

Why Tunisia Remains the Arab Spring's Best Bet

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Abstract

Tunisia is the Arab Spring's best bet for stable democracy. Granted, recent events set the bar for this title pretty low, and current upheaval leaves the survival of the government elected in 2011 uncertain from day to day. Nevertheless, Tunisia has established a pattern of political inclusiveness and compromise that could provide a foundation for stable, constitutional democracy. Tunisia-specific factors contributing to this pattern, including the modest size and scope of the military and the influence within Ennahda of Rachid Ghannouchi, have been widely recognized. Choices on institutional design taken by the Ben Achour Commission early in 2011 have been less noted but are equally important. Foregoing early presidential elections allowed Tunisia to operate, during the transition period at least, as a *de facto* parliamentary system. The choice of HQLR in moderate-sized districts generated electoral economies of moderate scale that strengthened Tunisia's fragmented, secularist parties, encouraging their inclusion in government during the transition period and their consolidation into viable alliances going forward.

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Why more compromise in Tunisia than Egypt?

This conference's format, finalized in July, characterized Egypt, along with Tunisia, as the "peaceful" Arab Spring. Subsequent events remind us just how precarious our assessments of the region are. As this paper is being written, in late August, Tunisia has experienced persistent street protests and calls by major political parties as well as by the country's largest labor confederation, the UGTT, for the immediate resignation of the Ennahda government and its replacement by a caretaker. In this context, any broad claims should be advanced only a large measure of humility. With that in mind, I nevertheless posit that a path to stable democracy remains open for Tunisia, and I regard the central question regarding Tunisian politics since the Arab Spring to be: Why has the process of coalition and negotiated compromise between Ennahda and its non-Islamist partners not (so far) broken down completely?¹

Even this formulation warrants some initial caveats. Ennahda's experience in government has been far from an unqualified success. Tunisia's economy has under-performed, unemployment remains high, and Tunisians point to economic hardship as the predominant source of disillusionment with their country's direction (Rowse and Ben Yahia 2013). The process of adopting a Constitution, and for electing a new government under the new charter, has been delayed and it is not clear whether and when the current draft constitution, in the works for almost two years now, can be ratified. Nevertheless, nearly two months after the Brotherhood-led government in Egypt was overthrown in a military coup followed by widespread street violence, repression and imprisonment of Brotherhood leaders, and state control of the media, Tunisia has avoided similar levels of violence and a negotiated outcome in which all major parties embrace a democratic outcome still appears feasible.

No single factor explains the difference between the Tunisian and Egyptian paths since the beginning of the Arab Spring. Among the most critical must be the different capacities for military involvement in government – in Egypt's case, driven in large part by the military's incentives to protect its vast economic interests. Much has been written about the Egyptian military's economic position and motivations, and the starkly different position of the Tunisian armed forces. In this essay, I focus on a different factor: the inclination of the Brotherhood's party – Ennahda in Tunisia, as opposed to the Freedom and Justice Party (FJP) in Egypt – toward coalition and compromise with secularist parties. More specifically, I emphasize the role that the rules for electing Tunisia's National Constituent Assembly, and the absence of a popularly elected chief executive, have played in producing an environment in which Ennahda was strongly motivated to pursue compromise and coalition rather than to attempt to consolidate power.

The central point is that after Tunisia's October 2011 NCA elections, Ennahda pursued a far more conciliatory and inclusive governing strategy than did Egypt's FJP after that country's 2011-2012 Constituent Assembly elections and the 2012 presidential election. In particular, Ennahda included in its government parties skeptical about the incorporation of sharia into

¹ The structure of this conference warrants that I should open with a confession. I cannot claim special knowledge of the internal politics of the Muslim Brotherhood, or of the North African region more generally. I bring some expertise on the design of democratic institutions and on the transitions to democracy of the 1980s and 1990s in Latin America, as well as some recent experience in countries throughout the Middle East, including two short visits to Tunisia. So my ability to address many of the questions included in the curriculum for this session is limited, and I will rely on my more learned colleagues to weigh in on much of that. But I will bring what insight my own competence allows on the Tunisian case and on issues of institutional design in transitional regimes.

the constitution and legislation, and has governed with substantial sensitivity to the demands of its secularist partners. The FJP, by contrast, governed in a manner that suggested an agenda to consolidate power and to undermine checks on its authority, which in turn alienated opposition parties as well as many Egyptians who had initially voted for the FJP in the Constituent Assembly and presidential elections.

Leadership and institutions

Here again, various factors might explain differences between Ennahda's governing style and the FJP's. One that has been widely acknowledged is the influence and the disposition of Ennahda's intellectual and spiritual leader, Rachid Ghannouchi, whose experience in exile during the Ben Ali regime, in particular, appears to have fostered a commitment to principles of liberal democracy and pluralism.² My focus here, however, is on two key institutional factors that distinguish the Tunisian case: parliamentary dominance, and a parliamentary electoral system that rewards economies of moderate scale. Both are products of decisions taken by the Ben Achour Commission, an inclusive quasi-assembly comprised of representatives from diverse political parties and civil society groups that was formed shortly after the departure of President Ben Ali and established the institutional rules for the subsequent election and transition.

The first institutional factor, the absence of an early popular election for a chief executive, is straightforward. Since the October 2011 election, Tunisia has operated under a *de facto* parliamentary system of government in which the initial outcome in the NCA provided the only electoral guidepost for the formation and maintenance of the government. In the absence of a majority party in the NCA, there has been no electoral basis for a claim to single-party control over the executive. During this period, in the NCA, which has served as Tunisia's parliament, Ennahda is by far the largest party but, with 41% of the seats, it is well short of a majority. As a result Ennahda had to bring coalition partners into its cabinet in order to form and maintain a government. By contrast, Egypt's early presidential election, in May-June 2012, conferred a direct electoral mandate on President Morsi as chief executive despite having won only 25% of the popular vote in the first round. The decision in Tunisia *not* to hold early presidential elections effectively avoided the potential for consolidation of executive power in a single party during the transitional period in which a new constitution was to be drafted and ratified.

The argument with respect to the parliamentary electoral rules is more subtle and thus warrants more lengthy elaboration but it is no less important. The Ben Achour Commission determined that all seats in the NCA would be contested by list proportional representation (PR) in moderately-sized districts, and that lists' vote shares would be translated into seat shares according to a formula known as the Hare Quota – Largest Remainders (HQLR). There is no limit to the permutations of electoral rules and formulas the Commission might have selected – even within the family of list-PR systems. What is remarkable about the combination of pure HQLR with moderate districts is that, of all these, it is the system that most dramatically rewards economies of moderate scale. In the Tunisian case, this meant concentrating seats bonuses on the array of smaller, secular parties that contested the NCA elections rather than on Ennahda.

Economies of moderate scale

All electoral rules confer rewards on some contestants and penalize others. Among PR systems, the choice of formula is largely a choice about how seat bonuses and penalties should be distributed. Under most formulas, the bigger the party, the bigger the seat bonus.

² In light of limited space and given that Ghannouchi's leadership has been widely acknowledged (Stepan 2012), I focus my essay on less thoroughly explored factors.

Economies of moderate scale imply that bonuses are concentrated, instead, on alliances that surpass the scale of micro-parties (say, in the 1-3% range) but that bonuses do not grow, either in absolute or relative terms, as parties surpass the range of basic viability.

Imagine a situation where Party A, which expects to pull 4% of the vote, and Party B, which expects to pull 6%, share some common principles, although their leaders are rivals. Electoral economies of scale imply that the aggregate seat share awarded to a coalitional Party AB, at 10%, would be greater than what the two parties would capture running separately. An economy of *moderate* scale implies that the seat bonus for Party AB would be as large as that for a much larger party – say, one that captures 30-40% of the vote.

Seat bonuses have to come from somewhere. For some parties to be rewarded, others must suffer, and virtually all formulas penalize the very small by denying representation below some minimum vote threshold (whether legal defined or not). Yet if economies of scale are monotonic – growing steadily with party size – then either the bonuses to moderate-sized parties must be meager or else the penalties on small parties must be severe. The argument here is for the economies of scale to peak in the viable range and decline (or at least not grow) above that.

From an electoral engineering perspective, the normative rationale for such a formula is that providing incentives for very large parties to coalesce is superfluous. Such parties are, by definition, already viable competitors to govern. In transitional environments where party systems are inchoate, there is a broad public interest in encouraging fragmented political movements and would-be alliances to coalesce into viable competitors. Doing so reduces the complexity of the party landscape to one that voters can navigate and comprehend, allowing them to envision how their ballot choice might translate into governing authority. The argument for economies of moderate scale is that the electoral formula should confer seat bonuses and penalties in a way that encourages groups below the threshold of governing viability to coalesce and rise above it.

The core of the argument about electoral formula in Tunisia is that the choice of HQLR encouraged Ennahda to govern inclusively. The key facts are:

- Ennahda was awarded a modest electoral bonus, winning 37% of the vote and 41% of the seats in the NCA. (Note that Ennahda's vote share was virtually identical to the FJP's overall vote share of 38% in Egypt's Constituent Assembly elections. Its electoral bonus, however, was less than half as large.)
- By contrast, the next four largest parties, which combined for 27% of the popular vote, won seat bonuses that, on average, equaled Ennahda's. As a result, those parties won 42% of the NCA seats among them, forcing Ennahda to bring two of its main competitors into government.
- Had the other most common PR formula, d'Hondt Divisor, been used to translate seats into votes in Tunisia, Ennahda would have been awarded 68% of the NCA seats. Had another common formula, St. Lague Divisor, been used, Ennahda would have been awarded 55%. Had even a minimal legal threshold of 1% of the nationwide vote been used, Ennahda would likely have won 49% of seats. Had a higher legal threshold been employed, Ennahda would, again, have won an outright majority.

In other work (Carey 2013), I have conducted exhaustive simulations that show that no other PR formula in use around the world would have produced an outcome as friendly to Ennahda's opponents as did HQLR. (See appendix for a summary.) Nor would any system that combined list PR with seats contested by other rules, as was the case in Egypt.

In short, had the Ben Achour Commission selected virtually any system for electing the NCA other than the one it chose, the incentives for compromise in the wake of the October 2011 elections would have been far weaker than they were. Under most alternative scenarios, Ennahda would have been in a position to govern unilaterally based on a single-party majority, or even a super-majority, in the NCA.

Effects on governance

Has the election outcome affected Ennahda's governing posture, and particularly its proclivity to seek compromise with other actors, both within its government and in opposition? Unlike the electoral simulations, we cannot "replay" this history under alternative scenarios, so we are left to interpret outcomes in a few salient areas.

New Constitution

First, consider the shape of the draft constitution. The original timetable for ratification has passed, progress has been grindingly slow, and is currently stalled altogether. Yet even before the most recent round of street protests and the suspension of the Constituent Assembly in August 2013, Ennahda had made substantial concessions to secular opponents – many in direct contravention of Salafist demands – on the charter's language. As early as March 2012, Ennahda agreed to maintain the language from the 1959 Constitution establishing Islam as the state religion, but leaving out any specific mention of sharia as the source of legislation (Fahim 2012). The draft constitution dropped the old Article 27, which prohibited normalization of relations with Israel. It also dropped references to "complementarity" of gender roles in favor of language that explicitly requires that the state "guarantees the protection of women's rights and supports their gains" ... [as well as] ... "equal opportunity between men and women to assume responsibility" ... [and] ... "the elimination of all forms of violence against women" (Human Rights Watch 2013).

The glacial pace of the constitutional drafting process continues to draw criticism from Tunisian citizens (Rowse and Ben Yahia 2013), but the tempo is a product of the fact that the new document has not been rammed through a compliant committee, as was the case in Egypt in 2012. Bringing diverse parties around to mutually acceptable language is a painstaking process. If Tunisia pulls it off, achieving widespread buy-in to a moderate charter will be time well spent.

Salafists

Next, consider the government's treatment of Salafist groups, the issue on which it has been most strenuously excoriated by secular opponents, particularly since the parallel assassinations of Chokri Belaid in February, and Mohamed Brahmi in July of this year. The failure to track down the suspected killer of both politicians is a stain on the incumbent government. The overall record with respect to Salafist extremism, on the other hand, is more ambiguous. Critics of the government point to insufficient action by state security forces to prevent or contain Salafist attacks on Sufi shrines, art galleries, theaters, liquor stores, and eventually on the US Embassy compound and an American school throughout 2012. Yet the Ennahda-led Interior Ministry banned and prevented the annual congress of Ansar al-Sharia in May of 2013 on grounds that the group incites violence and hatred. In June, a Tunisian court handed down convictions to six of the group's members for burning a Sufi shrine. In August, the government declared Ansar al-Sharia a terrorist group, membership in which would be prosecuted. With the killer(s) of Belaid and Brahmi at large, Ennahda's secular rivals rightly fear for their security and for the ability of all voices to be heard in Tunisian political debate without reprisal. Whether the government *could* act more effectively, and instead tacitly countenances Salafist violence is opaque, but the government under Ennahda's principal leadership has taken actions, not without costs, to constrain Ansar

al-Sharia, at the least.

Free speech

Finally, over the past year, the Tunisian judiciary has confronted a variety of cases in which freedom of expression has conflicted with conservative sensibilities, and have shown little indication of being coerced or constrained by Islamist groups. The most divisive case involved the Dean of Faculty at the University of Manouba, Habib Kazdaghli, who had insisted in 2012 that female students remove their *niqabs* during classes in the name of open and accountable communication of ideas. Two women subsequently invaded and ransacked the dean's office, then charged Kazdaghli with assault when he attempted to stop them. The case prompted massive protests by conservative students, demands for gender segregation within the university, and became a barometer for whether street pressure could roll back the university's standing commitment to gender equality. In May 2013, Kazdaghli was acquitted and the women who had invaded his office were sentenced for property damage and interfering with a public servant carrying out his duties (Bass 2013). It is important to acknowledge that the Minister of Education, an Ennahda appointee, subsequently reinstated the students at Manouba. Yet the overall outcome of the case suggests independence by the judiciary from intimidation, whether from inside or outside the government.

In other cases as well, the courts have exercised restraint in dealing with those whose views challenge conservative values. Activist Amina Sboui was jailed earlier this year, not for posting topless photos of herself online with "Fuck your morals" scrawled across her breasts, but for subsequently defacing a cemetery wall with paint, an action that would likely draw a similar sentence in most of Europe. Sboui was eventually released early, as were three European activists from the Ukrainian-based group, Femen, who had protested topless in Tunis in support of Sboui.³ In another high-profile case, in June 2013, the rapper Weld el 15 was sentenced to two years for circulating a video entitled "Police Are Dogs," with lyrics suggesting police should be slaughtered, yet in the face of criticism from journalists, bloggers, and human rights activists, the Tunis court of appeals quickly reduced the sentence to six months probation. Whether the pivot is an example of a court caving to public pressure or was based on judicial principle is difficult to say, but at the least the Tunisian courts do not appear to be supine in the face of pressure from an Islamist-dominated executive branch.

Conclusion

It would be reckless to declare a victory for democracy in Tunisia. The experience of the past few months, moreover, sets the bar for the region's "best bet" pretty low. Tunisia clears that bar, but more importantly – and notwithstanding current upheaval – has established a pattern of political inclusiveness and compromise that could provide a foundation for stable, constitutional democracy. Tunisia-specific factors, including the modest size and scope of its military and the influence within Ennahda of Rachid Ghannouchi, have been essential and widely recognized. Less noted but equally important were the choices on institutional design taken by the Ben Achour Commission early in 2011. Foregoing early presidential elections allowed Tunisia to operate, during the transition at least, as a *de facto* parliamentary system. The choice of HQLR in moderate-sized districts generated electoral economies of moderate scale that strengthened Tunisia's fragmented, secularist parties, encouraging their inclusion in government during the transition period and their consolidation into viable alliances going forward.

³ The Europeans issued an apology in order to secure their release, then immediately renounced it once they departed Tunisia. On her release, Sboui publicly broke with Femen and criticized its members for failing to respect Tunisian culture and values.

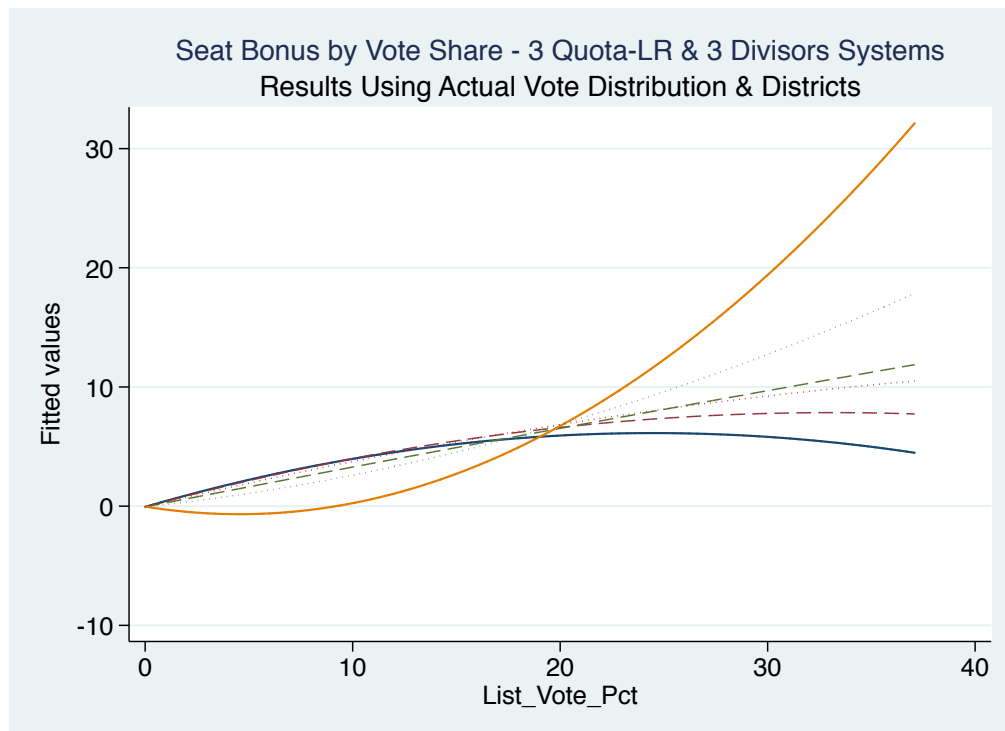
Appendix

The simplest way to see the differences in how various PR formulas distribute penalties and bonuses to parties is to plot each party's share of the popular vote (X axis) against its seat bonus (Y axis). The bonus is just the party's seat share minus its vote share, so is negative (a penalty) for parties that are underrepresented. In Tunisia 2011, most of the penalties were visited upon the 533 micro-parties that won 21% of the vote among them but no representation in the NCA. The effect of the PR formula in Tunisia, then, was largely to determine how that 21% of "bonus" representation would be divided among the 27 parties that won seats.

Starting with the raw, district-level election returns from October 2011, I have replicated the Tunisian outcome using HQLR, but also have "re-run" the election using:

- alternative PR formulas that are employed in many countries around the world;
- formulas that are possible but not currently in use at the national level anywhere; and also
- vote distributions that vary from the actual returns – some increasing Ennahda's relative vote share and others diminishing it (Carey 2013).

The purpose of the simulations is to confirm that the effects of HQLR were not idiosyncratic to the specific October 2011 results. In the interest of simplicity, the figure below illustrates the effect of formula on the electoral outcome for the actual vote distribution, but the simulations confirm that the results are generalizable.



The solid, dark line in the figure shows the relationship between vote share and bonus under HQLR. The most important thing to note is that the shape of the curve is concave. The very small parties (below 1% of the vote in the Tunisian case) suffered penalties, but the steepest part of the curve is as low-to-moderate vote shares, holding out the prospect of bonuses for

parties that can approach viability as contenders to govern, or at least as sizable partners in a governing coalition. Increasing the size of parties beyond that level produces diminishing returns in terms of bonuses.

The solid yellow (lighter) line shows the same vote share to bonus relationship under the other most commonly used PR formula, the d'Hondt Divisor rule. The convex function is starkly different. Parties with anything below a 10% vote share can expect seat penalties, whereas bonuses are increasing in scale. (Recall that, under d'Hondt, Ennahda would have won 68% of the NCA seats.)

The other lines in the figure show analogous relationships for other formulas (e.g. St. Lague divisors, Droop quota with largest remainders, etc.). The number of formulas and variants employed around the world is vast. The key point, however, is that, under all real and simulated vote distributions, the HQLR formula produces the most pronounced concave function between vote share and seat bonuses of all formulas. Thus, ***HQLR produces the most pronounced economies of moderate scale.***

In an environment like Tunisia's – and more broadly, in countries attempting to establish viable competitive party systems where they have not previously existed – this is a critical result. How to motivate would-be political allies to coalesce rather than to go it alone is a chronic problem in transitional democracies. The formation of pre-electoral coalitions is essential to presenting voters with a comprehensible set of options among which they can make meaningful decisions on who should govern. But coalition formation is also hard work, requiring compromise on policy and on the division of leadership posts. Electoral rules should encourage small actors with common principles to coalesce so they can run under a common banner that can viably contend to govern. Of all PR formulas, HQLR generates the strongest incentives in this direction.

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