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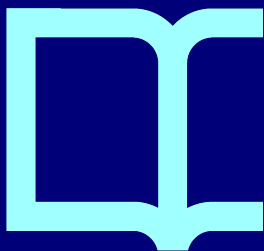
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# Tunisia's democratisation process: when 'consensus democracy' undermines democratic consolidation?

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**Abstract:** Consensus between moderate Islamists and moderate secularists is usually judged as the touchstone of democracy in Tunisia. However, after a decade, the 'Tunisian model' is questioned, as institutional and economic crises have become the norm in the country. The aim of the article is to look at how consensus adopted in the transition affected long-term democratic consolidation. To answer this question, the article unpacks the concept of consensus considering, on the one hand, the institutional architecture of consensus democracy and, on the other hand, the practice of consensus politics. The case study is used to identify the patterns generated by the interaction of these two dimensions of consensus through time. Two reforms prescribed in the 2014 Constitution, the creation of the constitutional court and decentralisation, are taken as heuristic tools to examine democratic consolidation. In both reforms the mismatch between institutions and politics of consensus produced deadlock and non-consolidation. It is in this context that, in July 2021, President Saïed dismissed the government and suspended the parliament with the intention to put an end to consensus democracy.

**Keywords:** Tunisia, consensus, democratisation, consolidation, Arab uprisings

## Introduction

14 January 2021 marks the 10<sup>th</sup> anniversary of the revolution that triggered the only democratisation process born out of the 2011 Arab uprisings. Scholarship has tried to explain the uniqueness of the Tunisian transition in regional terms by focusing on different important factors, such as civil-military relations -a small army detached from the regime's political economy-, a relatively high human development index and strong urban middle class, as well as a lack of deep ethnopolitical cleavages (see Brynen et al, 2012). These factors contributed to a democratic transition based on consensus building between moderate Islamists and moderate secularists. Consensus, in other words, became the touchstone of the democratisation process (Stepan, 2018). The search for consensual solutions to political crisis has even saved the country from undoing its democratic achievements during moments of high tensions during the transition (Ibid.). The 'Tunisian model' has been praised internationally, most notably, with the Nobel Peace Prize in 2015.

Democratisation is an open-ended and non-linear process, however. Ten years after the Arab uprisings, the Tunisian democracy, once described by donors as an example for the region, is under strain. Since the adoption of the 2014 Constitution, and especially after 2019, Tunisian politics has increasingly been characterised by stalemate and repeated setbacks in the implementation of important reforms (see Geisser and Allal, 2018). The political impasse has degraded the legitimacy of political parties, challenged the benefits of consensus and nourished populism.<sup>1</sup> It is in this context that President Kaïs Saïed announced on 25 July 2021 that he had dismissed the prime minister and dissolved the parliament with a *sui generis* interpretation of article 80 of the constitution. The president justified these measures with the intention to allow tribunals to investigate cases of corruption among members of parliament, who had until then enjoyed legislative immunity. Also, he has stressed that his intention is to move away from the consensus model of the 2014 Constitution which, together with political parties, he deems responsible for the country's political deadlock (Mosaïque FM, 2021).

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<sup>1</sup> Interviews, civil society members, October-December 2020, online, and April-June 2021, Tunisia.

The experience of the Tunisian model resonates with scholarly debates on the role of consensus in democratisation processes. The literature tends to praise power-sharing arrangements, at least in the short-term. However, there is no agreement on the advantages and disadvantages that consensus democracy might have after years of development. The question of time is important, as decisions on the institutional setting taken during critical moments, like the 2011 uprising and the adoption of the constitution in 2014, can influence subsequent political outcomes. Bearing this in mind, the article looks at how consensus adopted during the transition has affected long-term democratic consolidation in Tunisia. We will argue that President Saïed's dismissal of the prime minister and the parliament has its roots in the failure to consolidate democracy in the country. Hence, the article unpacks the concept of consensus by considering both the institutional architecture of consensus democracy adopted in the framework of the 2014 Constitution and the practice of consensus until July 2021. The interplay of these dimensions of consensus provides insights on democratisation in Tunisia, and makes it possible to generate hypotheses testable in other contexts. Moreover, despite the size of the country, the ten-years rise and demise of the Tunisian model has been followed with attention by potential democratisers and autocrats of the region.<sup>2</sup>

In what follows, the article presents the conceptual framework and the methodology section. Next, the empirical section explores the interaction between the consensus dimensions. First, the transition phase from 2011 to the adoption of the 2014 Constitution, and secondly, the consolidation phase from 2014 to July 2021. The article ends with a discussion of the main observations and their theoretical implications.

### **Consensus and democratisation**

The democratisation literature sees consensus between different social and political groups as a necessary element in the aftermath of a regime change. The primary and the most immediate objective of democracy supporters is to secure the rules that will shape the political system. It is necessary, in the early moments of political transition, that the main political parties agree that the result of the elections will be respected and that turn over will be done peacefully. This is what Huntington (1991) has called the 'two turnover test' of effective democratisation. The literature thus predicts that the 'pacted transition', i.e. democratisation agreed by consensus among different elites, as the type of transition most likely to succeed (Karl and Schmitter, 1991; Munck and Leff, 1997; Field, 2006, Stepan 2018). This perception is reinforced by studies analysing the outcome of the third wave of democratisations. Munck and Leff (1997) reached the conclusion that other types of transitions, e.g. democratisation by imposition, by reform or by revolution, are prone to regime destabilisation and return to authoritarianism. For the political transition scholars, the important determining variable of democratic survival is thus the cross-party consensus in conjunction with important social actors like business organisations and trade unions. From their study of Eastern European transitions, Bunce and Wolchik (2006) add massive mobilisation, funding elections and an apolitical army to this equation. Similarly, Stoner et al. (2013) concur that the democratic consolidation depends on mass mobilisation and an active civil society, and warn against transitions that are merely elite-based. Stepan (2018) identifies very similar patterns in the case of the 2011 Arab uprisings, by comparing different outcomes in Egypt and Tunisia. In other words, democracy emerges in the short term when there is a non-interventionist military, a cross-party consensus between secularists and moderate Islamists, as well as an active civil society and a mobilised public.

However, when it comes to the long term, there is no agreement on the impact that consensus might have on democratic consolidation. On the one hand, for Karl and Schmitter (1991, as quoted in Field, 2006: 206), enduring democracy is most likely to take hold in a 'pact/consociational democracy'.

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<sup>2</sup> Interview, Tunisian expert, June 2021, Tunis.

Similarly, for Linz and Stepan (1996), democracy consolidation is the achievement of consensus on democratic principles in everyday life. This can be reflected in political behaviour and attitudes, as well as in the constitutional setting, common agreements about governance procedures and rule of law. Moreover, they acknowledge the importance of good government performance in the legitimation of the new democratic system and argue the need of consensual economic policies and low polarisation on economic matters. Linz and Stepan (*Ibid.*: 9) thus conclude that consolidation ‘require[s] less majoritarian and more consensual policies’. Likewise, several authors have stressed the necessity to settle divisive identity conflicts in a consensual way to consolidate democracy (Morlino, 1998; Field, 2006; Graham et al., 2017).

On the other hand, the literature fears the long-term effects of consensual pacts on the quality of democracy (Field, 2006: 2; see also Bochsler and Juon, 2021). For instance, McEvoy (2014) has contended that power sharing in deeply divided societies might provide peaceful arrangements and stabilise newly born democratic institutions in post-conflict contexts. However, this type of communitarian arrangements might end up institutionalising past grievances and triggering new political crises on the legacies of conflict. It is thus important to consider the importance of the passage of time here. Consensus in the early phase of adoption of institutions might give way to later deadlock in the implementation phase, producing governance gaps or lack of action in policy areas such as health or education (Horowitz, 2014; McCulloch, 2017). This is always a possibility when the requirement of consensus is not satisfied due to the existence of entrenched veto players. In the case of Lebanon, for example, Fakhoury (2019: 11) has raised concerns about ‘the power-sharing formula’s proneness to deadlock, its dependence on the external environment as an avenue for partisanship and sectarian leverage, and its weak responsiveness to demands from below’. Similar fears have been raised in different contexts, including Belgium, South Africa, Northern Ireland, Nigeria, Sri Lanka and Macedonia (see McEvoy, 2014; Graham et al., 2017; Bochsler and Juon, 2021). These negative accounts are usually associated with the deployment of consensus in very diverse societies, which then takes the form of consociationalism. In the case of Tunisia, although the country does not have deep ethnopolitical cleavages, the transition was also marked by power sharing to avoid conflict between secularist and Islamist parties (Stepan, 2018). After 2014, it is argued in the same line that this formula turned into a ‘bargained competition’ (Boubekeur, 2016). Political parties stop worrying about public policy and instead became focused on ‘conquering’ and distributing positions in the administration among their followers (Somers, 2017). The result was deadlock, or a ‘blocked transition’ (Redissi et al., 2021).

In academia and public debate the concept of consensus has taken on different meanings, sometimes making difficult trying to discern its impact on democratisation. Hence, unpacking the concept appears as a necessary first step to examine how consensus adopted in the transition can affect long-term democratic consolidation. As it emerges from the academic debate, consensus can be understood as having two distinct dimensions. First, the concept refers to ‘consensus politics’, meaning the day-to-day political practice of reaching agreements between important political actors. It has been used in this sense by authors that focus on the benefits of political and social consensus in delivering stability and good governance (see Linz and Stepan, 1996; Field, 2006; Stepan, 2018). Secondly, consensus is also inherent to the polity or the institutional architecture of ‘consensus democracy’. Following Lijphart (1999a), consensus democracy, in contrast to the majoritarian model of democracy, is characterised by executive power sharing in broad multiparty coalitions, executive-legislative balance of power, proportional representation and corporatist interest groups.<sup>3</sup> Researchers who warn of the effects of

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<sup>3</sup> In the federal-unitary dimension, consensus democracy is characterised by federal and decentralised government, two equally strong chambers, a rigid constitution, judicial review of constitutionality and an independent central bank. These characteristics might vary depending on the characteristics of given countries. For example, small and relatively homogenous countries tend to be more central in the unitary-federal continuum and have asymmetrical legislative chambers or one chamber, like Tunisia.

consensus on consolidation have put forth the argument that power-sharing institutions diminish the quality of democracy because they create deadlock and too many veto players (see Horowitz, 2014; McEvoy, 2014; McCulloch, 2017).

The two dimensions of consensus, which refer to politics and polity, mirror Lijphart's differentiation between 'coalescence and compromise' in executive power sharing (Lijphart, 1999b: 7). In other words, the existence of formal mechanisms of consensus democracy (coalescence) does not exclude the possibility that political actors will use them to block democratic reform. The presence of consensus politics (compromise) is thus analytically independent from the institutional architecture of consensus democracy, which might help to tame divisive dynamics or not (Wolff, 2011). Complete unanimity in political affairs in democracy is neither possible nor desirable. However, it is likely that when democratising countries adopt the formula of consensus democracy, politics of consensus becomes a necessary element for the good functioning of institutions. On the contrary, politics of exclusion reinforcing socio-political divisions in society might hinder any prospects of democratisation, as Tudor and Slater (2020) recently found in a cross-country study. The objective of the article is to contribute to the understanding of democratisation by clarifying the interaction effects of consensus politics and consensus democracy on long-term democracy consolidation.

Time and periodisation are important to understand the interplay of these two dimensions of consensus. Following Horowitz (2014), the article uses the distinction between adoption and implementation of power-sharing institutions to establish the periodisation of democratisation and distinguish between transition and long-term consolidation. The delimitation of these periods is justified by the 'criticalness' of three events in the Tunisian democratisation process (Capoccia and Kelemen, 2007; see Marzo, 2019 for the Tunisian case). The first period begins on the 14 January 2011, when after a month of protests President Ben Ali left the country. This moment marked the beginning of the transition phase, during which the institutions of the new democracy were debated. The transition period ended with another critical event, the parliamentary vote adopting the constitution on 26 January 2014. The second period is marked by attempts to achieve long-term consolidation, understood as the implementation of the accords adopted during constitution drafting. Our analysis ends on 25 July 2021 when, as mentioned above, President Saied suspended the parliament and dissolved the government. The literature holds that consensus politics need to prevail in the transition phase in order to allow the adoption of consensus democracy (see Munck and Leff, 1997; Field, 2006, Stepan 2018). However, while the institutional architecture of consensus democracy designed during the transition remains, politics can take a different direction after the adoption of agreements. Hypothetically, this mismatch, between the polity adopted in the past and the course of politics, can block democratic consolidation in the long term. When politics are polarised, political actors can use veto powers any time consensus democracy offers them the possibility to do so, and political conflict between institutions can block reform. Hence, democratic consolidation is weakened as agreements on democratic reform adopted in the past are not implemented.

## **Methodology**

The article uses a case-study methodology to carefully illustrate the theoretical and empirical connections, that combined, illustrate the democratic transition and (non-)consolidation in Tunisia (Morlino, 2015). By doing so, the article contributes to an early stage of the research cycle which aims at identifying relevant patterns for theory-building (Coppedge, 2012). Given that consensus is the core element of the 'Tunisian model', the case study can offer important insights on the role of consensus in democratisation processes, and help generate new hypotheses to be tested in other contexts. The data used to compose the case study is derived from the triangulation of academic secondary sources, grey literature, and interview material comprising twenty-six semi-structured interviews conducted online in the fall of 2020 and in person in Tunisia during the spring of 2021. Interviewees include members of prominent civil society organisations working in the fields of democracy and human rights, local

politicians, activists and experts. They were selected given their direct knowledge of socio-political dynamics and policy-making processes in Tunisia, or because they have had an active role during the democratisation process. The identity of participants is not revealed in order to preserve their anonymity. End notes provide information on the place and date of the interview, the category of the interviewee and, only when explicit consent was acquired, the organisation to which they belong. Finally, the article complies with research ethics and data protection standards.

As already argued, the timeframe of the Tunisian democratisation process includes both a transition phase, from the 2011 Revolution to the adoption of the 2014 Constitution, and a democracy consolidation phase that started afterwards. Admittedly, ten years is not a long span of time as democratisation comes with ups and downs and, indeed, it can be a lengthy process, if it ever ends. While acknowledging that this is a potential limitation, the time frame allows us to apply the abovementioned periodisation and analyse the role of consensus in non-consolidation. Two reforms, the creation of the constitutional court and the decentralisation process, are used as heuristic tools to assess democratic consolidation understood as the implementation of agreements adopted in the transition phase of democratisation (see Horowitz, 2014). During the transition period, political parties agreed to include them in the 2014 Constitution. At the eyes of the constituent assembly their importance lied in that they ensure checks and balances and division of powers both vertically and horizontally.

Concerning the constitutional court, it is a very much needed institution in a semi-presidential system like the Tunisian as it mediates between the prime minister, the president, and the parliament. This is even more urgent when, like in the Tunisian case, there are frequent cohabitations (i.e. prime minister and president from different parties) and very often individuals or political factions are more important than party structures. Moreover, the court would have played a crucial role in protecting fundamental rights by controlling the constitutionality of legislation and of executive acts. In the case of decentralisation, an entire chapter of the constitution is devoted to local powers, providing legal personality to municipalities, regions, and districts (article 132), giving them democratic legitimacy through local elections (article 133), effective powers under the principles of subsidiarity (article 134) and fiscal autonomy (article 135). In contrast with the 1959 Constitution, that concentrated power and resources in Tunis, the new text envisaged to tackle development disparities between the capital and the regions, as well as to foster democratic practices at the local level.

In what follows, the article analyses the genesis of consensus democracy in Tunisia, from 2011 to 2014, paying close attention to constitution drafting. Power-sharing practices between moderate Islamists and moderate secularists provided an institutional setting close to Lijphart (1999a)'s ideal type of consensus democracy. At the same time, the construction of the institutional architecture was accompanied by national dialogue in moments of high tension that could have halted the democratisation process at its very beginning. Then, the article moves to examine non-consolidation with the examples of two important unaccomplished reforms: the creation of the constitutional court and decentralisation. During the 2014-2021 period, the interplay of consensus democracy and (the lack of) consensus politics generated deadlock.

### **The making of consensus democracy in Tunisia (2011-14)**

Although the democratisation process in Tunisia was initiated in the street and had the appearance of a 'revolutionary transition', using Karl and Schmitter (1991)'s terminology, it soon turned into a 'pacted transition'. The inner circle of the Ben Ali regime was expelled from power and the dictator had to seek refuge in autocratic Saudi Arabia. However, some of the cadres of the regime, especially those that had held high ranking positions in the Bourguiba era, were reintegrated into the political life of the country and filled the ranks of secular conservative parties. Béji Caïd Essebsi, foreign affairs minister under Bourguiba and president of the parliament during Ben Ali, became prime minister in February 2011. In

the early months of the transition, the Essebsi Government worked with the *Haute Instance pour la Réalisation des Objectifs de la Révolution, de la Réforme Politique et de la Transition Démocratique* (HIROR),<sup>4</sup> the commission charged with the organisation of the elections to the constituent assembly (Murphy, 2013). In the HIROR, there were discussions on whether to pact with part of the elites of the former regime or to follow a more revolutionary path. Also, among left-wing secular activists, there was the debate on the convenience of entering the HIROR and striking a political deal with moderate Islamists of *Ennahda*. However, moderate options won these internal debates. This was in part thanks to trust building between different opposition groups under the 18 October Coalition for Rights and Freedoms, created in 2005 (Stepan, 2018), and foremost, the idea that ‘all members shared a common objective, [deliver democratic change,] and could not deceive the [mobilised] street’.<sup>5</sup>

In this context, political parties including *Ennahda* and secular groupings such as the *Congrès pour la République* (CPR) of Moncef Marzouki and the *Ettakatol* of Mustapha Ben Jaafar agreed to pilot the transition in a consensual way. Early cross-party agreements were key in delivering a new institutional setting based on the idea of consensus. The HIROR eventually decided to use a proportional electoral system for the first legislative elections of October 2011 for the constitutional assembly. *Ennahda* won the elections but did not fully control the chamber, where the party enjoyed a plurality of seats and not an absolute majority. The proportional system, characteristic of consensus democracy, allowed the existence of a blocking minority composed by a variety of secularist parties, and Salafists did not obtain representation. Power sharing was also present in the formation of government. The Troika coalition was created, headed by *Ennahda* Prime Minister Hamada Jebali, and with the presence of independent and CPR and *Ettakatol* ministers. This pattern was replicated in the other key institutions, as Marzouki from the CPR obtained the presidency with 153 parliamentary votes out of 202 and *Ettakatol*'s Ben Jaafar became the speaker of the constitutional assembly. Despite *Ennahda* having won the 2011 elections, it did not present a candidate for the presidency for the explicit purpose to share power with secularist parties of the Troika. By willingly limiting its control of state institutions, *Ennahda* wanted to ensure its own survival, which would have been menaced by secularists if the latter felt endangered by zero-sum politics (Kirdiş, 2018).

This consensus politics continued during the constitution drafting process and proved to be key in the adoption of consensus democracy. Critical points such as religion-state relations were the object of broad agreements. Foremost, *Ennahda* and secular parties agreed on the civil character of the state. Article 2 describes Tunisia as a ‘civil state based on citizenship, the will of the people, and the supremacy of law’, making no reference to religious-based *sharia* as a source of law.<sup>6</sup> This point was not problematic in the discussions as consensus had already been established on this in the framework of the October 18 Coalition during Ben Ali times. When there was disagreement, the text was left vague and open to interpretation in a sort of consensus by default where political parties agreed to disagree (Lavie, 2019). This is the case of important Article 1: ‘Tunisia is a free state, independent and sovereign, Islam is its religion, Arabic its language and the Republic its regime’. It is a matter of interpretation if the reference to Islam is a sociological description or a recognition of the influence of religion on civil affairs.<sup>7</sup> Nevertheless, the text successfully strikes an equilibrium between different sensibilities, which reflects how state-religion relations are constantly negotiated in day-to-day politics and life.<sup>8</sup> This kind of compromises also appear in Article 49, which determines under which circumstances fundamental rights can be limited in a ‘civil and democratic state’, including for the vague objective of respecting

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<sup>4</sup> HIROR was composed by opposition parties, including *Ennahda*, academics, and prominent civil society organisations such as the *Ligue Tunisienne des Droits de l’Homme* (LTDH), the *Union Générale Tunisienne du Travail* (UGTT) and the *Union Tunisienne de l’Industrie, du Commerce et de l’Artisanat* (UTICA).

<sup>5</sup> Interview, former member of the HIROR, June 2021, Tunis.

<sup>6</sup> Author’s own translation from French from the 2014 Constitution.

<sup>7</sup> Interview, senior member of the LTDH, October 2020, Tunis (online).

<sup>8</sup> Interview, senior member of the *Association Tunisienne des Femmes Démocrates* (ATFD), May 2021, La Marsa.

‘public morality’. This equilibrium is again found in Article 6. While the state has the duty to ‘protect the sacred’, it prohibits ‘apostasy accusations’.

The result of this consensus politics is what Stepan (2018) has termed the ‘twin-tolerations’ between moderate secularists and moderate Islamists, as both camps made concessions during constitution drafting. This is due to the Tunisian political landscape, where moderate Islamists have to compete with other political traditions such as conservative secularists and left-wing currents with long and well-rooted traditions in the country. Also, there are numerous local human rights organisations, which are very vocal and have a strong influence in public debates (Kirdiş, 2018). Moreover, *Ennahda* made efforts to present itself as the paradigm of moderation (Izquierdo Brichs et al., 2017). At its 2016 congress it explicitly rejected the label ‘Islamist’ and instead embraced the concept ‘Muslim democrats’, so as to put distance with the Muslim Brotherhood. Those members of the party that opposed the Code of Personal Status left *Ennahda* and integrated *Al Karama* coalition, its main electoral competitor in the Islamist camp. Hence, the ideological distance between conservative secularists and *Ennahda* is relatively short and more symbolical than practical, as their positions in economic policy and civil liberties sometimes do not differ (McCarthy 2019). As a matter of fact, the secularists can be as conservative as the Islamists.<sup>9</sup> For instance, former Prime Minister Youssef Chahed (2016-2020) of secularist *Nida Tounis* was radically opposed to expanding the rights of the LGBTI community, a position echoed by President Saïed, who is a secularist independent.<sup>10</sup>

In addition, as observed in other democratisation processes (see Bunce and Wolchik, 2006; Stoner et al., 2013), a key catalyser of consensus democracy is civil society. In August 2012, a first version of the constitution was made public triggering a debate on draft Article 28, which contained the term ‘complementary’ to define the role of women in relation to men. Massive women demonstrations protested the reference, which was understood by the public as a concession to *Ennahda*. Following these events, the terminology was changed to ‘equal’ (Article 21 in the 2014 Constitution). As argued by Charrad and Zarrugh (2014), this moment of mobilisations was the proof of the emergence of bottom-up feminism in public debates. By contrast, women rights had in the past been used as a source of legitimisation for authoritarian ruling by Ben Ali and Bourguiba.<sup>11</sup> This state or top-down feminism produced the progressive Code of Personal Status of 1957 but alienated the feminist autonomous movement. Devoid of state patronage, activists took to the streets after 2011 in a ‘sudden eruption of a public sphere’ (Ibid.: 232; see also Johansson-Nogués, 2013). Civil society organisations were therefore able to set the agenda of constitution drafting concerning women’s rights and secured progress made in the past with the Code of Personal Status. *Ennahda* acknowledged the importance of this mobilisations and took note of the fears that the party’s position had produced in part of the Tunisian society, which suddenly mobilised. Again, consensus politics appeared decisive. The Islamist party backed off and agreed with moderate secularists on Articles 21 and 46, which secured the principle of equality and women’s rights respectively. *Ennahda*’s objective was to neutralise discourses that pictured them as being against women’s rights. Finally, feminist mobilisation resulted in a constitution that in this respect has the highest standards in the region and does not differ from other democratic constitutions.<sup>12</sup>

A second important episode requiring the intervention of civil society happened in 2013, at the final stages of constitution drafting. The Troika Government had promised that the constitutional assembly would deliver a final draft of the document one year after the election. However, this deadline soon revealed to be unattainable. The opposition, gathered around the figure of Essebsi and its party, *Nida Tounis*, started to demand the dissolution of the constitutional assembly and the resignation of the government. Moreover, the security situation sharply deteriorated during 2012 and 2013 due to terror attacks by radical Islamist groups. *Ennahda*, in charge of the ministry of interior, was increasingly

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<sup>9</sup> Interviews, civil society members, April-June 2021, Tunis.

<sup>10</sup> Interview, senior member of a LGTBI organisation, October 2020, Tunis (online).

<sup>11</sup> Interview, senior members of feminist organisations, April-June 2021, Tunisia.

<sup>12</sup> Ibid.



criticised for its alleged indulgence towards violent Salafist groups.<sup>13</sup> In 2013, two prominent left-wing activists were killed by radical Islamists prompting demonstrations demanding to stop the drafting of the constitution and the end of the Troika Government. However, during these moments of high tensions, important civil society organisations united under the Tunisian National Dialogue Quartet<sup>14</sup> and stimulated consensus politics in the form of cross-party dialogue. These efforts reduced the political tension and allowed the adoption of the constitution.<sup>15</sup> Again, *Ennahda* followed the strategy to limit its own power to secure the democratisation process and its own survival. The Troika resigned and a technocratic government was formed. This facilitated the adoption of the constitution, which was passed by an overwhelming cross-party majority (Marzo, 2019).

Also, in this context of high tension, *Nida Tounis* leader Essebsi and *Ennahda* secretary general Ghannouchi agreed on a semi-presidential model with the intention to insert consensus democracy in the constitution, eventually limiting their powers in case of an electoral victory in the legislative elections but not in the presidential elections. *Ennahda* even accepted not to present a candidate to the presidential elections of 2014, the first under the new constitution, paving the way for cohabitation between a government headed by *Ennahda* and a presidency controlled by *Nida Tounis* (Boubekeur, 2016). As a result, the 2014 Constitution reserves all policy areas to the prime minister, which freely appoints and dismisses all minister, except for the foreign affairs minister and the defence minister, which must be agreed upon with the president. The good functioning of the government requires the collaboration of the prime minister, the president and parliament, and there are constitutional mechanisms of mutual control. The president has few powers besides foreign policy but can call new legislative elections and referendums on international treaties, human rights issues and the civil code. The president can also delay legislation by demanding a second reading of a law or activating a review by the constitutional court. As for the parliament, it can start an impeachment process with a two-thirds majority and it elects the prime minister with an absolute majority vote, in practical terms needing cross-party support. Finally, the position of the prime minister is strengthened by the mechanism of the constructive vote of no-confidence, which requires that the opposition agrees on a consensual candidate that gathers a majority in parliament. Finally, the constitutional court is charged with solving the legal conflicts that might arise between the prime minister, the president and parliament and, in turn, each of them elects one third of the members of the said court. These checks and balances are of high importance given that, as in Lijphart (1999a)'s ideal type consensus democracy, the Tunisian party system is characterised by an increasing fragmentation since 2011, which is reflected in parliament due to a proportional voting system.

Between 2011 and 2014, politics of consensus stabilised the democratic transition by avoiding majoritarian politics based on 'winner-takes-it-all'. These practices allowed political parties, together with civil society organisations and a mobilised public, to adopt the consensus democracy enshrined in the 2014 Constitution. Long-term consolidation proved to be more problematic than the transition phase, however. The next section looks at the implementation problems that arose between 2014 and 2021 by looking at two key reforms prescribed by the 2014 Constitution: the creation of the constitutional court and the decentralisation process.

### **Consensus democracy without consensus politics (2014-2021)**

After the adoption of the constitution, Essebsi won the presidential elections and *Nida Tounis* became the first party in parliament with a plurality of 86 out of 217 seats. However, Essebsi had to seek the

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<sup>13</sup> Interviews, political activists, April-June 2021, Tunisia. See also the report by International Crisis Group on 'Tunisia: Violence and the Salafi Challenge' of 13 February 2013.

<sup>14</sup> The LTDH, the Order of Lawyers, the UGTT and the UTICA. They were awarded with the Nobel Peace Prize in 2015.

<sup>15</sup> Interview, senior member of the UGTT, October 2020, Tunis (online).

support of its rival *Ennahda* (69 seats) to form government, even if during the electoral campaign he had presented himself as the bulwark against Islamists. In turn, *Ennahda* had mobilised its electorate by pointing at the links between *Nida Tounis* and the former regime. However, both parties agreed on a coalition government under the leadership of Habib Essid (*Nida Tounis*) in the name of consensus politics, again. *Ennahda* only obtained one minister and continued the strategy of avoiding being perceived as ‘conquering’ the state at the eyes of its adversaries (Somer, 2017). In 2016, a motion of no confidence replaced Essid by Youssef Chahed, of *Nida Tounis* too, due to discrepancies between President Essebsi and the prime minister, of the same party. From 2016 to 2019 elections, Chahed headed a national unity government with an enhanced presence of *Ennahda* ministers this time. Yet, power sharing did not allow the implementation of important reforms as consensus politics was substituted by cross-party vetoes and political deadlock. After the 2019 legislative and presidential elections, consensus politics became even more difficult as polarisation increased in parallel with the popular support for the *Parti Destourien Libre* (PDL), which is opposed to the 2014 Constitution and to the inclusion of moderate Islamists in Tunisian politics. Moreover, the prime minister, president and president of parliament collided on the limits of their respective constitutional powers, again blocking reforms and hindering the democratic consolidation.

### *The constitutional court*

The deterioration of consensus politics, especially after 2019, severely affected the implementation of the constitutional court. In 2015 parliament passed the law that implements Article 118 of the constitution with a large majority, establishing the contours of the new court and its election mechanisms. The president, the judicial authority, and the parliament elect four members each. However, its implementation has been blocked as the large majorities and agreements required by consensus democracy have not been accompanied by consensus politics. The parliament has not completed the election of its share, which must be done by a reinforced majority of two thirds. In 2018, the main political parties agreed on four candidates, among them coalition partners *Ennahda* and *Nida Tounis*. When the vote took place, however, only one judge could be appointed. It appears that many members of the parliament did not respect what had been negotiated by their political groups (Attia, 2018). The reason why has to do with the precarious internal cohesion of parties. Except for *Ennahda* and small left-wing groups, they are political platforms for individuals eager to pursue a career in politics, usually connected with important business sectors.<sup>16</sup> It is common that members leave their political group in the middle of the legislature to form others. In some cases, they do not show up in parliament.<sup>17</sup> As stressed by Yardımçı-Geyikçi and Tür (2018), the erratic party system paralyses or slows the work of parliament, otherwise in charge of dynamising the democratisation process. Moreover, these individualistic attitudes have eroded the legitimacy of political actors and the meaning of consensus politics.<sup>18</sup> If in the transition phase consensus was understood as exceptional politics in exceptional times, in the face of low political performance during the consolidation phase, consensus has increasingly been perceived as a symptom of a corrupted elite that is only able to agree on the distribution of state prerogatives (Mccarthy, 2019).

After the 2019 presidential and legislative elections cross-party agreements became even more complicated. Given the perceived bad results of the *Ennahda-Nida Tounis* coalition, this set of elections took place in a context of general questioning of consensus politics to the extent that some observers started to speak about the end of the ‘Tunisian model’ (see Brésillon and Meddeb, 2020). In the parliament, political fragmentation has increased with the split of the moderate secularist camp into several small parties. Moreover, populist platforms at the extremes of the political spectrum have gained

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<sup>16</sup> Interview, member of Arab Reform Initiative, September 2020, Tunis (online).

<sup>17</sup> Interview, senior member of *Al-Bawsala*, September 2020, Tunis (online).

<sup>18</sup> Interview, senior member of the UGTT, October 2020, Tunis (online).

weight, like the radical Islamist party *Al Karama* and the radical secularist of the PDL. In the presidential election, Kaïs Saïed obtained an overwhelming victory with anti-establishment slogans. The polarised and fragmented parliament gave a weak government headed by Elyes Fakhfakh, which lasted less than a year. Then Prime Minister Mechichi obtained the support of a very diverse pro-government coalition composed of *Ennahda* and smaller secularist groups in the name of consensus and power sharing. However, divisions remained in the parliament and between state institutions, thus further paralysing the implementation of the constitutional court. President Saïed repeatedly clashed with Prime Minister Mechichi and President of Parliament Ghannouchi on their respective constitutional powers. In January 2021, the president decided not to sign the nomination of new ministers, appointed by the prime minister and ratified by parliament, arguing that some of them had been allegedly involved in corruption affairs. The institutional crisis escalated when in April 2021, the president used his constitutional power to block and resend to parliament a reform of the law on the creation of the constitutional court consisting in lowering the threshold to elect members in a second vote from two thirds to three fifths. In May, parliament voted again in favour of the law changing the voting system, but again without agreeing on the members of the court.

In the absence of the constitutional court, the conflict between the branches of power could not be resolved, and the presidency used its powers to veto any solution to the conflict. Moreover, on 18 April 2021, President Saïed opened another front in his stand-off with the prime minister – also interim minister of interior in the absence of a newly appointed minister – in the field of security. In a discourse in front of senior police officers, Prime Minister Mechichi and President of Parliament Ghannouchi, President Saïed affirmed that he was from then on the head of ‘all armed forces’, including the police, and not only the military, which until then had been under the power of the government (Al Watania, 2021). The president’s reading of Article 77 of the constitution is that when the text refers to the competences of the president, foreign policy and ‘armed forces’ (*forces armées* in the French version), it also includes the interior security forces like the police as arguably ‘they are also armed’. In this new contention between the various branches of the state, the *Union Générale Tunisienne du Travail* (UGTT) proposed a return to national dialogue, similar to the consensus politics that made possible the finalisation of constitution drafting in 2013. However, parliamentary fragmentation and fears of the electoral consequences for engaging in consensus politics meant that these calls went on unheard. It was in this polarised context, that on July 2021, President Saïed dissolved the parliament and the government.

### *Decentralisation*

The decentralisation reform prescribed in the constitution followed a similar path to the creation of the constitutional court. Legislative change was slowed due to discrepancies within the government majority in parliament. Then, the implementation of decentralisation was stopped due to different views on the issue inside the Chahed Government and after 2019, due to the institutional conflict between Prime Minister Mechichi, supported by *Ennahda*, and President Saïed. Again, the interaction between the institutional setting and the lack of consensus politics produced reform deadlock. The decentralisation reform was inserted in the 2014 Constitution to complete the democratisation process by electing local councils and also to address the big development gap between historically disadvantaged rural regions and Tunis. Prior to the 2014 Constitution, around 70% of Tunisia and one third of the population was ‘non-municipalised’, meaning that there was no formal local authority that could mediate between these communities and the state administration based in distant Tunis (Tarchouna, 2019: 9). In 2016, the ministry of local affairs and environment created 86 new municipalities in the country (264 municipalities in 2013, 350 in 2016) (International Crisis Group, 2019: 8). Then, the first milestone in the implementation of the decentralisation was the adoption of the

legislation that would put into practice Chapter VII of the 2014 Constitution and give these municipalities real powers.

However, the Local Government Code was passed only in April 2018, after four years of parliamentary debates. In this case, the lack of consensus politics within the Chahed Government, and between *Ennahda* and *Nida Tounis* in parliament reflected a centre-periphery cleavage in Tunisian politics (Yerkes and Muasher, 2018). *Ennahda* was in favour of an ambitious reform and the celebration of local elections as soon as possible.<sup>19</sup> *Nida Tounis* was, in contrast, more moderate in their defence of the reform and tended to side with state bureaucrats, like governors, or state officials in the ministry of interior and ministry of finance.<sup>20</sup> While claiming that the reform needed time and that state institutions had to be protected, they were fearful of losing control of the local clientelistic networks inherited from Ben Ali's party (International Crisis Group, 2019). They argued that decentralisation had the risk of putting power and resources into the hands of unexperienced politicians and feed local clientelistic structures that would contest the state (Yerkes and Muasher, 2018). The lack of consensus on these issues produced long debates in the parliament and the continued postponement of local elections. The result was that the code was approved just weeks before the elections, held in May 2018, and elected members of council did not know beforehand what the 'rules of the game' would be.<sup>21</sup> Also, the agreed code between political parties involved serious limitations of the powers of the local councils, which afterwards revealed crucial in making the tasks of local authorities difficult. For example, it was agreed that members of local council would not receive a salary from their work for the municipality, and the mayors would only receive a small pay. In the years that followed, it has been common that members of the council and mayors resigned because they face a trade-off between professional and political life, provoking paralysis in local councils.<sup>22</sup> Moreover, the new legislation on decentralisation was in contradiction with the pre-2011 legislation on the role of governors, appointed by the central government in the regions. While there was an agreement on the code, political parties that opposed decentralisation blocked the new legislation that would have allowed to reform the role of governors. Instead, they have usually clashed with local councils, implementing financial *ex ante* controls without a clear legal framework.<sup>23</sup>

Since the adoption of the code, local councils can make use of their competences in areas such as urban planning, garbage management or water sanitation. However, after 2018, implementation problems started from the side of the executive, as confronting views on decentralisation moved from parliament to the government. Some state officials propose *déconcentration*, the territorialisation of services provided by the state in Tunis, as a middle ground solution between centralisation and decentralisation, or as a previous step before giving more powers to local and regional councils.<sup>24</sup> In addition, there is the fear that decentralisation disproportionately benefits *Ennahda* given that it was the winner of the 2018 local elections and controls more than a third of local councils, including Tunis and Sfax (Ibid.). Hence, for a significant part of Tunisian bureaucrats and secularist parties, defenders of 'Bourguiba's modernist heritage', decentralisation poses a double risk, the 'Islamisation' of society and the dissolution of the republican state apparatus.<sup>25</sup> The result has been deadlock, as measures needed by local councils have been blocked by the ministries of finance and interior, including the provision of logistic and financial means, as well as the transfer of human resources from the central administration

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<sup>19</sup> Interview, Mayor (*Ennahda*), April 2021, Ben Arous governorate.

<sup>20</sup> Interview, former deputy Mayor (independent), April 2021, Tunis governorate.

<sup>21</sup> Interview, senior member of the *Fédération Nationale des Communes Tunisiennes* (FNCT), May 2021, La Marsa.

<sup>22</sup> Interviews, local politicians and senior member of the FNCT, April-June 2021, Tunisia.

<sup>23</sup> Ibid.

<sup>24</sup> Interviews, senior members of *Avocats Sans Frontières* (ASF) Tunisie, October 2020, Tunis (online).

<sup>25</sup> Interview, senior member of the *Forum Tunisien des Droits Économiques et Sociales* (FTDES), September 2020, Tunis (online).

to municipalities.<sup>26</sup> Moreover, out of the 40 decrees (executive orders) that accompany the implementation of the Local Government Code, only 30 have been issued.<sup>27</sup> After the 2019 elections, the paralysis in this domain was complete, with the political agenda being occupied by the institutional crisis between President Saied, Prime Minister Mechichi and the President of Parliament Ghannouchi. For example, the appointment of new governors was delayed and thus the coordination mechanisms between the local and central levels paralysed in several governorates.<sup>28</sup> All in all, the setbacks the process is suffering might lead to a ‘cosmetic and wobbly decentralisation’ (International Crisis Group, 2019: 1). As local councils find it difficult to live up to the citizens’ high expectations, those actors opposed to reform, sometimes connected to the former regime, see their political position reinforced.<sup>29</sup> After July 2021, more uncertainty and paralysis has been added to the implementation of the decentralisation reform with the suspension of government and parliament.

In contrast to the transition phase, the progressive decay of consensus politics after 2014 hindered long-term democratic consolidation. The mismatch between politics and the institutional architecture produced a deadlock in the implementation of reforms. Entrenched political actors used the power-sharing institutions of consensus democracy that were adopted in the transition phase to paralyse the creation of the constitutional court and the decentralisation process with the result of obstructing democratic consolidation. Political paralysis and conflict between institutions was then used by President Saied to legitimise the measures of 25 July 2021. In turn, these were facilitated by the lack of implementation of constitutional checks and balances after 2014 in the form of the abovementioned reforms. The next section discusses the theoretical implications of these accounts.

## Discussion

Between 2014 and 2021, there was consensus democracy without consensus politics in Tunisia. This observation allows us to formulate different hypotheses to be tested in other contexts, and provide new theoretical insights on the relation between consensus and long-term democratic consolidation.

First, it can be argued that consensus democracy without consensus politics produces reform deadlock and democratic non-consolidation. In the Tunisian case, power-sharing practices were in place, like the formation of coalition governments and semi-presidentialism, but political actors did not work together effectively to deliver key reforms. As identified in the literature, political actors can use the institutions of consensus democracy adopted in the transition phase to block the implementation of reform (Horowitz, 2014; Boubekour, 2016; McCulloch, 2017, Fakhoury, 2019). However, the use of veto powers by political actors can be analytically differentiated from the polity itself. From the case study, it can be theorised that non-consolidation does not directly derive from the institutional setting of consensus democracy. It is rather the combination of the institutional architecture of consensus democracy and the lack of consensus politics that does not allow the implementation of important reforms. The outcome of consensus democracy is likely to be what political actors make of it, and not the deterministic result of a given institutional design.

Secondly, it is likely that consolidation of consensus democracy will depend on the effective practice of consensus in everyday political life. The dual conceptualisation of consensus highlights that for democratic consolidation to happen under consensus democracy, not only it is necessary that citizens and political actors agree that democracy is the most preferable type of regime (see Linz and Stepan, 1996), but also that there is enough common political ground to allow the implementation of enduring democratic reforms. The Tunisian case showed that consensus politics is required in critical moments

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<sup>26</sup> Interviews, local politicians and senior member of the FNCT, April-June 2021, Tunisia.

<sup>27</sup> Ibid.

<sup>28</sup> Interview, Mayor (*Ennahda*), May 2021, Ben Arous governorate.

<sup>29</sup> Interview, former deputy Mayor (independent), April 2021, Tunis governorate.

for the adoption of institutions, such as in 2011 or the final stages of constitution drafting. Yet, during the consolidation phase, it is also necessary that consensus politics accompany the implementation of accords adopted during the transition (see Horowitz, 2014). This point is important as consensus democracy is often prescribed by donors and researchers to achieve long-term democratic consolidation (McEvoy, 2014). Nevertheless, the focus is seldom put on the everyday practice of consensus politics, which might be determining for democracy consolidation through the implementation of checks and balances.

Finally, there is the risk that deadlock empowers political actors who favour a hyper-majoritarian type of democracy or who openly defend the exclusion of other actors from politics. In Tunisia, after years of reform deadlock, President Saied annulled consensus democracy using political paralysis as a justification. This observation is again connected to an important question present in public and academic debates: can majoritarian institutions deliver better results than consensus democracy in terms of democratic consolidation? How majoritarian institutions react to the lack of consensus politics in democratisation contexts still needs to be tested. Nonetheless, the double conceptualisation of consensus might provide useful insights to answer this question. If the lack of consensus politics combined with consensus democracy produced non-consolidation, in theory, majoritarian institutions combined with exclusion politics might facilitate democratic backsliding (see Haggard and Kaufman, 2021). The move of President Saied, and the insistence of the PDL to exclude *Ennahda* from political dialogue, can be read as a push for an extreme version of majoritarianism, that if sustained in time, might undo democratic achievements in Tunisia. This scenario is plausible given that checks and balances were not fully implemented between 2014 and 2021.

## Conclusions

The aim of the article was to look at how consensus adopted in the transition affected long-term democratic consolidation in Tunisia. To answer this question, the article unpacked the concept of consensus considering, on the one hand, the institutional architecture or polity of consensus democracy, and on the other hand, the practice of consensus politics. The interplay of the two dimensions was analysed in the transition period of the democratisation process, and in the consolidation phase that followed. Two reforms prescribed in the 2014 Constitution, the creation of the constitutional court and decentralisation, were taken as heuristic tools to examine democratic consolidation in the long term. Power-sharing practices were in place, like the formation of coalition governments, but political parties did not work together effectively to implement these reforms. Consensus democracy without consensus politics produced deadlock and non-consolidation. Finally, this situation empowered actors who favour hyper-majoritarian institutions, increasing the risks of democratic backsliding.

Future research might aim to identify the deep causal factors of democratic (non)-consolidation, in particular the causes behind the lack of consensus politics in Tunisia in the period 2014-2021. As it emerges from the analysis of the two reforms, at least two potential explanatory factors need to be clarified. First, political fragmentation in the secularist political camp made consensus politics very difficult regarding the constitutional court. Secondly, problems encountered in the implementation of decentralisation seem connected to ideational factors behind Tunisia's state-building process. Hence, future research might want to apply a *longue durée* approach to regime change, which integrates a socio-political and a historical perspective (Allal and Vannetzel, 2017). Moreover, the fact that covid-19 severely impacted Tunisia's tourist-dependent economy highlights the importance of the structural and economic factors that sustain democracy in the long term. Finally, as time gives a broader perspective on recent events in Tunisia, future research will certainly account for changes in the political system, as well as explore the deeper causal factors behind them.

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**Table 2. Annex research paper 1: interviews**

Category	Organisation	Date and place
Expert 1	Anonymised	September 2020, online
Civil society organisation	<i>Forum Tunisien des Droits Économiques et Sociaux</i> (FTDES)	September 2020, online

Civil society organisation	<i>Al Bawsala</i>	October 2020, online
Civil society organisation	<i>Union Générale Tunisienne du Travail (UGTT)</i>	October 2020, online
Civil society organisation	<i>Shams</i>	October 2020, online
Civil society organisation	<i>Ligue Tunisienne pour la Défense des Droits de l'Homme (LTDH)</i>	October 2020, online
Civil society organisation	<i>Avocats Sans Frontières (ASF) (1)</i>	October 2020, online
Civil society organisation	ASF (2)	October 2020, online
Civil society organisation	<i>Association Tunisienne des Femmes Démocrates (ATFD)</i>	April 2021, La Marsa
Local politician	La Marsa city council	April 2021, La Marsa
International development organisation	Anonymised	April 2021, Tunis
Activist	Anonymised	April 2021, Tunis
Local politician	<i>Fédération Nationale des Communes Tunisiennes (FNCT)</i>	April 2021, La Marsa
Expert 2	Anonymised	May 2021, Tunis
Local politician	Teboursouk city council	May 2021, online
Local politician	Radès city council	May 2021, Radès
Expert 3	Anonymised	June 2021, Tunis
Activist 1	Anonymised	June 2021, Tunis
Transitional body	<i>Haute Instance pour la Réalisation des Objectifs de la Révolution (HIROR)</i>	June 2021, Tunis
Cartoonist	Anonymised	June 2021, Tunis
EU project	Anonymised	June 2021, Tunis
Activist 2	Anonymised	June 2021, Tunis
EU project	Anonymised	June 2021, Tunis
Unemployed	Anonymised	June 2021, Tunis

Think Tank	<i>Observatoire Tunisien de la Transition Démocratique (OTTD)</i>	June 2021, Tunis
Activist 3	Anonymised	June 2021, Tunis