The conditions under which transitional justice mechanisms function are diverse. Cases in which the need for transitional justice has been most accentuated and its mechanisms most exercised are in transitions from dictatorships and apartheid systems to democracy, as in South Africa, and in transitions from civil strife to peace, as in El Salvador and Sierra Leone. However, transitional justice is not limited to such settings. It is quite relevant to transitions from occupation to freedom and sovereignty, as in Iraq, an issue often underemphasized in the literature on the subject. Additionally, as in Canada and Morocco, some of its mechanisms can be applied in cases where there is no transition nor regime change, and where leaders wish to reconcile with the population, restore some of their rights and appease victims of past abuses.

There are two different approaches to transitional justice: retributive justice, which focuses mostly on legal aspects, and restorative justice, an approach focused on reconciliation that centers on restoring social cohesion and trust. The two approaches are not mutually exclusive, as transitional justice can incorporate both retributive and restorative elements, tailored in such a way as to achieve reconciliation.

Transitional justice encompasses a myriad of tools, judicial or non-judicial, that can be centered on the perpetrator or the victim. The choice of methods should be context-specific, tailored to the specific needs of the country undergoing political transition, and subject to consensus. There is no cross-cutting model that can be used in different scenarios: indeed, each transition is unique, as are the victims and the nature of atrocities or injustices committed. Therefore, the "templatization" of the transitional justice process is inappropriate,[3] as each programme should be based on an in-depth analysis of the history of the regime, the conflict, the nature and breadth of human rights abuses, and the culture of violence and oppression in the country of interest. However, there are a few transitional justice mechanisms that have already been well defined and shaped through successful transitions over the past few decades.

A- Truth-telling

The first transitional justice mechanism addresses the need of societies and victims to uncover the truth behind atrocities and the human rights abuses that were sustained. It is usually done through the work of truth commissions, which are platforms created specifically for the victims to come forth, publicly or privately, and disclose the injustices that they faced. At times, perpetrators also come forward, confessing to crimes committed in the hopes of redemption, forgiveness and reintegration. Truth commissions are usually nationwide, their work is comprehensive and lengthy, and often takes a few years to reach its goal. Their end result is a comprehensive catalogue of past human rights abuses and an evidence base of atrocities. Additionally, one of the products of truth commissions is often a list of recommendations tailored towards achieving justice beyond truth. However, there exists noteworthy criticism of such commissions, including the fact that victims might get revictimized during the process of truth-telling, having to relive their traumatic experiences. Moreover, many are apprehensive of truth-telling by perpetrators, as their confessions could be a means for obtaining pardons and avoiding punishment.[4]

Finally, truth commissions should not stop at the facts and should consider appropriate punishment for the perpetrators and proper compensations to the victims for their suffering.

The most renowned truth commission, and the first of its nature and scope, is South Africa's Truth and Reconciliation Commission (TRC), established by Nelson Mandela and Desmond Tutu in 1995 after the abolishment of apartheid. The Commission was the product of a joint collaboration between the Government and the South African civil society. It has done immense work on the truth behind atrocities and human rights violations committed under apartheid. The outputs of the Commission also included a comprehensive reparations programme, among other recommendations for national reconciliation. Another international truth commission is Guatemala's Commission for Historical Clarification, established in 1997 as part of a deal brokered by the United Nations between the Government and the rebels, and advocated massively by the Guatemalan civil society. The Commission was large in scope, and investigated and documented human rights violations committed during 36 years of armed civil war (1960-1996), providing recommendations to ensure justice for victims of the war.

B- Accountability

A second mechanism of transitional justice is focused on accountability, which is a judicial approach to justice, often centered on the perpetrators and based on the premise that they should and must be punished for crimes against humanity. Accountability for past abuses can be achieved through local courts, as in Iraq, through the International Criminal Court (ICC) or through hybrid tribunals, as in Sierra Leone and Cambodia. The advantages of pursuing accountability include serving legal justice, punishing criminals for abuses and paying tribute to the victims whose abusers are being penalized for their wrongdoings. More importantly, the quest for accountability is a clear statement that impunity shall not prevail and that human rights abuses shall be punished. Nevertheless, this process is controversial, especially when determining who should be punished, how and through which courts. Local judiciary is often corrupt or non-functional at times of political transition, hindering the possibility of successful home-grown trials. Additionally, during armed conflicts or civil wars, it becomes extremely difficult to separate victims from perpetrators, as "both sides" of the conflict, as well as civilians, are subject to atrocities. The nature of the political settlement that ends the conflict, political strength and leadership play a significant role in determining who the "victims" are.

A well-known example of using international tribunals as a body for accountability of war crimes is the International Criminal Tribunal for the Former Yugoslavia (ICTY), an ad hoc court established by the United Nations in 1993 to account for crimes committed during the wars in the former Yugoslavia and to try perpetrators of war crimes and abuses. ICTY provided victims a unique opportunity to voice the horrors that they had experienced during the war, while ensuring that perpetrators will be punished. It targeted senior officials and previously powerful individuals, thus shifting the norm from impunity to accountability. It also contributed to the establishment of the ICC in 2002 at The Hague as a permanent international body that prosecutes the perpetrators of war crimes, crimes against humanity, genocides and similar gross violations of human rights. Numerous cases have been referred to the ICC, including that of Kenya, the Democratic Republic of Congo, Darfur and, most recently, Libya. In the case of Libya, Muammar and Saif al-Islam Gaddafi and Abdullah al-Senussi (former intelligence chief, Gaddafi's brother-in-law) were indicted by the ICC. The case of Muammar Gaddafi was closed after his execution by Libyan rebels, while Saif al-Islam and al-Senussi remain in the custody of Libyan authorities and are currently subject to domestic proceedings conducted by national authorities.[5]

C- Reparations

Reparations are a third, victim-centered mechanism that often accompanies other transitional justice tools and constitutes compensation to victims of human rights abuses and their families. The most common form, material reparation, is based on monetary considerations but can also include, in some instances, the restitution of land and property. However, material considerations alone are often deemed insufficient. Societies and victims who lived through abuse often have deep scars and search for healing. This is where symbolic reparations come into play. These are multiple tools, mostly collective, far-reaching and socially binding, and include memorialization, collective apologies, exhumation, erection of burial grounds, scheduling of burial ceremonies, collective prayers, national holidays in memory of victims, street naming and so on. Advocates of symbolic reparations—especially civil society—argue that such measures bring back dignity to scarred societies. Thus, comprehensive reparations programmes should address both material and symbolic considerations. Challenges to reparations include: a) the fact that they cannot stand as the sole mechanism for transitional justice and must be integrated into a holistic

transitional justice programme; b) the fair distribution of material reparations; c) the availability of funds and funding sources; d) the possibility of fund manipulation.[6]

In Chile, atoning for decades of torture, human rights abuses, tens of thousands of disappearances and forced exile under the military dictatorship of Augusto Pinochet (1973-1990) required a well rounded transitional justice strategy that involved a comprehensive reparations programme.[7] Despite economic difficulties, the Chilean Government dedicated a large percentage of the state budget to administer material reparations. It distributed compensations in the form of monthly pensions to victims and their families. Additional initiatives were undertaken to encourage exiles to come back, and to provide assistance to them and to released political prisoners. Reparations included the restitution of land and jobs, in addition to comprehensive health-care programmes for the victims of political violence. Symbolic reparation measures were also implemented, and included the moving and emotional apology of President Patricio Aylwin (1990-1994) to the nation as a whole for the gross human rights abuses committed under the rule of Augusto Pinochet. Civil society, in concert with the Government, held ceremonials, memorials, exhumations and undertook other initiatives to keep the memory of the victims of oppression alive.[8]

D- Institutional Reforms

The fourth transitional justice mechanism focuses on the institutional reforms needed to facilitate an effective political transition to democracy. States in transition are often characterized by fragile and corrupt institutions. Institutional rebuilding, transparency and the fight against corruption are pillars of a smooth transition. Vetting and lustration, both procedures that end the participation of former corrupt officials through due process, are key mechanisms to institutional reform. Successful vetting and lustration involve the judiciary and the military,[9] two institutions that are often implicated in the abuses committed by former officials and in sheltering heads of previous regimes. Challenges to vetting include: a) the scope of the process, which could only reach upper-level corrupt commanders or, on the contrary, single out every public employee affiliated with the abusive regime; b) the context of the process, often a country previously dominated by the same political force for decades; c) one of its outcomes, filling out previously occupied public posts with technocrats after removing ex-regime-affiliates who might have had great qualifications. All these challenges should be taken into account when designing vetting strategies and engaging in institutional reforms in transitional states.

Bosnia and Herzegovina presents an interesting case of vetting as part of a comprehensive transitional justice strategy. The 1995 Dayton accords ended a three-and-a-half year international armed conflict characterized by brutal infighting, ethnic cleansing and systematic sexual assaults and rape by Serb and Croat forces. Due to the failure of domestic authorities to properly vet the police and the judiciary and to increase public confidence in the rule of law, international actors stepped in. The United Nations Mission in Bosnia and Herzegovina and the High Judicial and Prosecutorial Council, involving international and local personnel, managed to vet over 25,000 law enforcement agents, judges and prosecutors, and kept only those with most integrity and least corruption. The vetting strategy targeted the most influential power-brokers, the security sector and the judiciary, and hence enhanced the rule of law and public trust in these institutions.[10]

Disarmament, Demobilization, Reintegration and Social Cohesion

The reintegration of former combatants following the end of an internal conflict is another key challenge in a transition context. The process of disarmament, demobilization and reintegration (DDR) of soldiers and fighters is considered an important element of transitional justice. DDR strategies seek to demobilize and disarm military and paramilitary groups and reintegrate them into post-conflict societies. It is perceived as a peace-building strategy that seeks social cohesion among militants and civilians, and among different combating groups.[11] DDR is an important element of United Nations peace-building strategies in post-conflict societies; it is often implemented as part of United Nations field missions in post-conflict societies (box 4-2).

However, DDR faces a number of key challenges. A first set of challenges lies in the lack of political will to disarm, the proliferation of armed factions and the low level of trust that sparring groups have in the DDR process.[12] A second set of challenges involves civilians and the extent to which those who have been harmed by ex-combatants are willing to trust them after their disarmament. A third challenge lies in ensuring that the ex-combatants do not revert back to their old violent habits. Some of them might

face socioeconomic difficulties and perceive that their status as militants had provided them with privileges that made their life easier.

A possible answer to some of these challenges lies in the infusion of participatory elements within a DDR process.[13] Civil society groups can engage ex-militants in rehabilitation programmes, including counseling services, that seek to equip them with a new set of skills, with a view to improving their socioeconomic conditions and re-entering the labour market. Civil society can also provide a caring and nurturing space where dialogue can be held between distrustful groups to work on improving social bonds. Enemies can learn how to become peaceful neighbors. Additionally, DDR can be based on conditionality: only militants who had not committed crimes against humanity should be given the chance to demobilize, while perpetrators of mass crimes should be prosecuted.[14]

Box 4-2

DDR in Sierra Leone

DDR in Sierra Leone is generally considered a success story and elements of its model were replicated in Liberia, Burundi and Haiti. As part of a massive United Nations peacekeeping operation, DDR was a widescale process, targeting over 71,000 combatants from the five infighting factions of the decade-long civil war in Sierra Leone (1991-2002). It was the culmination of a negotiated settlement which saw combating parties converge towards the need for stability. The holistic DDR programme involved economic reintegration measures such as vocational training and formal education, as well as social reintegration measures that promoted reconciliation, forgiveness and social cohesion. High participation rates were characteristic of the programme and the peace process was sustained throughout the years following DDR in the country.

The demobilization and disarmament stage, which included group disarmament, was followed by the reintegration stage, in which ex-combatants received reinsertion packages and reintegration assistance, including skill-building training, repatriation to hometowns, job placement and the promotion of peaceful coexistence with fellow citizens. The DDR programme played a big role in the non-recurrence of armed violence in Sierra Leone since 2002. However, studies have shown that reintegrating ex-combatants within society was more challenging than disarming them, especially when the combatants had committed severe crimes and when the communities in which they were reintegrated had been victims of intense abuse at their hands.

The positive side of the DDR process in Sierra Leone was that it propelled further transitional justice work, often spearheaded by civil society. For example, civil society organizations launched an outreach educational campaign on the DDR process that targeted victims, ex-combatants and other factions of the Sierra Leonean society, and constantly refused blanket amnesty. Civil society also played a pioneering role in founding a Truth and Reconciliation Commission, educating the public about and advocating the benefits of the Special Court for Sierra Leone, calling for the importance of instilling a sense of accountability, constantly campaigning for reparations programmes and collaborating with the Government to host a victims' commemoration conference, among other memorialization initiatives.

Source: Gibril and Suma, 2009.

Participation and Transitional Justice: Civil Society as a Key Partner

Experience from around the world indicates that citizen participation is key in various aspects of political transitions. Civil society is an essential driver of the transitional justice process, especially where States lack the institutional capacity, exhibit weak governance and are short of necessary resources.[15] In countries with functioning institutions and a drive for reform, and where a strong and thriving civil society already exists, a strong partnership on transitional justice issues can emerge.

Civil society plays an important role in pressuring Governments in transitional and post-conflict countries into adopting transitional justice mechanisms and implementing them. It works towards consensus-building, an essential part of transitional justice. The participatory activity of civil society is integral to three different stages of the transitional process: a) planning and design; b) implementation; c) follow-up and revisions of the different transitional justice mechanisms.[16] For example, civil society is regarded as "the essential ingredient" for the work of truth commissions.[17] It is particularly the case where civil society organizations have developed community-outreach strategies that are essential for obtaining personal historical records and witness testimonies.

Civil society groups can also mobilize the public to contribute to the mandate and programmes of truth commissions, leading to tangible and realistically-grounded findings and recommendations. They also play a significant role in designing and administering reparations programmes, as they have access to local communities and can portray and advocate their needs and rights. Local civil society groups can also contribute to accountability mechanisms through participating in hybrid tribunals and local courts, mapping human rights violations, reaching out to victims and families of victims, advocating legally-sound prosecution measures and monitoring the standards of court proceedings. Finally, the participation of civil society can contribute to institutional reform and vetting measures through broad-based consultations to identify public needs and demands. It can also feed into the consultation on vetting mechanisms and ensure that the public is informed on reform strategies in place. In one of the most comprehensive works on the role of civil society in advancing transitional justice, Backer identifies seven roles, outlined in table 4-1.

Worldwide experiences with transitional justice processes are also indicative of the extent to which civil society involvement contributes in promoting, supporting and successfully implementing transitional justice programmes. In box 4.3 is an illustration of the transitional justice process in South Africa and Argentina, an example where civil society was a key contributor to the process.

Worldwide experiences with transitional justice processes are also indicative of the extent to which civil society involvement contributes in promoting, supporting and successfully implementing transitional justice programmes. In box 4–3 and 4-4 are illustrations of the transitional justice process in South Africa and Argentina, examples where civil society was a key contributor to the process.

Table 4-1: Roles of Civil Society in the Transitional Justice Process

Role of civil society	Specific functions
1. Data collection and monitoring	Document and catalogue human rights abuses; Document testimonies of victims and families to feed into truth-seeking work; Create archives to keep the memory of atrocities alive.
2. Representation and advocacy	Advocate certain transitional justice mechanisms; Represent community and victim groups in transitional justice processes; Engage in transitional justice policymaking.
3. Collaboration, facilitation, and consultation	Provide community-level logistic expertise to facilitate transitional justice work; Recruit skilled community members; Offer consultations to Governments and international actors (e.g. legal consultations); Engage personnel skilled in transitional justice preparations.
4. Service delivery and intervention	Provide services for victim groups and wronged communities (e.g. legal services, medical assistance, etc.); Provide rehabilitation, counseling and psychosocial services to victims.
5. Acknowledgement and compensation	Promote acknowledgement of victims' suffering (by Governments, perpetrators and third-parties); Target restorative justice; Deliver symbolic reparations; Ensure that material reparations are delivered fairly and equitably.
6. Parallel or substitute authority	Venture into transitional justice as a sole authority (whether the Government is unwilling or unable to engage in related efforts); Engage in truth-telling initiatives, memorialization and reparations; Does not engage in legal accountability as civil society organizations do not possess the legal capacity to prosecute.
7. Research and education	Research the impact of transitional justice techniques, shortcomings, and lessons learned from previous transitional justice programmes; Educate citizens on the need and know-how of transitional justice.

Source: Backer, 2003.

Box 4-3

South Africa and Participatory Truth-seeking

Transitional justice was of utmost importance when addressing nearly five decades of apartheid in South Africa (1994-1948). To ensure a democratic transition, the long years of abuse endured by the black majority at the hands of a white minority had to be accounted for. To that end, and after the abolishment of apartheid, TRC, the restorative justice body and large-scale truth-seeking initiative, was created in 1995 through a law that was drafted by civil society bodies. The creation of the Commission came as a response to the constant calls by civil society for truth and the need to listen to the victims of abuse and acknowledge their suffering. Many civil society representatives held seats on the Commission, selected other commissioners and actively participated in the implementation of the Commission's mandate. Goals of the initiative were national reconciliation, collective healing and the restoration of long-lost social cohesion.

The Commission examined victim and perpetrator testimonies, analysed amnesty applications and tailored a comprehensive reparations programme aimed at helping to heal the victims' suffering. Furthermore, South African civil society played a pioneering role in designing the reparation and rehabilitation measures, specifically symbolic and collective reparations such as monument-building, ceremonials and exhumations. Finally, civil society bodies and human rights groups monitored the work of the Commission, reviewed its reports and ensured the smooth implementation of its recommendations. TRC had a significant participatory dimension. It is considered a ground-breaking transitional justice initiative that was subsequently emulated by numerous countries undergoing political transitions.

Despite its monumental success, TRC was criticized by many, especially by some groups of victims, for failing to provide justice and granting amnesty to perpetrators of political crimes. The precedence given to truth-seeking hampered legal accountability, which many perceived as an obstacle to reconciliation between the black and white communities of South Africa. Another criticism was that, despite the fact that the Commission was composed of civil society and human rights actors, the African National Congress was overrepresented in it, and it adopted the party's version of the past. Finally, the work of the Commission centered so closely on gross human rights violations that it overlooked several other important types of abuses, including those of a socioeconomic nature, such as the massive 3.5 million forcible relocations and displacements.

Source: Truth and Reconciliation Commission of South Africa's Official Webpage, http://www.justice.gov.za/trc. Accessed 4 March, 2013.

Box 4-4

Argentina: Keeping the Memory Alive

The rule of the military junta in Argentina, which ended in 1983, resulted in the forced disappearances of 30,000 individuals and a long reign of terror. Yet, a 1982 general amnesty law created a massive obstacle to transitional justice, by preventing those responsible for the atrocities from being held accountable. Civil society organizations and activists stepped in, and for the past two decades have demanded the truth behind the disappearances. Madres de la Plaza de Mayo and the Center for Legal and Social Studies were central in developing and implementing truth trials and a truth commission (CONADEP - the Comisión Nacional para la Investigación sobre la Desaparición de Personas) that sought to uncover human rights abuses. In 2003, and in part as a response to the pressure exerted by civil society, the amnesty law was revoked and criminal trials against perpetrators of state violence were initiated.

HIJOS (Hijos por la Identidad y la Justicia contra el Olvido y el Silencio), founded in 1995, was another initiative created by the children of disappeared persons. Over the past two decades, they have organized marches and protests, demanding the truth about the disappeared and ensuring that they were not forgotten. This effort, among other civil society initiatives, succeeded in keeping alive debates and discussions of atrocities and crimes committed. Additionally, the pressure exerted on the Government by civil society and human rights organizations to ensure accountability has paid off in recent years: as of 2010, 800 individuals had faced criminal charges and trials, including key leaders, previous power-brokers, and even civilians took part in such crimes. Finally, civil society pushed for a reparations programme, through nation-wide petitions, which was implemented but was criticized and viewed as a political tool rather than a genuine attempt to address past injustices.

Source: Delgado, 2012; and Druliolle, 2009.

Transitions of the Arab World: Realms for Justice

Arab Governments in countries undergoing political transitions are faced with the challenging tasks of constitutional revisions, state-building, institutional reform on the basis of social justice and respect for the fundamental human rights of all citizens. A transitional justice culture in such contexts is important to ensure that the wrongs of the past are addressed in a manner that paves the way for a better future.

The concepts and tools of transitional justice are not new to the region. Over the past decade, a number of Arab countries, such as Iraq, Morocco and Lebanon, have tried to address past injustices through different transitional justice

mechanisms albeit with different degrees of success. What these experiences and the international cases outlined above illustrate is that there is no unique template for such processes, as has already been underlined in this chapter. The historic, political and societal nature of the country, including that of civil society, and its institutional legacy impact the kind of transitional justice mechanisms needed or even possible. However, a number of cross cutting themes are also apparent in the Arab region. In what follows is an attempt to outline those themes and analyse the impact of the transitional justice experiences in Arab countries, highlighting the key challenges currently faced by the region in that respect.

A- Rushed Starts: Hasty Domestic Trials

Once a dictator has fallen and a regime has been toppled, there is a pressing need for immediate accountability and the prosecution of ousted Heads of States and regime associates. The first 'event' of this nature in Arab countries

was the ouster of Saddam Hussein's Baathist rule in Iraq in 2003 by American forces. Saddam Hussein and 11 of his closest associates were incarcerated and tried. He was sentenced to death on 5 November 2006 through an Iraqi

Image 4-2: The Homeland Is Being Splitted by the Hands of Its People, Yemen

Sources: Murad Subai, 2013. (Courtesy of Artist)

Special Tribunal. The court was criticized for its chaotic nature and its major procedural flaws.[18] One important hindrance was the weakness of the Iraqi judiciary, which had just emerged from dictatorship in a country that was under foreign occupation. These factors inevitably curtailed its capacity to handle such a politically-loaded trial.[19] Although many hailed the verdict as a price paid for crimes against humanity, most significantly the 1982 Dujail Massacre, it did little to bring about the needed national reconciliation in Iraq, and the manner in which the death sentence against the former president was carried out might have been a sign of the sectarian divisions that were beginning to tear the country apart.

This trend of directly subjecting fallen dictators to trials has been followed in a number of Arab countries that witnessed popular uprisings. Tunisia was first, where a rushed domestic trial sentenced former President Zine el-Abidine Ben Ali and his wife Leila Trabelsi, in absentia, to 35 years in jail and imposed a fine of US$66 million over charges of embezzlement and misuse of public funds.[20] The public perceived the trials as manipulated, lightweight and of weak judicial quality. Later trials were conducted through the military courts (Le Kef Trials) to account for the 'complicity' of Ben Ali, several of his associates and the security forces in the murder of unarmed protesters during the protests of early 2011.[21] Ben Ali was sentenced to life in prison, but the verdict is yet to be implemented as the former President fled the country in 2011. These trials were also disparaged because of a perceived lack of independence of the courts and their failure to address 34 years of human rights abuses, as accountability for an oppressive past was not achieved.

In parallel, former President Hosni Mubarak's trial saga in Egypt commenced. Several trials were initiated, some related to embezzlement and fraud, and the most recent relating to his complicity in the murder of nearly 800 Egyptians between January and July 2011. Although the trials have kept the former President in custody for the maximum time limit of two years, and initially appeased the public with hopes of justice, they were criticized for lack of credibility. In June 2012, Mubarak was found guilty of conspiring to kill protestors and sentenced to life in prison. He was found not guilty of corruption. In January 2013, an appeal against his conviction of complicity in murder was upheld. More recently, the principle judge in the trials stepped down as Mubarak's retrial commenced, citing unease with the process.

B- Placating the Public: Truth-seeking Initiatives

Morocco's Equity and Reconciliation Commission (IER – Instance équité et réconciliation) can be credited as the first full-fledged truth-seeking initiative established in the Arab world. It is also widely considered one of the most successful transitional justice initiatives in the region. King Mohammed VI established the commission through a royal decree in 2004, in order to investigate gross human rights violations during the 'Years of Lead' (1960s – 1980s) under his late father King Hassan II. That period of the late King's rule was marked by heavy state violence and human rights abuses against dissidents and activists in an attempt to silence and crush all opposition.[22] The Commission represented an immense part of the reform movement initiated by King Mohammed VI, and was tailored to specifically investigate forced disappearances, arbitrary detentions, torture and killings by security forces. Additionally, the Commission was tasked with designing and administering a full-fledged reparations programme, addressing both symbolic and material reparations, as well as individual and collective reparations to victims, families of victims and the wider Moroccan community.

Despite the successes of IER, its work did not go unchallenged. One of the main criticisms that the process has drawn was that the Commission did not really uncover full truths, and failed to name perpetrators and suggest means of dealing with them.[23] No accountability measures were recommended to that end. Additional criticisms include the lack of proper funding, the inadequate dissemination of compensation and the lack of mass distribution of the Commission's final report to the wider population.[24] Despite these multiple criticisms, as the first truth commission in the region, IER established a precedent for addressing past abuses. It also demonstrated the positive impact that civil society participation can have on transitional justice processes.

The idea of investigating truths behind human rights abuses without prosecuting the perpetrators, which is what happened in the cases of South Africa and Morocco, seems to have some appeal for a number of countries in the region. In Bahrain, in the aftermath of popular unrest in early 2011, the Bahrain Independent Commission of Inquiry was established by Royal decree to look into 35 deaths and hundreds of injuries that resulted from this period. The work of the Commission was centralized, as the King appointed the commissioners who were chaired by Mahmoud Cherif Bassiouni, a renowned and highly credible international war crimes expert. Following the publication of its 500-page report, the King ordered state agencies to implement its 26 recommendations. Civil society's involvement in the process was minimal, and the time frame for the Commission's work was considered by many as insufficient for the necessary in-depth examination of human rights violations. Of the 26 recommendations, only

Image 4-3: Freedom for Alaa Abd El-Fattah, Cairo

حرية

لأجل علاء عبد الفتاح

Source: Denise Bouquet, http://www.flickr.com/photos/66944824@N6346568533/05/sizes/l/.

3 have been implemented to date. Concurrently, ongoing protests have led to further human rights violations and have undermined the role of independent civil society organizations and their capacity to promote social cohesion. In short, even though Bahrain used an important tool of transitional justice, a truth commission, this experience did not culminate in a transitional justice process. It remains uncertain whether civil society will pick up efforts from where the Government has left off.

Tunisian initiatives included the three following investigative commissions: a) the Higher Commission on Political Reform; b) the Fact-Finding Commission on Corruption and Embezzlement; c) the Fact-Finding Commission on Abuses, to investigate human rights violations that occurred during the uprisings. A great advantage that enhanced the work of these commissions is the inclusion of civil society representatives and specialists in different fields, including human rights and law. However, the work of these commissions has been impeded by a lack of political will, funding limitations, inadequate technologies and minimal staffing. Of around 100 corruption cases compiled by the Commission on Corruption and Embezzlement, only the case of Ben Ali and his closest associates, the symbols of the old regime, went to trial. The Commission on Abuses identified 240 civilians killed

and 1,464 injured, with scores of others captured and imprisoned between December 2010 and January 2011.[25] Several groups of perpetrators (mostly security forces and officials) were tried for killing unarmed protestors, and Ben Ali was charged with life in prison in absentia for complicity in murdering civilians. As a result of the findings of the Commission on Abuses, the Tunisian Government issued a law stipulating monthly monetary reparations for victims and their families, as well as free access to public medical care and public transport. As for the Commission on Political reforms, its work has led to advancements in military and security sector reform, but judicial reform and media freedoms are still lagging behind.

The transition to democracy in Libya requires atoning for a history of tyrannical rule, enforced disappearances and torture under Muammar Gaddafi. Additionally, there is a serious need to address abuses committed during the 2011 Libyan armed conflict, where around 30,000 people were reportedly killed, 50,000 injured and thousands disappeared.[26] Casualties spanned pro-Gaddafi forces, rebel fighters and unarmed civilians. The National Transitional Council devised a transitional justice law which incorporates the establishment of a fact-finding and reconciliation commission. Both the law and the Commission are yet to be implemented. Critics argue

that the scope for truth-telling, as established by the law, will not be very wide, with the commission composed of solely senior judges and being a quasi-judicial process.[27] The law is in general perceived as not being centered on the victims, but more focused on accountability for the violations committed under the rule of Gaddafi. Victims are mentioned in passing, in the parts pertaining to compensation, and amnesties were granted by the National Transitional Council to all crimes committed by rebel forces during armed combat. This amnesty however eclipses substantive abuses and marginalizes a large group of victims who were subject to violence by armed rebel forces, which could further widen the societal gap between rebel supporters and previous regime loyalists, compounding reconciliation and impeding social cohesion.

In Yemen, the post-uprising Government that came on the heels of the GCC-brokered deal for political transition in the country produced a draft transitional justice law in 2012, without consultation with civil society and human rights groups. The proposed law reduces transitional justice to its restorative, non-judiciary elements, and focuses on truth, reparations and reconciliation rather than accountability and prosecution of the former President, Ali Abdullah Saleh, and his associates, whose protection from prosecution was guaranteed through an Immunity Law issued in January 2012.[28] The provisions of the draft law apply to the abuses

sustained from 1994 until the issuance of the law, a period marred by security crackdowns on dissenters, suppression of political and civil freedoms, arbitrary detentions and torture, as well as violence perpetuated against protestors in January 2011. The law also established the Equity and Reconciliation Commission, with the ultimate goal of national reconciliation and compensation of victims of abuse. The Commission's work is yet to commence, as Yemen's trajectory steered away from transitional justice as a result of the lengthy national dialogue, inaugurated on 15 March 2013.

In general, countries that have witnessed uprisings are trying to integrate truth commissions as an important tool for transitional justice. Caution must be taken, however, in considering the delicate balance between truth-finding and accountability, to ensure neither process replaces the other. Indeed, some truth-finding commissions focus solely on abuses committed while compromising accountability, such as in Yemen, and others consider truth commissions as a vehicle for accountability, setting aside the suffering of victims at times, such as in Libya. Although many transitional justice mechanisms are yet to be implemented in Arab countries, substantive amendments should be made in collaboration with civil society organizations and groups of victims to ensure the best possible results for national reconciliation and social cohesion.

C- Successful Vetting versus Political Isolation

Two cases of vetting as an accountability-based reformative strategy are of particular interest in the Arab region, in Iraq and Libya. Most efforts towards transitional justice in Iraq have focused on the accountability of the power brokers, officials and Baathists of the Saddam Hussein regime, with a full-fledged de-Baathification process ongoing since 2003. The process culminated in the creation of an Accountability and Justice Law in 2008 that governs the vetting process of public employees and aims at "purging" Baath party adherents and supporters from political life. An outdated, exclusionary and futile mechanism, this law did not build on successful vetting experiences from post-transition countries such as Bosnia and Herzegovina, which first targeted armed security forces and moved on to the judiciary, thus reforming the systems most deeply involved in corruption and abuses of power.[29] In total, some 400,000 officials, officers and public employees were left unemployed during the purge period of 2004-2008. Only a small portion of these individuals were reinstated between 2008 and 2012. The politically partisan and exclusionary law deprived a great number of individuals from their livelihood sources, marginalized a large portion of Iraqi society and disrupted the efficiency of governmental institutions.

Post-Ghaddafi Libya seems to be following the political purging route of Iraq. The Political Isolation Law, issued in May 2013, postulates that anyone who held a senior position in the Gaddafi regime, as well as intellectuals, academics, civil servants, security and army officials, and leading media personnel affiliated with the regime, should be banned from their posts for ten years. The law is also extended to include exiles and defectors to the opposition who had held senior office under the previous regime. The law was voted by the General Assembly under immense political pressure from a small coalition of political and revolutionary leaders, whose armed militias surrounded the General Assembly and the ministries, and they presented the law as a national emergency and a pressing need. The vetting strategy applied by the law is reminiscent of the de-Baathification law of Iraq. The end result would be the complete political purging of ex-regime loyalists, or anyone perceived to have been involved however minutely, at any point in time, with the fallen system. The prospects of such purging are gloomy, targeting and isolating thousands of Libyans, depriving Libyan institutions of much needed professionals with expertise, greatly impeding the possibility of national reconciliation and driving further schisms into an already divided society. One additional

consequence is that former officials who had defected from the regime in earlier years would be deprived of their rights and excluded from the process of rebuilding Libya and ensuring a sound transition to democracy. Some could eventually become spoilers of this transition.[(30)]

Successful vetting, based on international experiences, should target the most corrupt and entrenched institutions, basically the judiciary and the security forces. The extension of vetting to all public employees or even individuals who have had any sort of affiliation with a previous regime—not necessarily having been active members of it—strongly damages social cohesion, excludes a great portion of the population and further impedes national reconciliation. A political isolation approach to vetting can also lead to lack of skilled and experienced personnel and inflate the number of vacant posts that cannot be adequately filled, thus impeding economic growth that is often quite vital after political transitions.

Image 4-4: Retribution

Source: Denise Bouquet, http://www.flickr.com/photos/66944824@N6346568533/05/sizes/l/.

D- Post-Conflict: The Need for Disarmament, Demobilization and Reintegration

Two countries of the Arab uprisings, Libya and the Syrian Arab Republic, witnessed armed conflict between regime forces and opposition revolutionary factions. Libya's war ended with the killing of former leader Muammar Gaddafi, while the Syrian civil war is still raging, entering its third year with escalating intensity. In Libya, a serious challenge lies in the presence of heavily armed factions who had fought in the conflict. The lack of demobilization of these groups and their reintegration into the social fabric will be a hurdle in the face of political transition. In the absence of a strong central security system, these armed groups continue to exercise undue influence and power over civilians, as they attempt to assert themselves as a pseudo-authority that does not fall under the official security forces of the country. A transition into peaceful democracy requires the disarmament and disintegration of armed factions, and their consequent reintegration as civilians within their society. In Libya, their actions around the General Assembly during the vote on the Political Isolation Law are a case in point.

Civil society groups in the Syrian Arab Republic have commenced with some initiatives that aim to establish transitional justice mechanisms after the end of the conflict.[(31)] The proposed strategy is centered on holding the regime of

Bashar al-Assad and its loyalists accountable, prosecuting government-aligned perpetrators and atoning for the victims of the regime for past abuses. By not addressing the abuses committed by both sides of the conflict, this approach can only drive a further wedge in a post-transition strategy and undermine the potential of national reconciliation and civil peace. The growing number of armed factions on Syrian territories will be a second key challenge in a post-conflict Syrian Arab Republic. Their DDR will be essential to achieve reconciliation and peace. However, DDR and the overflow of arms in the country have not yet been an important issue of debate in the Syrian context. Neither has the issue of child soldiers enrolled in the fighting brigades and groups taken center stage; it is nevertheless an encroaching problem that will have very negative consequences if not addressed fully.[32]

The case of transitional justice in the Syrian Arab Republic is quite different from that of Libya, in terms of the intensity and scope of the war, the social and political conditions under which the uprising erupted and the history of the regime (box 4-5). However, common grounds exist when it comes to the splits between the population (pro- and anti-regime battling factions in both countries), the full exercise of power by regime leaders, the widespread existence of armed rebel groups and the violent nature of the struggle—despite the fact that the war in the Syrian Arab Republic far exceeds the conflict in Libya in terms of violence and damage. Syrians planning for their country's day after should take into account the current transitional justice challenges faced by Libya to appropriately design a fair and coherent justice strategy.

Box 4-5

Transitional Justice in the Syrian Arab Republic: The Cart Before the Horse?

Civil war has marred the Syrian landscape for the past two years now. Massive atrocities are fast accumulating, with the conflict intensifying and no direct solutions imminent. The situation cries for transitional justice measures that can atone for the suffering of victims.

Although rarely devised prior to an actual transition, transitional justice plans for a post-Assad Syrian Arab Republic have been underway since 2012. Such initiatives are the product of joint work between international institutions, transitional justice experts, Syrian opposition members, and Syrian civil society and human rights groups. Transitional justice preparations included a series of workshops (April 2012) and a conference (January 2013) on transitional justice in the country, held in The Hague and Istanbul, respectively.

Both involved not only civil society bodies, experts and human rights groups, but victims and their families as well. The mechanisms suggested in preparation for a post-conflict Syrian Arab Republic included prosecutions, truth-seeking and reconciliation commissions, and victim reparations. However, these fragile initiatives are faced with multiple hindrances: the lack of a clear transition plan, escalating violence, exclusion of a major group of Syrian society, the uncertainty of future prospects in the country and the involvement of opposition groups, mainly the Free Syrian Army, which might politicize justice efforts. Additionally, the ability of the Syrian civil society to execute such programmes is undermined due to its relative fragility and its active involvement in relief efforts in the context of the current crisis.

Source: McDonnell, 2013; Public International Law & Policy Group, 2012; Syrian Center for Political & Strategic Studies, 2013; Thawra Foundation, 2012.

E- Arab Civil Society: A Driving Force for Effective Transitional Justice

Various experiences from the Arab region, both prior to and after the eruption of the uprisings, are a clear indicator of the important role that civil society plays in advocating, executing and maintaining transitional justice. In Morocco, IER had a highly participatory dimension, despite the fact that it was created by the King. Civil society actors took part in laying out its mandate and tailoring its mechanisms, and participated as members of its board. Civil society organizations were also closely involved in tailoring and implementing reparations programmes, both individual and collective, which culminated in the distribution of US$ 85 million to approximately 16,000 victims or families of victims.[33] Civil society activists and organizations also took on the task of designing symbolic reparations, such as memorials and funerals, and facilitating a sense of collective reconciliation within the Moroccan society.[34]

In Lebanon, transitional justice initiatives to account for the legacy of a 15-year civil war (1975-1990) were for the most part the product of grassroots movements, with latent support from international organizations (box 4-6). These initiatives centered mostly on uncovering the truth behind the 17,000 disappearances (the Committee of the Families of the Kidnapped and Disappeared in Lebanon, created by Wedad Halwani, and ACT for the Disappeared, for example); on the documentation of disappearances among other abuses (UMAM, for example); and the memorialization of suffering to ensure the remembrance of past violence (Memory for the Future, for example). Through these initiatives, civil society actors and activists have managed to keep the discussion around the enforced disappearances alive, while maintaining pressure on the Government to seek answers with regards to the fate of the disappeared. These

actions pushed the Lebanese Government to launch several initiatives, but many criticize these moves as attempts to appease families rather than seriously investigate the cases of the disappeared. A recent attempt by Justice Minister Shakib Qortbawi included the issuance of a decree to create yet another commission, but the initiative was refused by civil society groups who are advocating for a law that governs the process.

Civil society in Tunisia is an active participant of the three truth-finding commissions initiated in 2011. Another innovative project is the Transitional Justice Academy, a civil society initiative founded in part by the international non-governmental organization No Peace without Justice, in support of a full democratic transition in Tunisia. The aim of the academy is to train transitional justice trainers on how to successfully implement the relevant mechanisms. The academy is considered an innovation in the region, and the trainers involved are experts, civil society

members and media representatives.[35] To compensate for the Government's shortcomings, Tunisian citizens and civil society also took it upon themselves to create the Independent National Committee for Transitional Justice, which comprises 14 civil society organizations and national associations, including the Tunisian League for the Defense of Human Rights and the General Union of Tunisian Workers.[36] The Committee exerts pressure to enforce transitional justice in Tunisia, pushes for the prosecution of criminals and advocates for a comprehensive reparations programme. The scope of its work is not limited to Ben Ali's rule but also covers present injustices, and the Committee advocates the need to address failing social and economic policies. It lobbies for the punishment of crimes against humanity, focusing on torture in prisons, and by military and security personnel. Tunisian civil society is also engaged in symbolic reparations and memorialization activities, such as naming streets after martyrs of the Jasmine revolution.[37]

Box 4-6

Justice Gone Askew: Transitional Justice in Lebanon

Lebanon stands out in the range of transitional justice measures implemented, albeit uncoordinated, and for the active role of civil society organizations. Initial transitional justice initiatives addressing the atrocities committed during the civil war, and responding to the blanket amnesty issued by the Government in 1992, have sought the truth with regards to the disappeared. They included memorialization, documentation and active lobbying of parliamentarians to establish a law that officially guides the process. These actions have successfully pressured the Lebanese Government into establishing a commission to look into the disappearances in cooperation with Syrian government authorities. However, many obstacles remain, including the general amnesty law; apparent government apathy towards the establishment of transitional justice mechanisms to address human rights violations during the war—particularly since several of those involved still occupy key political positions in the country; and recurrent conflicts, both internal and

external, including the Israeli war on Lebanon in July 2006.

Another government-led initiative is a reparations programme to compensate the victims of forced displacements during the war years, which lead to the establishment of the Central Fund for the Displaced. The effectiveness of the programme was severely undermined by considerable loopholes and its overt politicization. This resulted in its failure to appropriately address more than 75,000 cases of internal displacement in Lebanon. Finally, in 2005, a hybrid tribunal, the Special Tribunal for Lebanon, was created to investigate the assassination of former Prime Minister Rafik Hariri. While hybrid tribunals are considered a key instrument of international justice, intended to ensure that there is no impunity for political assassinations, the Special Tribunal for Lebanon has been a polarizing rather than a unifying instrument within Lebanese society.

Sources: Maalouf, 2009 and 2012; the UMAM website, http://www.umam-dr.org/aboutUs.php?location=aboutUs.

Does the Spring Promise Justice?

Atoning for the past is critical in any political transition. However, as discussed in this chapter, key challenges to transitional justice still exist in the Arab region. As a starting point, it is useful to highlight that transitional justice trends have not been uniform. The when and how of justice have been quite diversified. Some countries, such as Morocco and Bahrain, engaged in the process in the absence of political change, while others have launched transitional justice

mechanisms in the midst of incomplete political transitions, such as Tunisia and Egypt. Libya and the Syrian Arab Republic have the challenge of atoning for abusive regimes and transitioning from internal conflict situations. The Syrian case poses an even greater challenge: engaging in—or at least planning—transitional justice initiatives while still struggling with a brutal civil war. However, the following are some key guidelines from international and regional experiences of

effective transitional justice mechanisms, which could be useful for countries in throes of political transition:

● Participation and consensus-seeking are key ingredients for the success of any transitional justice initiative. This tenet has been consistently proven in worldwide contexts, such as South Africa and Argentina, and in Arab contexts such as Morocco and Tunisia.

● Rushed domestic trials can damage the path to justice if conducted with no institutional capacities and a malfunctioning judiciary. Expertise, transparency, and lack of politicization are essential to conduct fair trials. Additionally, when prosecuting former Heads of States and power holders, the time-frame of charges should include the entire period in office during which crimes and abuses were committed, and not be solely limited in scope or pertaining to specific events.

● Truth-seeking initiatives can greatly benefit affected societies, if based on real intentions of uncovering the truth behind atrocities and healing the suffering of victims.

They should not be considered an escape mechanism or a promise of amnesty for perpetrators of atrocities.

● Vetting processes should follow successful international standards, targeting the most corrupt and powerful institutions such as the judiciary and security forces, instead of becoming a political purging and isolating mechanism.

● There is a pressing need for DDR of armed groups in countries emerging from internal conflict and civil war. It is the first step in guaranteeing a peaceful transition into democracy and the non-recurrence of violent struggle, and in rebuilding the social fabrics of affected countries.

● Finally, a comprehensive transitional justice strategy encompassing multiple tools and targeting both victims and perpetrators is the best option for success. Contrary to the errant use of a 'templatized' approach, an educated and participatory combination of lessons learned from successes around the globe and the region could culminate in transitional justice success stories across the Arab region.

05

The Arab Uprisings and the Way Forward

"There are decades where nothing happens and there are weeks where decades happen"

Vladimir Ilyich Lenin

Introduction

Following the ousting of Egypt's democratically elected President on 3 July; the political upheaval in Tunisia in the wake of violent assassinations; and growing security threats in both Yemen and Libya, post-revolution euphoria has abated, and the daunting challenges facing democratic transitions in the region have become increasingly apparent. Inexperienced elites, stagnating economies and frustrated popular aspirations have dashed the hopes for a swift, smooth democratic transition. Undeniably, popular participation in the political process has risen sharply since the uprisings began. Street demonstrations, free and fair elections, the formation of political parties and other forms of engagement and advocacy have emerged. However, none of these developments guarantee, in and of themselves, an irreversible transition towards sustainable, representative democracy. What, then, does the future hold for Egypt, Tunisia, Libya and Yemen as they set out into uncharted territory?

The promise of the Arab uprisings has given way to a mixed scenario involving both turmoil and slow, steady progress. The future of the four countries in question will depend largely on the course of events and the attitudes and choices made by the political class. A mixture of cautious optimism and entrenched cynicism currently cloud the horizon. Is what is happening today in Sanaa, Cairo, Tripoli and Tunis a reflection of the difficulty of a long and arduous democratic process, or a return to

dictatorship and the breakdown of political order? Will the region settle on a new version of hybrid regimes or failed States? What does the future hold for civil society and participatory politics? These and many other questions hover over these countries and the region in general.

This chapter considers the transition process in Tunisia, Egypt, Libya and Yemen and assesses their possible trajectories based on observations and analysis of events as they have unfolded up until 30 October 2013. In the process it also draws on other experiences of democratization from across the world. Given the leadership role that civic activists and new social movements have played in triggering and sustaining these uprisings, the chapter places particular emphasis on the role of civil society and its influence on transition politics.

In order to put this analysis into perspective and attempt to understand the course of ongoing events, a four-stage analytical framework of transition is provided. Based on other known models of democracy stages, this framework is intended as a tool to help understand the complexities of the Arab region and shed light on the future course of impending transitions, the challenges they face and the opportunities they present. Prior to launching into an analysis of transition trajectories, several early visible changes must be highlighted.

Early Visible Changes

Despite the considerable challenges to orderly transitions that Arab countries face today, the popular uprisings have left in

their wake new socio-political dynamics that offer the Arab region and its people a chance to re-envision their future.

A- Political Islam and Free, Fair Elections

The new civilian leaderships in several Arab countries won office through free and fair elections, with the exception of Yemen, where the interim President was appointed by consensus between major political actors. For the first time, Arab youth were able to choose their Governments through the ballot box. This marked a highly significant step in every country concerned, particularly in Libya, which had no semblance of democracy. With every free election, democratic practice will become more entrenched. This will hinge on the ability of those in power to play by democratic rules, protect the constitution and respect the results of the ballot box, regardless of the outcome.

Another visible dynamic is the ascent through democratic elections of political ideologies anchored in Islam, notably the Muslim Brotherhood and the Salafist movements.

This led to largely peaceful street confrontations between Islamists and non-Islamists during the first two years of the revolution. In Libya, against all odds, liberals won the majority of seats in the first free and fair elections for the General National Congress. Meanwhile, in Yemen, an internationally-brokered agreement led to the appointment of an interim president and the launch of a national dialogue.

However, a violent army crackdown in Egypt, targeted assassinations of opposition figures in Tunisia and repressive militia rule in Libya have all clouded the long-awaited transition. In Tunisia, a coalition of civil society groups, led by the Union Générale de Travailleurs Tunisiens (UGTT), a labour union, managed to break the political stalemate and secured the resignation of the Islamist-led Government following the assassination of opposition figure Mohamed

Brahmi. In the case of Egypt, however, the absence of an equally effective civil society initiative left a vacuum which the army stepped into, ousting the democratically elected Islamist President, Mohamed Morsi, and disappointing hopes for a democratic transfer of power. The recent banning of the Muslim Brotherhood and its exclusion from the political process will have major repercussions, not only for the future of Egypt, but for political Islam throughout the region.

B- Citizenship, Social Contract and Constitutions

Another consequence of the Arab uprisings has been the reexamination of, first, the role of the State and its responsibility towards its citizens, and, second, the pillars of the social contract, which should be based on the "consent of the governed", according to John Locke's famous formulation. Regime changes have socio-economic and political implications on any new system of governance and will impose the difficult task of meeting popular aspirations for social justice, fair and transparent politics and productive economies, while departing from previous practices of rent-seeking. It means a move towards a more equitable, development-oriented, citizen-focused State.

Constitutional processes and institutional reforms are the building blocks of new social contracts. In Egypt, the first post-Mubarak constitutional process of November 2012 was seen by many as a hasty effort by the Muslim Brothers to pass a constitution in their favour. The new constitutional process set up by President Adly Mansour, overseen by a committee of 10 jurors and a second committee of 50 experts, lacks representation. In Tunisia, the slow progress made by the now-disbanded Constituent Assembly to draft a constitution was met with demands for a faster process. Both cases demonstrate the impossibility of a cookie-cutter approach to constitutionalism and highlight the importance of popular participation for a genuinely transparent process, while concomitantly respecting the context and specificity of each country.

C- Transitional Justice & Human Rights

The discourse of transitional justice and human rights has also become a mainstream priority on the political landscape of the region. The demands for social and economic rights have also risen exponentially. Holding disgraced presidents and their associates accountable has been a cornerstone of efforts to maintain social cohesion and ensure that the momentum of the uprisings is maintained by new political actors in Libya, Egypt and Tunisia. In Yemen, an amnesty law in favour of the departing President and his close associates has impeded talks of serious transitional justice mechanisms. Though these efforts are incomplete and, in the case of Libya, are being used to settle scores against former regime associates, they nonetheless set a precedent for transitional justice efforts and for holding abusers of power to account. However, much remains to be accomplished on this front, especially in terms of respect for human rights and freedom of assembly, accountability for national resources squandered and for socio-economic justice. As chapter four clearly indicates, the role of civil society is paramount to advancing transitional justice.

D- Civil Society & Public Opinion

The uprisings in Arab countries were made up of the ordinary citizens at the core of Arab civil society. They led a grassroots process that eventually involved other strata of society. In Egypt, civil society organizations and citizen groups metastasized into revolutionary councils, youth committees and other NGOs devoted to safeguarding the goals of the revolution. However, the post-transition chokehold of successive Egyptian administrations on civil society organizations and activists and the summary trials of activists, along with the issuance of a restrictive NGO law, run counter to the ideals of the demonstrators in Tahrir Square. This will inevitably weaken the commitment of the State to human rights, prevent civil society from flourishing and reflect badly on the transition process. In Tunisia, new NGO formations and the revived role of the national labour movement have advanced the work of civil society to active and vocal monitoring of the Constituent Assembly's work, prior to its dissolution. Emboldened by early successes and the political crisis that exploded in July, civil society seized the initiative and pressured the ruling coalition into a mediated compromise. In both Yemen and Libya, civil society has played an increasingly useful role in raising awareness and democracy education, in addition to a much-needed humanitarian role in the case of Libya.

There is also a tangible transformation in Arab public opinion and a newfound openness, coupled with widespread use of instant communication technologies. People's opinions are now openly expressed. The mood of Arab citizens can now be gauged through surveys and opinion polls, without fear of reprisals by security forces. This is an extremely hopeful development, as it will positively influence participatory politics and will encourage hitherto marginalized groups to engage in impacting policy-making.

E- Consensus Dialogue

With the exception of Lebanon, national dialogues are new to the region and hold much promise as a vehicle for convening various sectors of society around the same table and as a means to keep spoilers in check in the new political game. National dialogues such as the one now underway in Yemen and upcoming reconciliation initiatives in Tunisia, Egypt and Libya may constitute a legitimate and highly participatory instrument for consensus-building on a common vision for the future. The fact that such a forum exists for open discussion of important political matters and the inclusion of different political and population groups is a development that will impact participatory politics and, it is hoped, nurture a culture of tolerance and dialogue.

Two Years Later: The Balance Sheet and Future Forecasts

Predicting the trajectory of transitions is always difficult. While civil society can launch street demonstrations to bring down a regime, building a new foundation and sustaining a successful democratic transition requires a 'political society'[1] that allows citizens to transform the momentum of their uprising into organized, peaceful activism. Unfortunately, political society in most Arab countries remains internally divided and lacking a common vision for the future. The rift between Islamists and other forces in Egypt has widened since the events of 3 July, with no compromise on the horizon. In Libya and Yemen, political competition is dangerously high, threatening fragile successes. In Tunisia, heeding the lessons of Egypt, a young but promising national dialogue may offer an opening into successful compromise by all political actors, and a historic role for civil society there.

Image 5-1: The Regime Has Not Yet Fallen, Cairo

Source: Denise Bouquet, http://www.flickr.com/photos/66944824@N05/6346562119/lightbox/.

Arab societies are facing the double task of shedding the weight of dictatorship and embarking on a hopeful transition from military-backed regimes towards democratic civil States. Several cautionary tales from countries such as Chile, Argentina, Mali, Indonesia, Turkey and Ghana warn of the perils of the transitional period. In Chile, for example, it took 20 years after the transition began for the military to back down from interference in civilian rule, allowing the country to consolidate its democracy. In Turkey, military coups stopped disrupting civilian rule only a decade ago. In Mali, following two decades of shaky transition, a military coup in 2011 ended a short-lived democratic experience.[2]

These examples serve as a reminder that transition is as fraught with potential danger as it is a source of hope. A fitting illustration is Egypt, where the army's move against President Morsi following massive protests on 30 June 2013 ousted a democratically elected President and derailed a fragile transition process.

A- Phasing Transitions

To facilitate analysis of the current political climate in Arab countries, it is helpful to divide the transition period. Some of the literature looks at transition in terms of three phases: 1) liberalization; 2) transition; and 3) consolidation.[3] Others use a different set of phases.[4] None of the existing frameworks, however, seem to fully capture the intricacies and tumultuous developments that have gripped transitions in the Arab region. In an attempt to do so, the following framework lays out four stages for contextual analysis with a special focus on the two early stages which seem most relevant to the unfolding course of events in Arab countries. The four distinct phases are: regime collapse or change; pre-transition; transition; and democracy deepening or entrenchment. It is important to note at this stage that the time frame of each phase varies from country to country, and that this is not a linear process by any means.

Phase 1: Regime Collapse/Change

In the first phase of regime collapse, whether full or partial, typical scenarios include the removal of the Head of State, followed by serious defections or divisions within the regime and in some cases the military. In the Arab region, this phase of the process was triggered by the popular uprisings and a shift in the allegiance of the military and key regime backers, first in Tunisia and Egypt, followed by Libya and Yemen. This is usually the most straightforward phase, as long as it does not turn into a violent confrontation, as occurred in Libya, Yemen, Bahrain and the Syrian Arab Republic. During this stage a clean break with the past may take place, making it difficult to reverse the popular dynamic in the streets and newly gained freedoms. This is a vulnerable stage, particularly if leaderless and bereft of a clear political programme, and risks being taken over by the military or other narrow but powerful elite alliances. During this stage new pacts are formed between emerging elites and some of the former backers of the regime. In general, at this stage the balance of power shifts towards the people, albeit momentarily, with all the risks this implies. In certain cases the removal of the leadership of the regime may not lead to full regime change, if entrenched institutions remain in place. This is probably the stage in which Egypt, Libya and Yemen currently find themselves, at varying stages of advancement or regression.

Phase 2: Pre-Transition

The pre-transition phase is the interim period where revolutionary fever settles, but certainty about political outcomes remains elusive. A perilous stage characterized by turmoil, uncertainty, institutional dysfunction and in some cases violence; it also presents an opportunity. This is the time where confidence building takes place through inclusiveness and consensus and when the foundations for democratic rule are laid. It includes the redesign and building of state institutions and the flow of slow but steady reforms as well as preliminary elections. This is probably the most challenging phase, during which the fate of the transition is decided. It is also a phase in which the testing of a mutually guaranteed pact between elites (also called 'mutual security'[5]) takes place, which lays out ground rules and allays the fears of various societal groups. If Tunisia's political roadmap holds, the country may well be into the pre-transition phase.

Phase 3: Transition

The transition phase happens when the lines of the new governance system have been defined, the country has been through a number of elections and the alternation of power has become smooth. This is also when the system of 'mutual security' has been tested and the rules of the political game are accepted by all. During the transition phase, issues of supra-institutional importance such as transitional justice, the depth of a constitutional process and the parameters of the new social contract will be negotiated and finalized. During transition, issues of vetting and lustration of the public sector, the security services, the judiciary and other vital sectors are well underway, backed by political consensus. The alignment of the value systems of key actors and their commitment to democracy is visible and known. High stakes, political competition and zero-sum politics are decreased significantly and the rules of the political game apply to all actors.

Phase 4: Deepening and Entrenchment

This is the phase that transition processes aim to reach, where democratic processes are consolidated. At this point, society, its social contract and the rules of the game have withstood the test of time and matured into a culture of democracy. The legitimacy and function of institutions is no longer questioned and the rule of law reigns supreme. Political safety mechanisms, peaceful and smooth alternation of power, workable power-sharing arrangements and a democratic routine characterize this phase. This is when the various groups can no longer play zero-sum politics or usurp power and exclude the other.

It is important to caution that this delineation of the phases of transition is an attempt to understand and interpret ongoing events, not an effort at scientific prediction. Like every model, the linearity of this one may not and indeed often does not reflect reality, where the transition process

is always prone to reversals and setbacks. For example, what looked like a Pre-Transition phase in Egypt following the election of President Morsi has devolved into a grey zone that more closely resembles the Regime Collapse phase. The timing and sequencing of the process and each stage is heavily influenced by a mix of endogenous and exogenous factors and is impacted by the participation and role of civil society. Endogenous factors such as the role of the military and the internal security forces in the violent suppression of demonstrations; the impact of extremist ideologies, notably assassinations and violence;

and a host of persisting pre-uprising social and cultural hindrances such as poverty, ethnic rivalries and economic stagnation may all play a role in disrupting the transition process. Exogenous factors such as regional conflicts, regional contestation of power, geostrategic issues and competitions for oil and natural resources may also impact heavily on the transition process. In the Arab countries that form the subject of this study, the risk of a stalled transition remains high and the risk of a shift into a transition grey zone is significant.

B- Breaking with the Past: The Arduous Road Ahead

Demonstrators determined to topple their regimes soon discovered that bringing down a president was one thing; the emergence of an orderly predictable transition quite another. As discussed in chapters one and two, what actually emerged in Egypt, Libya and Yemen and to a lesser extent Tunisia was a chaotic, erratic political process that has caused frustration and dampened hopes for a 'shortcut' to democracy. The uprisings were characterized by spontaneity and lack of ideology; demonstrators were driven by a unified disdain for their rulers and a desire for change.

To be sure, there is no 'right' formula or predictable process for ensuring a transition from authoritarianism to democracy. While free and fair elections, multi-party systems and unfettered civil society are all necessary steps, in isolation they amount to no more than a procedural democracy. Experiences in Latin America (Peru, Ecuador and Venezuela) and Sub-Saharan Africa (Mali, Ghana and Zimbabwe)[6] have shown that transition elites can profit from free elections to usurp power and reinstate a masked form of authoritarianism. The main ingredients of successful transitions include politically moderate leaders with a compelling vision to inspire and to seek a broad-based consensus in society and redress the imbalance of power. The majority, if not all, of the political actors should be committed democrats that do not shy away from making difficult concessions for the sake of the national interest.

Revolutions are tumultuous and confusing events that expose deep societal challenges. They require a broad-based consensus by influential political forces to carry the country through to a successful transition. No single political actor or group, irrespective of the results of the ballot box, is capable of steering the transition process alone. This reality hit home in Egypt when the Muslim Brothers thought that they could monopolize power and impose their political writ, only to provoke a massive popular backlash a year later which the army seized on to step into the political fray. Moving ahead with transition will also require the inclusion in the political process of former regime sympathizers who are not associated with past abuses; abiding by the results of free and fair elections; keeping the security sector in

check and setting such ground rules of the political game as a constitutional declaration, electoral law and other necessary accords.[7]

Whither the Ancien Regime?

The difficulty with installing a fast-paced reform process is evidenced in the fact that the uprisings in the Arab region have succeeded in overthrowing leaders but not regimes, the rigidity of which remains a stumbling block on the road to political and economic transformation. This is not to say that a successful transition requires the dismantling of the entire regime apparatus. On the contrary, a measure of stability, experience and institutional memory is required for the continuity of state functions. Additionally, massive purges and a hasty dismantling of institutions will inevitably result in turmoil, paralysis in state functions and societal polarization, as occurred in Iraq and is now to a lesser degree happening in Libya, following an indiscriminate isolation law. This underscores the urgent need for institutional reform, coupled with an intelligent programme of training and gradual, well thought out vetting and restructuring. These should be prioritized as transition countries move to resolve larger political differences.

An added complication in the Arab region is the lack of agreement on what should be kept of the old regime aside from the military, which itself requires reform. Two cases in point are the processes of judicial reform in Egypt and Tunisia, where the trials of former presidents opened with prosecutions limited to a number of abuses purportedly committed during the uprisings. The proceedings were denounced by the public and human rights activists, who had expected the prosecution to catalogue regime abuses over the years. This has exposed the dire need for judicial reform and become a divisive issue in both Egypt and Tunisia, where debates centered not only on what kind of justice to seek but also how to accomplish a restructuring of the judiciary without creating a vacuum. Tunisia seems to be making serious progress on these fronts, with the newly formed National Authority for the Prevention of Torture tasked with, among other things, overseeing prisons and the actions of security services.[8] The new political class faces

the dilemma of inheriting institutions that represent the former regime and threaten to reinforce its entrenchment and resistance to change, but are nevertheless necessary for restoring basic state functions.

Political exclusion of the proponents of the former regime is bound to aggravate polarization and prolong instability. It is not unheard of for the supporters of the former regime to take part in the new one, provided that a clear set of rules govern their participation. Following the collapse of authoritarian regimes in Poland and Romania, communists were elected to power in the first free elections in both countries. It was the commitment to democracy by the new elites that pulled their countries through a difficult and turbulent transition. This is not dramatically different from the dynamics at play in Arab countries, where former regime figures may similarly need to be included in the new reconfiguration of power. The cost of not doing so would be to risk pushing regime sympathizers – often a significant bloc of the population with strong financial means – towards disrupting the political processes. An unfair political isolation law targeting former regime supporters in Libya runs the risk of delegitimizing the political process there and depriving the State of experienced political actors who could play a vital role in the transition. It also serves to deepen the tensions between and alienation of major regional and tribal groups, undercutting the fragile transition. Instructively, Tunisia opted for a more selective approach to vetting backers of the former regime: those with a clean judicial record have been allowed to participate in the political process.[9]

Disseminating Democratic Values

Real change cannot be achieved by reforming institutions, re-writing constitutions or seeking consensus alone. As countries are redefined by their chosen path towards transition, leaders and citizens must be committed to democracy and its ideals. This can only take place through the transformation of value systems embedded in a general culture of tolerance, and requires that leaders set aside ideology, ethnicity, sectarian and other identity-based beliefs for the common good of society and the country, and in the interest of political compromise. This returns the discussion to the notable absence of charismatic and unifying leaders capable of rising to this challenge. The efforts of South African leaders Nelson Mandela and Frederic De Klerk to transform public consciousness and preach a culture of openness and tolerance during transition succeeded in promoting democratic values in a deeply divided society. As discussed in chapter three, sharp differences exist among the political elite on the meaning of a civic state and citizenship; these differences must be reconciled before Arab countries may proceed on the path of meaningful reform. Adopting an inclusive, rights-based approach to reforms is vital to an orderly and stable democratic transition.

C- Transitions in Perspective: Lessons Learned

The experience of past transitions indicates the need for elites to compromise in order to achieve not only democratic transition, but deepening democracy. Ideally, compromise should take place in an enabling environment where local and regional factors play a significant role in influencing the behaviour of the leadership.

Regional Context

In addition to internal conditions, the role of elites; the presence of a critical mass of citizens in support of a democratic system of governance; the geographic context; and regional and international factors also play a role in influencing the trajectory of political transitions. In Eastern and Southern Europe, transition catalysts included, along with the collapse of the Soviet Union, the desire for European integration and to join regional alliances such as NATO. In Latin America, the effect of democratic North America and the work of the Organization of American States (OAS) in promoting democracy on the continent were precipitating factors for democratization there. In Southeast Asia, the desire for rapid economic growth accelerated the transition towards democracy. While the Arab region shares some of the internal factors that triggered democratization in other regions, it differs fundamentally in terms of external

factors. For instance, there is still no more than a distant prospect of an Arab union similar to the European one. At the same time, from a geographic perspective, Arab countries are not surrounded by democratic States that would positively influence their development, as was the case in the Americas. Also absent are regional arrangements such as NATO or OAS; the Arab League does not seem to be able to play a similar role in catalyzing democratic change.

The Need for Mutual Trust

In most successful cases of transition around the world, the common threads have been the transparent behaviour of the new elites; broad-based agreements; the installation of effective new institutions; and new political ground rules that are both fair and inclusive.[10] No transition has succeeded in societies where mutual fear, violence, suspicions and polarization have consumed political debates and characterized elite dealings. It is therefore imperative that suspicious behaviour and provocative politics be kept in check if transitions are to move confidently towards success.

To build such a system of mutual trust, political elites must be able to forge agreements and install a governance framework that allays the fears and insecurities of the various political

and population groups. The emerging political order would have to be a collaborative effort rather than a high-stakes competition. Civil society is usually a natural candidate for brokering such a trust-building framework and mediating between incumbents and the opposition. This dynamic is at play with varying degrees of success in the different Arab countries in transition. One clear example is Tunisia, where, in an effort to break the stalemate that resulted from the dissolution of the Constituent Assembly, the Quartet led by the UGTT with the participation of the Employers' Federation, the League of Human Rights and the Bar Association intervened to mediate a political compromise and launch a roadmap for national dialogue. The terms of the roadmap included the resignation of the incumbent coalition Government and the formation of a new one composed of independent figures; the promulgation of a new electoral law; a call for early elections; and the launch of a constitutional process.

Conflict Regulation

Perhaps one of the most important common factors between successful transitions is their ability to create a conflict resolution process to mediate major disputes and avoid political deadlock. Done in a non-partisan way, often through an independent representative institution, the mediating body ensures that there are no 'winners' or 'losers' in a transition process and that elected officials and new elites do not adopt a zero-sum approach that excludes their opponents. One example is South Africa, where in the mid-nineties, the National Peace Committee was mandated by the transition authority and constitutional declarations to intervene and mediate conflicts that threatened the fragile transitional process. The Committee boasted a broad-based representation of key groups and ensured that political actors played by the new rules. It is difficult to imagine a positive outcome to the ongoing confrontations in Egypt without a proper conflict resolution body enjoying broad popular support. The National Dialogue in Yemen comes close to playing that role, although the complexity of such issues as southern secessionism and inter-sectarian and tribal tensions threaten to swamp its agenda and undermine its success. Tunisia's Quartet mediation is an excellent example of how an independent body can act as a conflict regulator and be a mediating force in deadlocked politics. The announcement in August 2013 by the Libyan Prime Minister of a national dialogue could serve as a forum for the discussion of contentious issues, if he succeeds in building enough support and momentum for it.

Participatory Constitutionalism

The other common trait of successful transitions is an inclusive and participatory constitutional process that utilizes public debate and consultations as a mechanism for consensus and dissemination. Civil society is poised to play a substantive role in this process. Constitution writing is best done by a drafting committee that is representative and independent and includes, in addition to constitutional experts, civil society actors, academics, representatives of the main political parties and other key stakeholders. In addition to encouraging participation, an inclusive process enhances the quality of the final document, generates broad-based support and assuages the fears and concerns of the people by ensuring that their interests are represented. In the four countries under discussion, and as outlined in chapter three, only Egypt and Tunisia have launched a process of constitutional revision. In Egypt, President Adly Mansour has appointed a committee of 10 jurors to draft a constitution that would be revised by a committee of 50, intended to represent a wide cross-section of Egyptian society. The difference between the two committees is unclear, as are their mandates. While the committee of 50 includes smaller committees designed for public consultations, it is not clear if they can rewrite clauses of the constitution. Furthermore, the Muslim Brotherhood, which won the majority in the last elections but has since been banned, is to have only one representative on the committee.[11]

Tunisia seems to stand out with its slow and participatory constitutional process, which began following the election of a constituent assembly in October 2011 and is now moving forward with the roadmap.

Efforts in Libya and Yemen have been derailed by a number of factors. In Libya, the General National Congress (GNC) stood a fair chance after its election of launching an inclusive process of constitutional public debate, relying on civic groups to conduct consultations and regional dialogues. However, the thuggish behaviour of armed militias, an indiscriminate isolation law and a host of security problems have disrupted these efforts. Yemen's National Dialogue could have been a participatory vehicle for launching an inclusive constitutional process, had it not been overburdened with divisive and polarizing challenges. Tasked with finding solutions to the southern secession movement and other high-stakes political issues, it remains too distracted to forge a serious and inclusive constitutional process.

D- Participation, Civil Society and New Horizons

To its credit, Arab civil society established a different benchmark than its counterparts in Eastern Europe and Latin America in the 1980s and 1990s. In the former, major defections by pro-regime elites and cracks in the ruling coalitions at the top triggered the collapse of communism, quickly followed by popular protests demanding change. Latin America experienced a similar phenomenon along with coups d'état that brought about regime collapse. In Arab countries, as elaborated in chapters one and two, change came from the bottom up, as ordinary citizens succeeded

in provoking momentous change. The uprisings seemed more like an awakening of a long-dormant and repressed civil society. Youth and women led street protests in Yemen; labourers, middle class professionals and laymen ousted Zein El-Abedine Ben Ali in Tunisia; ordinary citizens and ad hoc rebel groups, with international assistance, overthrew Qaddafi in Libya; and people from all different social strata took to Tahrir Square in Egypt to bring Mubarak down.

In time, the leaderless and spontaneous nature of the Arab uprisings and the excitement over the role of civil society gave way to a more sobering reality. Overthrowing ruling elites did not translate into organized civil society; the transitions were hijacked by new political elites. At the same time, and despite non-conducive structural and legal environments, civil society today has an historic chance to put its house in order and become a key player in transition. To begin with, the formation of youth coalitions, the proliferation of political parties and the emancipation of unionist movements are all gains that must be capitalized on. However, serious challenges continue to undermine the effectiveness of civil society. For instance, Tamarrod's role in the protests of 30 June was eclipsed by the Egyptian army's heavy-handed intervention and forcible removal of President Morsi three days later. Even the political roadmap accepted by the full spectrum of the opposition was dictated by the army, without critical input by political parties or civil society organizations.

Participation in decision-making cannot be achieved by demonstrations alone, without coherent advocacy and political struggle featuring broad-based coalitions of committed democratic actors. In Poland, the Gdansk Labour Movement would not have been able to precipitate the downfall of communism without the coalitions it crafted alongside powerful student movements and underground groups of journalists and intellectuals. Only through this broad network of alliances was Polish civil society able to tap into a groundswell of national support for regime change. A similar configuration of power is needed in the Arab countries under discussion.

Tunisia

Post-uprising, it is worth taking a closer look at the development of Tunisian civil society and activism. To start with, the main labour union, UGTT, initiated a national dialogue in the absence of a state actor capable of doing so.[12] Perhaps the most significant role that Tunisian civil society is playing today is in keeping the pressure on the political class to show moderation and participate in a genuine dialogue. Without taking sides it has managed to secure the resignation of the Government, quickly followed by the formation of a new one, the speeding up of a constitutional process and the holding of elections. Additionally, Tunisian civil society is expected to launch a major advocacy campaign to enshrine basic political freedoms in the promised constitution.[13] This is in addition to the task of disseminating the details

of the new constitution and ensuring citizens understand and debate its various clauses.

Tunisian civil society has faced an uphill battle in the initial post-revolutionary phase, not so much because of the charged political climate in which it operates as due to the fact that it was a repressed sector. The Ben Ali regime had succeeded in chasing away most serious civil society institutions and instituted a dictatorial one-man regime, closer to Libya than Egypt or Yemen. For civil society to regroup and move from street demonstrations to participating in public life is a long way to have come in only two years. The involvement of Tunisian civil society bodes well for citizen participation in policymaking, by taking polarizing debates out of the hands of politicians and presenting them to the public for involvement and discussion.

Tunisians have not shied away from enjoying their freedom of assembly: since the revolution, 106 political parties have been founded.[14] In the long run, the impact of Tunisian civil society on political life will be felt through the dissemination of a culture of tolerance and by reconciling transition outcomes with people's expectations. Tunisian civil society should strive for a moment where it will contribute to establishing an inclusive political order that gradually allows some sympathizers of the old regime to legitimately and openly take part in the new political process. In Tunisia the major labour union stands out as the organization that best withstood the test of the revolution's turbulent beginning. Its leadership of the Quartet mediation group and its intelligent mobilization of its 1.5 million members[15] brought pressure to bear on political parties to offer mutual concessions and join a national dialogue. The developments in Tunisia provide hope that civil society is on the rebound and has managed to shed the heavy legacy of authoritarianism that muzzled its effectiveness for far too long. If successful, the Tunisian Quartet mediation will set a trend for the growing impact of civil society on the political process.

Egypt

Around 2,500 NGOs were created following the uprising, in addition to 100 registered political parties in Egypt. However, civil society remains deeply divided between Islamist parties (excepting AnNour and the Brotherhood), the revolutionary youth coalitions, the coalition of secular forces, and supporters of the former regime. While the latter two have spearheaded opposition to the Brotherhood, the youth coalition that refused to join the secular parties remains the political ballast in this equation and focused on securing the revolution's objectives. Additionally, the country is up against a mammoth state bureaucracy composed mainly of former regime sympathizers, along with an entrenched military. Egypt also confronts the question of institutional legitimacy following the Supreme Constitutional Court's dissolution of the lower chamber of parliament and the issuance by President Morsi of his constitutional declaration sidelining the court. These issues were taken to the streets

on 30 June in an attempt to redress the post-revolution balance of power; but the intervention of the army in July only deepened the State's crisis of legitimacy.

Egyptian civil society, despite having been somewhat vibrant under Mubarak, proved incapable of acting as a counterbalance to the power of the Brotherhood. The Supreme Council of the Armed Forces (SCAF) moved quickly to curtail the rise of civil society by jailing activists and shutting down NGOs, a trend that continued under the rule of the Muslim Brotherhood before the party was barred from public life. Citizen groups that contributed to the downfall of Mubarak found themselves on the defensive against an unprecedented SCAF-sponsored crackdown on civil society. This crackdown persisted under President Morsi through the jailing of activists and continuing restrictions on NGO life. For many Egyptians, little had changed in terms of repressive regime policies blocking freedom of association. Unfortunately, following the euphoria of what had been called Egypt's second uprising, this trend looks set to continue as key activists of the 25 January uprising are now being sought for questioning or taken to court on various trumped-up charges, including incitement to violence. In the wake of the army's July crackdown, the Muslim Brotherhood and its affiliates have been banned.

The political party law issued following the 25 January revolution has not fared any better. To found a party, the law requires 5,000 signatures from at least three governorates and the publication of signatory names in an Egyptian daily, which would cost tens of thousands of Egyptian pounds – an onerous sum for most Egyptians. While the law was intended to prevent a fragmented political scene, it has played into the hands of backers of the former regime, who have used their financial wherewithal to found parties and compete in the elections. Much to people's amazement, however, Egyptian civil society was able to gather secular and leftist forces on 30 June and contest Egypt's future on an equal par with the Islamists and the army, which remains a dominant player. The challenge is to build on the momentum of the June 30 uprising, forge the necessary consensus, and maintain civilian control of the political process.

Image 5-2: The Revolution Is Everywhere, Cairo

Source: Maha Yahya, 2013. (Courtesy of Photographer)

Libya

Civil society is a new development in Libya, following 40 years of tyranny. It began with humanitarian aid and volunteer support for the rebels based out of Benghazi. No sooner had the Libyan regime begun to unravel than associations began to multiply at a dizzying rate, benefiting from the lax requirements of the National Transitional Council (by-laws and membership being the only criteria for founding an association). In the first few months of the

uprising, 361 organizations registered in Benghazi, with the overwhelming majority having a humanitarian mandate. In Tripoli alone 500 organizations registered within a six-month period.[16] Another important development for Libyan civil society has been the expatriates who have returned and formed their own organizations and political parties, relying on Libyan human resources and in some cases neighbouring Arab experiences, adding dynamism to civic work.

CSO regulations have already been through three phases in Libya. In the immediate aftermath of the uprising, the National Transitional Council issued mild directives encouraging the formation of NGOs, which led to the registration of over 800 associations—many of which played a strong role in and around the elections of the National Assembly. Dialogue workshops, election training and monitoring and democracy promotion were some of the activities undertaken in 2012. In June 2012, the Libyan Ministry of Culture and Civil Society issued new regulations requiring all foreign NGOs to register with the Government and work through local Libyan associations. More recently, efforts by citizen coalitions and academics have been directed at drafting a civil society law that would be part of the future constitution which the National Assembly is supposed to issue to replace the existing constitutional declaration by the Transitional Council.

A new legal framework is currently under discussion in Libya, with a reasonable contribution of activism and advocacy being made by Libyan citizens. It remains to be seen where this law will lead and what public space civil society will occupy in the balance of power between the various tribes, militias and elites contesting Libya's future. The list of priorities for Libyan civil society seems long, the least of which is the task of building the foundations of a State. This will require starting from scratch and involving an alienated and distrustful public as well as former regime sympathizers, and dealing with armed militias. All of this must take place within a socially conservative context, where civil society must nevertheless reach out to communities and involve them in the ongoing political process.

Libyan civil society has succeeded in establishing itself as a serious partner to the frail government agencies now trying to consolidate their authority in the various regions of the country. A new national dialogue initiative was announced by the Prime Minister in August,[17] which the Government is looking to civil society to carry forward in an attempt to attenuate the polarization within society. This national dialogue comes at a time of ominous instability and ahead of the election of a constitutional drafting assembly at the end of 2013. Several challenges impede the rise and impact of civil society in Libya, not least of which is the violent rule of the militias and the instability they cause.

Yemen

In Yemen, the upsurge in the involvement of youth and women in the uprising inspired hopes that civil society could transcend tribal, sectarian, and regional fault lines. The negotiated departure of the President and the resulting roadmap included civil society in the National Dialogue; but a hurried timeline has alienated significant groups of youth and civil society. This has led to serious schisms between those who chose to join the Dialogue and others who boycotted it. Some civil society groups refused to join the Dialogue in protest against what they saw as a non-representative forum dominated by the party of the former President. While the National Dialogue was launched and began its work against the odds, its ability to attract alienated civil society groups and become a unifying vehicle has been limited. Not enough time or resources were spent on convincing these groups to join the process. Nevertheless, the National Dialogue has positively impacted the political climate in Yemen, despite the fact that it has avoided discussing highly contentious issues such as the final shape of a federal Yemeni State.

Civil society was allotted 40 spots in the 565-delegate National Dialogue, which was seen by the international community as a major democratic achievement in Yemen.[18] The Civil Coalition for Revolutionary Youth, which grew out of the demonstrations and seeks to keep the objectives of the revolution alive, has been sidelined by the National Dialogue. Having submitted a transition plan of its own prior to the GCC initiative, the coalition stood against the Dialogue, which it saw as a veiled attempt to arrive at a political settlement between corrupt elites. No changes have been introduced to the NGO law, although the Ministry of Labour and Social Affairs has declared that twelve amendments to the existing law have been written and will be issued soon.[19]

Concluding Remarks

Two years after the uprisings, and despite major gains in elections and other changes, the democratic balance sheet in the four countries under discussion continues to display a serious deficit. In Libya, the challenges of building a new, functioning political order is likely to drag on, with a high-stakes political competition pitting expatriates, tribes and relics of the defunct regime against each other. Libya is also rich in resources, which will likely fuel the competition and worsen political gridlock, if not outright violence with the dozens of unruly armed militias roaming the streets and controlling entire cities. To move out of the Regime Collapse phase, Libya needs an integrated, far-reaching peace process engendered by consensus on clear criteria for participation, and a clear mandate and objectives.

Tunisia seems to be making the most serious tangible progress. The Islamist-dominated governing coalition has hitherto taken part in a political compromise. The new political roadmap introduced by civil society and the pledge by major parties to abide by it will be a litmus test of the new elite's commitment to democracy—especially following the promised election in 2014. Civil society, including labour unions and political parties, are poised to play a significant role in ensuring the pre-transition phase remains on track and delivers on the promises of the revolution. So far, Tunisia has assembled most of the ingredients for a successful transition, including conflict regulation mechanisms, an agreed-upon roadmap offering guarantees, an acceptance of compromise by all political actors and an inclusive political process.

In Egypt, fears of a return to old forms of authoritarian rule have been stoked by the overthrow of President Morsi and the banning of the Muslim Brotherhood from public life. Egypt has regressed to the phase of Regime Collapse and appears on the brink of another era of authoritarian rule. While examples exist in the Philippines and Indonesia where the army intervened and removed the president only to restore civilian rule, the violent crackdown and mass arrests against Brotherhood members in Egypt indicate that prospects for a smooth transition have diminished considerably.

The Yemeni National Dialogue is the country's only hope of continuing peaceful negotiations, averting a civil war and the break-up of the State. Though the dialogue is weighed down by procedural and representation issues, it remains the only legitimate vehicle for negotiating the country's future governance system, power sharing and constitutional process. The international community and major Yemeni groups have praised the Dialogue for its convening power and broad-based representation of various groups, notably youth and women. At the same time, setting high expectations of the Dialogue in the short term threatens to alienate major political actors in the South and the Northeast, resulting in serious disappointment. The General People's Congress' hold on power and the Joint Meeting Parties remains entrenched and is threatening the results of the Dialogue. The Dialogue has staved off a civil war for the time being, but deeply entrenched tribal and regional interests persist and must be addressed urgently. The threat of southern secession, Houthi restlessness, and sometimes violent contestations of political space between major tribes are just some of the fault lines threatening Yemen today. Unless efforts are made to tackle divisive political issues soon, the momentum of the Dialogue will be placed in serious jeopardy.

Three of the four countries examined in this chapter remain in a phase of Regime Collapse. In each country, suspicion, mistrust and fear of the other characterize elite interactions. It will be difficult to move forward in such a climate and reach an orderly transition without a mediating authority. In Tunisia, the only country to have made it to the pre-transition phase, the UGTT is attempting to play a mediating role and bring key political parties together in dialogue. Civil society in Egypt, Yemen and Libya should emulate this example if they are to move beyond the current political impasse.

Recommendations

This publication has attempted to understand the events of the past two years, which have changed the lives of millions of Arabs and will continue to do so for the foreseeable future. An amalgam of causes, factors and hypothesis have been laid out in the preceding chapters to debunk some of the myths surround the Arab uprisings, shed light on forgotten dimensions of the changes and focus on areas that will make a real difference in the lives of ordinary people. Citizenship, religion, social contract, transitional justice, social cohesion and social justice as well political reforms and civil society are some of the issues that have been discussed in these pages. In almost all of the chapters civil society and participation have been of special interest in analyzing the current situation and its implications for the future.

Moving ahead, there are a number of key issues that have been addressed in this publication and that are central to a more effective transition to democratic politics. These issues are highlighted below in the form of recommendations for Governments and civil society organizations.

A- To Governments

The legacy of authoritarianism along with previously existing informal structures such as patronage networks, clans, tribal and sectarian groups and coalitions will remain a major challenge to moving forward on the path of democratization. Regime change presents an opportunity to begin the process of institution building to replace these networks and offer guarantees of equity and fairness based on citizenship and civic duties. This can only be dealt with through broad-based, societal coalitions that encourage participation and empower communities and previously marginalized groups to engage not only in demanding their rights but also in contributing to the process of

rebuilding by resorting to institutions and casting away informal networks of patronage. National dialogues or elected constituent assemblies are a highly effective way of beginning this process, but need to be accompanied by a shared commitment to engage and offer mutual concessions. Calls for national dialogue in Tunisia, Libya and Egypt should be heeded in earnest.

Sluggish economic growth, sharp hikes in unemployment and dependence on foreign aid are but a few of the economic woes that the countries which have undergone uprisings must deal with, adding to popular frustration and ongoing instability. Urgent attention is needed to reignite economic productivity, create jobs and decrease dependence on foreign aid, or at least secure unconditional facilitated loans. To this end, political stability and a trustworthy, independent judiciary are cornerstones of any economic policy that must inspire confidence for investors and attract new economic opportunities. Rethinking the model of economic development to reflect a new paradigm based on human rights and citizen participation is of key importance if Governments are to respond to the aspirations of citizens who took to the streets.

Maintaining social cohesion is a major challenge in sustaining support for the transition period and to this end, Governments need to devote special efforts, as outlined in earlier chapters, to transitional justice, cohesive and equitable social policies and the engagement of civil society as a major vehicle in this effort. Launching a transparent and open process for transitional justice that empowers key stakeholders to participate and come forward will be the linchpin in establishing the required confidence-building measures between new elites and the people. It will also mark a significant break with the dictatorial past and help society as a whole to move forward. As discussed earlier, the participation of civil society is the backbone of this process to attract popular support and guarantee fairness and transparency.

Governments should also pay attention to their current phase of transition and realize that political dynamics including alliances, coalitions and informal citizen networks will change, disappear or renew. During this time it is essential to ensure a smooth process of transition, to build a system of "mutual security" as referred to earlier, that will guarantee the interests of all major players. The absence of such a system in Egypt drove people out onto the streets to take back their revolution.

The preceding chapters have attempted to establish why Arabs rose against their regimes. What is evident is that historical injustices; economic deprivation; restless, educated youth; and restricted social and political space form an easily combustible mix that can result in unpredictable popular explosions of anger. This mix is so powerful that it shatters iron curtains and oppressive security machines to topple deeply entrenched regimes. Governments should heed this lesson and address the concerns of Arab citizens by launching integrated national strategies of reform that reverse past injustices, respond to people's economic aspirations, focus on youth and encourage participation. Such integrated strategies would need to include transitional justice and human rights, the participation of civil society, minority rights, and sustainable economic development as key pillars.

In view of increasing street violence, assassinations and serious polarization, Governments should also launch peacebuilding and reconciliation initiatives as soon as possible, aimed at bridging the schisms that are dividing societies and promoting national unity. In addition to national dialogues, this could be done through reconciliation committees, a constitutional body for dialogue and reconciliation or a ministry devoted to peacebuilding and national reconciliation. Some of the most successful initiatives of this kind have been led by civil society in South Africa, Morocco and Côte d'Ivoire.

B- To Civil Society

Fears of cooptation of civil society by the military have risen following the second Egyptian revolt of June 30. It therefore behooves civil society to focus on advocating the ideals of the revolution, asserting its independence and seizing the momentum to build grassroots support for its role and functions in the pre-transition phase and beyond. This is best accomplished by building broad-based, issue-focused coalitions and engaging communities outside major cities, as occurred in Egypt in the lead-up to June 30. In Tunisia this kind of activism is generating its own momentum, particularly in the wake of the assassination of political figures there and given the slow pace of the constitutional process.

As indicated in chapters one and two, when citizens occupied the streets, precipitating the downfall of the incumbent regimes, informal citizen networks and civil society associations rose to prominence and became influential players in certain aspects of the uprising processes. These networks need to be formalized and institutionalized to ensure that the trends they embody are represented in post-uprising civil society. With the succession of events in Tunisia, Yemen and Egypt, it is clear that these networks continue to play an increasingly successful role in mobilizing communities and activists. Efforts must be made to ensure that they claim their spot on the post-revolutionary political stage.

Encouraging the fundamental values of democracy and instilling the principles of civic engagement will be a principle challenge as Arab societies rebuild following dictatorship. Here, civil society can play a critical role by launching national campaigns to raise awareness about democracy, its values, duties and rights. This is no easy task in a place like Egypt, but the country is not starting from scratch. One of the most effective ways to ensure citizen engagement in the political process is by raising their awareness of the importance of participation and indicating through which channels this could effectively be done. Institutionalizing and consolidating channels of participation is a challenging objective for civil society; but, if achieved, it will catalyze a historical transformation in the lives of millions.

Another important task for civil society is to ensure that new constitutions in countries in transition realize the aspirations of the people by accompanying and monitoring constitutional drafting; ensuring the participation of revolutionary movements and civil society in that process and engaging in advocacy. This will be Egypt's next challenge if it succeeds in stabilizing the situation and executing its roadmap. Tunisian civil society is already acting as watchdog over that country's constitutional draft and ensuring that citizens are aware of the development of the constitutional process. In both Yemen and Libya, civil society groups have begun advocacy for a democratic version of the constitution, even prior to the launch of the official constitutional processes there. Civil society in all four countries needs to increase its effectiveness and develop contingency plans in case draft constitutions depart from the goals of the uprisings or run counter to the demands of the people. Tunisia's UGTT has used national strikes as an effective tool to ensure these demands are met.

Perhaps one of the major challenges facing civil society and Governments alike is the need to determine the new political ground rules and the role of consensus in generating those rules. This will form the crux of the awaited social contract that should be based on popular participation and must delineate the guiding principles for governance, dialogue, negotiation and agreements between various political actors. This will require that civil society moves from protest to proposal and begins to develop issues-based political programmes articulating the interests and views of citizens. This will enhance the role of civil society in building a new political regime based on democratic principles and healthy competition, respect of the other, tolerance for dissent and the peaceful settlement of disputes.

Civil society and citizens should ensure that their accumulatedgains over the past two years are translated into an ongoing ability to keep up the revolutionary momentum and protest, when needed, and in case where attempts to derail a democratic State are identified. This is key to maintaining independence and ensuring that civil society plays the roles of monitoring and raising awareness. As this study has shown, the participation of civil society is vital to ensuring popular support for the difficult challenges facing Arab countries and for the identification and implementation of key policy options. Only when Arab countries base reforms on the aspirations and participation of ordinary citizens will they be able to move forward on a solid path of democratic transition.

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(25) Gobe, 2013.

(26) In 2005, Kefaya, also known as the Egyptian Movement for Change, was founded to protest President Mubarak's declared intent to run for office for a fifth consecutive time. Bringing together human rights lawyers and other activists, Kefaya used various mobilization tactics including peaceful protests and online advertisements. Despite setbacks including government clampdown and internal schisms, it went on to participate in Egypt's 25 January uprising.

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(7) On that topic, see: معهد عصام فارس للسياسات العامة والشؤون الدولية، 2013 .

(8) NCA issued the first draft of the new Tunisian constitution in August 2012, after eight months of work, then a second one on 14 December 2012. Four months later, on 22 April 2013, a third draft was issued; and finally, on 1 June 2013, the fourth and final draft of the constitution of Tunisia was posted by NCA on its official website, www.anc.tn.

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(10) Tadros, 2012. Among the participants were the Islamic preacher (Daa'iyah) Sheikh Mohamed al-Ghazali; Mohamed Maamoun al-Hodaimy, Advisor and Official Spokesperson for the Muslim Brotherhood; Mohamed Amara, a renowned Islamic scholar; as well as representatives of the civil society, such as Faraj Foda, a prominent professor, writer and human rights activist and Mohamed Ahmad Khalafallah, a modernist thinker and writer. The number of people who followed the debate is said to have reached 30,000.

(11) Sheikh Al-Ghazali had also used the same argument during the debate. See 1992 ,محسن, pp. 30 and 32.

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(25) الإخوان المسلمون في سوريا، 2012.

(26) الإخوان المسلمون في سوريا، 2004.

(27) صباحي، 2011.

(28) حمزاوي، 2011.

(29) المصري اليوم، 2012.

(30) Ibid.

(31) Ebrahim, 1998.

(32) Ibid; and Barnes and De Klerk, 2002.

(33) Article 60 of the 2011 Constitution, available from http://www.egypt.gov.eg/english/laws/constitution/.

(34) القدس العربي، 2013.

(35) Mallat, 2012.

(36) See http://www.aljazeera.net/news/pages/858e5cdd-ed47-47d8-a672-424edd4ed2a3.

(37) Sky News, 2012.

(38)   .بسيوني وهلال، 2012، ص 264

(39)   Peters, 1998.

(40)   An official English translation of the 2012 Egyptian Constitution is available from http://www.sis.gov.eg/newvr/theconistitution.pdf.

(41)   .بسيوني وهلال، 2012، ص 269

(42)   Mourad, 2012.

(43)   McLarney, 2013.

(44)   Sayigh, 2012.

(45)   Ibid.

(46)   Following Ennahda, the secular Congress for the Republic, ranked second with 13.82 per cent of votes and 30 parliament seats. The leftist Ettakatol party ranked third with 9.68 per cent of votes and 21 seats.

(47)   The imperative religious affiliation of the President to Islam was added to the Constitution in the 1988 amendments. In the first version of the 1959 Constitution, Article 39 on the conditions of candidacy in presidential elections did not mention Islam as a prerequisite. An English version of the 1959 Constitution of Tunisia is available from http://www.wipo.int/wipolex/en/text.jsp?file_id=188948. It was used as a reference to quote the text in this publication.

(48)   .الميثاق الوطني التونسي، 1988

(49)   .الغنوشي، 2007

(50)   The English texts of the third and fourth drafts of the Tunisian constitution that are quoted in this publication are available from http://www.constitutionnet.org.

(51)   .الجمعية التونسية للعلوم الشرعية، 2011

(52)   .الشرفي، 2013

(53)   .الوطن نيوز، 2013

(54)   Statement reported in 2013 ،الشيباني.

(55)   .موقع العربية، 27 آذار/مارس، 2013

(56)   .الشيباني، 2013

(57)   .التونسية الإلكترونية، 2013

(58)   The Universal Declaration of Human Rights, available from http://www.un.org/en/documents/udhr/index.shtml.

(59)   .السفير، 2013

(60)   .الحياة، 2013

(61)   .العربية، 2013

Chapter 03

(1)   Theories of the social contract became popular in the 16th, 17th, and 18th centuries among theorists such as Thomas Hobbes, John Locke, and Jean-Jacques Rousseau, as a means of explaining the origin of government and the obligations of subjects. In general, the social contract is considered the implicit agreement among members of a given society that aims to secure the rights, mutual protection and welfare of its members or that governs the relationship between them. It is also the means through which the rights and obligations of the State and citizens are defined.

(2)   IFC & IDB, 2011, pp. 23, 32.

(3)   UNDP & LAS, 2009, p. 26.

(4)   UNESCO, 2013.

(5)   Ibid.

(6)   Ibid.

(7)   Author's calculations for the period 2005-2011 based on UNESCO Institute of Statistics (2013). Available from http://stats.uis.unesco.org/unesco/TableViewer/tableView.aspx?ReportId=201. Accessed 30 June 2013.

(8)   Silva and others, 2012.

(9)   Alami & Karshenas, 2012.

(10)   UNESCO, 2013.

(11)   Alami, R. and Karshenas, M., 2012.

(12)   UNESCO, 2013.

(13)   UNESCO, 2011, p. 15.

(14)   Institute of Education Sciences & National Centre for Education Statistics, 2013.

(15)   See for example Analysis of Survey Results of grade nine students in Lebanon. UNDP, 2008.

(16)   Proponents of this theory argue that tax breaks on the wealthy and corporations will encourage increased investment and produce more employment opportunities and better pay for workers, thus benefiting lower tax brackets or the poor. It also stipulates that the Government will be able to collect more income tax because more people are working. Taken from this perspective, economic growth or wealth accumulation would benefit everyone.

(17)   UNDP & ILO, 2012, pp. 31-32.

(18)   ILO, 2009c, p. 8.

(19)   See for example ESCWA, 2012b. Integrated Social Policy Report IV. Labour markets and Labour Market Policy in the ESCWA Region. New York: United Nations.

(20)   Chaaban, 2010, p.11.

(21)   Ibid, pp. 11-12.

(22)   UNDP & ILO, 2012, p. 50.

(23)   Chaaban, 2010, p.15.

(24)   UNDP & ILO, 2012, p. 52.

(25)   Mirkin, 2013, p. 22.

(26)   UNDP & ILO (2012) p. 52.

(27)   Ibid, p. 55.

(28)   Chaaban, 2010, p. 22.

(29)   IFC & IDB, 2011, pp. 9 & 17.

(30)   O'Sullivan and others, 2011, p. 45.

(31)   UNDP, 2009a, p.111.

(32)   Mirkin, 2010, p.14.

(33)   UNDP, 2013c.

(34)   Boutayeb & Helmert, 2011.

(35)   Ibnouf and others, 2007.

(36)   Alami & Karshenas, 2012.

(37)   UNDP, 2013c.

(38)   ESCWA, 2013a, p. 7.

(39)   Yahya, 2012.

(40)   Ibid.

(41)   Ibid.

(42)   ESCWA, 2012, p. 9.

(43)   UNDP & ILO, 2012, p. 93.

(44)   Loewe, 2009, p.12.

(45)   Robalino et al., 2005, p. 54.

(46)   ILO, 2009b, p. 4.

(47)   ILO, 2009b, p. 4.

(48)   Smith, 2012.

(49)   Silva and others, 2012, p.10.

(50)   Ibid, p. 21.

(51)   ESCWA, 2013b.

(52)   Silva and others, 2013.

(53)   Kingsley, 2013.

(54)   Silva and others, 2013.

(55)   Conditional cash transfer programmes (CCTs) are special types of social assistance schemes which provide cash to poor families upon fulfilment of specific behavioural requirements. These requirements oblige individuals to satisfy an action associated with human development goals such as health or education. For example, some programmes require parents to ensure their children attend school regularly, or utilize basic preventative nutrition and healthcare services. For more information: http://www.social-protection.org/gimi/gess/ShowTheme.do?tid=2845.

(56)   ILO & UNDP, 2012, p. 27.

(57)   ESCWA, 2013b.

(58)   UNDP, 2010a, p. 3.

(59)   World Bank, 2013b.

(60)   Silva and others, 2012, pp. 9-10.

(61)   Ibid, p. 12.

(62)   Ibid, p. 12.

(63)   Whitaker, 2010.

(64)   The Telegraph, 2011b.

(65)   The Telegraph, 2011a.

(66)   BBC News, 2011.

(67)   Masetti and others, 2013, p. 8.

(68)   Greenblatt, 2011.

(69)   SANA, 2011b.

(70)   SANA, 2011a.

(71)   SANA , 2011c.

(72)   IRIN Humanitarian News and Analysis, 2011.

(73)   SANA, 2011b.

(74)   International Monetary Fund, 2011, p. 5.

(75)   Masseti and others, 2013, p.10.

(76)   Masseti and others, 2013, p.10.

(77)   Trager, 2013.

(78)   El-Meehy, 2012.

(79)   Baczko and others, 2013.

(80)   Salmon, 2013.

(81)   UNDP, 2009b, p. 24.

(82)   Yahya, 2011.

Chapter 04

(1)   Social capital is defined as "the networks, norms, values, trust, and other social relations that bind communities together and forge links with other communities and the State." (Duthie, 2005, p. 3).

(2)   Duthie, 2005.

(3)   Thoms and others, 2008, p.16.

(4)   Amnesty International, 2010.

(5)   International Criminal Court, 2013.

(6)   UNOHCR, 2008.

(7)   Ibid, p. 20.

(8)   Aguilar, 2007.

(9)   Mayer-Reickh and De Greiff, 2007.

(10)   Mayer-Reickh, 2007.

(11)   Peacebuilding Initiative, 2009.

(12)   United Nations Department of Peacemaking Operations, 2010, pp. 11-12.

(13) Lamptey, 2007.

(14) Witte, 2009.

(15) Olsen and others, 2012.

(16) Brahm, 2007.

(17) Duthie, 2009, p.12.

(18) International Center for Transitional Justice, 2006.

(19) Human Rights Watch, 2006.

(20) Perish and others, 2012, pp. 3-4.

(21) Human Rights Watch, 2012a.

(22) International Centre for Transitional Justice, 2009b.

(23) Human Rights Watch, 2005, pp. 23-26.

(24) OHCHR, 2008, p. 17.

(25) Human Rights Watch, 2012c.

(26) United Nations General Assembly, 2011.

(27) United Nations Support Mission in Libya, 2012, p. 2.

(28) The Peace and Justice Initiative, 2012, pp. 5-8.

(29) Sissons and Al-Saiedi, 2013.

(30) Nesira, 2013.

(31) Irin Humanitarian News and Analysis, 2012b.

(32) Times Live, 2013.

(33) Cherkaoui, 2012.

(34) International Centre for Transitional Justice, 2009a.

(35) No Peace without Justice, 2011.

(36) Freedom House , 2012, p.12. The civil society or-
ganizations and national associations that form the
'Independent National Committee for Transitional
Justice' in Tunisia include: The Tunisian League for the
Defense of Human Rights, The Tunisian Association of
Democratic Women, The Group of '25 Lawyers', UGTT
(General Union of Tunisian Workers), The National Un-
ion of Tunisian Journalists, The Association of Tunisian
Magistrates, and the National Network for Fighting
Corruption.

(37) TJ Tunis, 2011.

Chapter 05

(1) Stepan & Linz, 2013, p. 24. The authors define political
society as "…organized groups of political activists
who can not only rally resistance to dictatorship,
but also talk among themselves about how they can
overcome their mutual fear and craft the 'rules of the
game' for a democratic alternative."

(2) Miller and others, 2012.

(3) Linz & Stepan, 1996.

(4) Rustow, 1970. In this work, Rustow describes three
phases: preparation, decision and habituation.

(5) Dahl, 1971. Robert Dahl sees the building of mutual
security between opposition and Government as a
requirement for democracy and for contesting power
through elections and other democratic means. This
requires a protracted period of confidence-building
and mutual assurances by the various political forces
that no matter who is in power, they will abide by the
rules of the political game.

(6) Miller and others, 2012, p. xxi-xxv.

(7) Brumberg, 2013, pp. 2-3.

(8) Sharqieh, 2013, p. 3.

(9) Sharqieh, p. 2.

(10) Geddes, 1999, p. 140.

(11) Brown, 2013, p. 3.

(12) For more on the Union's position, see www.ugtt.org

(13) Jeblawi, 2013, p. 3.

(14) Human Rights Watch, 2012c.

(15) DW, 2013, p. 3.

(16) Foundation for the Future, 2011, p. 8

(17) Daily Star, 2013, p. 1

(18) MacFarquhar, 2013.

(19) International Center for Not-for-Profit Law, 2013.

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