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Elections and Democratic Transition in North Africa: The Case of Morocco, Algeria, and Tunisia

Fouad Aalouane

Abstract

A revolution or activist movement alone is not enough to guarantee a successful democratic transition. This requires mechanisms for the realisation of reform and change, most significantly elections, which are a key instrument for political and social stability and the peaceful rotation of power. This paper explores the impact of elections on trajectories of political change in Morocco, Algeria, and Tunisia and their role in supporting a democratic transition that lays a foundation for genuine political and social stability in these countries. The paper uses descriptive analysis to describe and explain the failure or success of elections in promoting democratic consolidation and to understand the context and conditions of elections in these countries. It concludes that elections have failed to induce genuine political change in Morocco; while in Algeria, elections have been used as an instrument to reconstitute the existing political system. In contrast, elections in Tunisia proved to be an effective mechanism for democratisation and the establishment of the rule of law.

Keywords: Elections; Democratic Transition; Morocco; Algeria; Tunisia

Introduction

In its broadest sense, democratic transition refers to processes and dynamics involved in the transition or shift from an undemocratic to democratic system of government. The theory of democratic transition posits it as an interim phase, during which a new democratic system is built by fundamentally altering aspects of the political system, such as its constitutional and legal structure, its political institutions, and its modes of citizen participation. The transition period may witness conflicts between political actors that confound democratic aspirations¹ and induce the reconstitution of the old political regime in a new guise. Philosopher Alain Ménil observes, ‘It is precisely when we think we have finally come across the democratic part of the transition that we should expect to see its opposite emerge, for the old, pre-existing thing has not resigned itself to ceding the field’.²

As such, a successful democratic transition depends on mechanisms that can ensure political stability and the actual enactment of reform and change. Elections are the most important of these mechanisms. Democratisation involves building political legitimacy anew, principally through elections, which constitute the nucleus of democracy³ and the fundamental engine of political life. In this context, Renée Fregosi writes, ‘The core accomplishment of the transitional period is the convening of free elections, which are rightly considered constitutive of the democratic nature of the political system’.⁴ Similarly, Samuel Huntington has affirmed that we cannot speak about a democratic transition without free, fair, transparent elections that guarantee all competing parties an equal chance of assuming power.⁵

Transitional elections are therefore critical junctures for democratising countries, and their outcomes have a crucial impact on the future of the transition and the consolidation of democracy.⁶ At times, electoral processes may have the opposite of the intended effect, failing to perform their function. Instead of promoting national stability and reconciliation, they may exacerbate political conflict. The problem in such cases is not elections per se, but the context in which they take place. Undemocratic conditions and practices may impede the electoral process and distort its function. In this respect, Robert Dahl observes that elections are not the beginning point of democracy, but the culmination of it. He explains that although elections are a prerequisite for a democratic state, they are not prior to it and do not produce rights and liberties.⁷ In the same context, Michael Coppedge argues that free and fair elections are a core component of democracy, but alone are insufficient to constitute genuine democracy, which requires other components, among them a separation and balance of powers based on a clear, stable constitutional framework, the rule of law, effective institutions for transparency and accountability, and an active, independent civil society.⁸

Given all this, elections that fulfil their purpose and contribute to a successful democratic transition in Arab countries, particularly in the North Africa (Maghreb) region, are contingent on a healthy domestic climate and specific political and legal prerequisites, among them a truly consensual constitution, a fair electoral system, and an independent, fair judicial authority, as well as a robust, effective civil society. All of these elements must precede elections if there is to be hope for political change and reform.

This paper looks at how elections have influenced political shifts in North African or Maghreb states and their role in guaranteeing a successful democratic transition that establishes genuine political and social stability in these countries. It also attempts to explain why elections fail to perform their function of securing a peaceful rotation of power.⁹ The paper is distinguished from the few other studies on the relationship between elections and democratic transition in its analysis of the factors that transform elections from a democratic mechanism to achieve political stability into an instrument impeding democratisation in Maghreb states.

Morocco, Algeria, and Tunisia were selected as case studies because all of these states have seen peaceful activist movements over the last decade that have spurred political and constitutional reforms and coincided with elections of varying effectiveness. To understand the role of elections, this paper asks the following questions: Did elections constitute a qualitative advance on the path

of political transition in Maghreb states? Did the necessary legal, political, and social conditions exist to ensure the success of electoral processes and referendums and support their function? Were elections manipulated to impede democratic transition and reproduce old political regimes? What factors existed in Tunisia but not in Algeria and Morocco, where elections had no meaningful impact?

To answer the core question of this study and related questions, the paper uses descriptive analysis to explain the failure of elections to contribute to democratic consolidation, to understand the context for elections in these countries, and to account for the effectiveness of the elections in Tunisia and their success in building a genuine democratic political system. It will first address the political, legal, and social context of elections in the three states before examining the election outcomes and their implications for democratic transition in these countries.

Prerequisites for Effective Elections

Elections during transitions are an exceptionally complex process, taking place in an interim phase that differs from one country to the next depending on the nature of the former or existing regime and political, social, and economic structures. The heavy legacy of authoritarianism cannot be addressed using the kind of mechanisms that seem obvious in established democracies. Indeed, at the beginning of political transitions, elections can play a counterproductive role, impeding democratisation. Elections are a political process involving the interplay of several factors that may either adversely or positively impact the effectiveness of the elections in furthering democratic transition.¹⁰

The success of political and constitutional transformations therefore depends on the prior existence of a healthy political and social environment and democratic practices, which are prerequisites for effective elections. In the absence of appropriate social and political conditions, elections may fail to cement the rules of the political game and support the nascent democratic system.¹¹ While elections are an instrument of democracy, alone they are not sufficient to achieve it, and the mere holding of elections does not mean that a system has become democratic. The question here is: Were the political, legal, and social prerequisites in place in Morocco, Algeria, and Tunisia to organise democratic elections that could function as a genuine instrument of democratisation?¹² Or were they simply a formal mechanism used by authoritarian regimes to legitimise their rule through the manipulation of unregulated political pluralism and periodic, though meaningless, elections?¹³

A Consensual Constitution

The constitutional foundations that regulate and legitimise state institutions are significant prerequisites for elections during a process of democracy building. There must a prior legal or social compact that determines the relationship between ruler and ruled and constitutes the foundation of any competitive process.¹⁴ This comes in the form of a consensual constitution that

sets the rules for political life and guarantees civil liberties in a way that preserves the rights of all segments of society and ensures the separation of powers and full judicial independence.¹⁵

Such sound constitutional foundations existed in the case of Tunisia. One of the first steps taken in the country's transition was to build transitional institutions on a consensual basis with the participation of all significant political and social actors, setting it on the path to the construction of permanent institutions. The creation of the Supreme Authority for the Realisation of the Revolution's Goals, Political Reform, and Democratisation, which included most political parties and civil society organisations, paved the way for the elections of the National Constituent Assembly,¹⁶ whose mandate was to oversee the transitional period and write a consensual constitution that truly represented the elected assembly.¹⁷ Based on that constitution, presidential and legislative elections were held in 2014 to elect the first post-revolution parliament, laying the cornerstone for the democratic state.

The Tunisian case clearly shows that the success of elections (parliamentary and presidential) in securing the transition depends on having a constitution reflective of a broad national consensus¹⁸ that establishes a real balance of power between the executive (represented by the president and prime minister¹⁹) and the legislature.²⁰ In contrast, the constitutions of Morocco and Algeria are more representative of the Arab authoritarian model of 'constitutions without constitutionalism'—that is, constitutions weighted towards the regime that act as vehicles for the achievement of its political objectives.²¹

In Morocco, despite the importance of the 2011 constitutional amendments, the constituent authority—the Consultative Committee to Review the Constitution—failed to rehabilitate the Moroccan constitution and transform it into a foundational, superior law. The drafting process was flawed in many respects. The final document served to consolidate the monarchy's control of the constitutional structure, turning the constitution into what professor Rkia El Mossadeq has called 'a discretionary document'.²² This is a natural outcome considering that the ruling elite viewed constitutional reform as a defensive strategy²³ to contain protest movements and circumvent their demands, thereby preserving the existing political system. Ultimately, this drained constitutional reform of any real substance²⁴—some people even began to speak of reforming the constitution to save it.²⁵

Given this framework, how can elections ensure a successful democratic transition when the institution of the monarchy dominates the executive, legislative, and judicial branches, with the king occupying the central position in political and constitutional life under the new constitution? Even assuming that the executive, legislature, and judiciary are independent authorities as stipulated in Chapter One of the constitution, their subordination to the head of state limits the effective function of elections. How can legislative elections, for example, contribute to a successful democratic transition given the constitutional restrictions on the legislative process? Although constitutional reforms did enhance parliamentary prerogatives, the legislature remains subordinate to the executive.²⁶

Although Algeria has witnessed two rounds of constitutional amendments since the outbreak of the Arab Spring revolutions, the 1996 constitution, amended in 2016 in response to popular

protests, does not correspond to Algerians' hopes for reform and change. The document gives the presidency monarchical powers that enable it to control the government and state institutions, while also curbing parliamentary oversight of the executive.²⁷ The situation remained much the same after the 2020 constitutional reforms. Although those amendments were approved by sixty-seven per cent of voters in a popular referendum in November, turnout did not exceed twenty-four per cent—the weakest turnout in Algerian electoral history²⁸—due to an extensive boycott of the poll, which denies the amended constitution any claim to popular legitimacy.

Not only is the Algerian constitution tailored to the executive, it is an extremely malleable document. More than once it was amended under former President Abdelaziz Bouteflika to foreclose opportunities for his competitors and allow him to become president for life. In 2008, the article limiting presidents to two terms of office was removed. Although it was reinstated with the 2016 amendments, Bouteflika nevertheless ran as a presidential candidate yet again, essentially resetting the clock to zero by considering what would be his fifth term in office as his first under the newly amended constitution.²⁹ This prompted unprecedented popular protests starting on 22 February 2019, which soon spread to most cities in the country and ultimately compelled Bouteflika to submit his resignation on 2 April 2019.

The constitutional amendments of 2020, undertaken in response to popular protest, did introduce important provisions: They shored up civil liberties, strengthened the position of the prime minister, reinforced the principle of judicial independence, replaced the Constitutional Council with the Constitutional Court, and introduced a two-term limit on the presidency.³⁰ Nevertheless, the constitution is less a genuine law that reflects the will of the Algerian people than a flexible tool wielded by the military establishment, which remains the main power centre in the country, despite Article 7 naming the people as the source of all authority and despite the assurances of President Abdelmadjid Tebboune that the 2020 reforms are consistent with the prerequisites of a modern state.³¹

A Fair, Appropriate Electoral System

The electoral system is an important indicator for measuring the political will for reform in modern democracies.³² An electoral system that ensures fair representation for all power centres in society is fundamental to the effectiveness of elections. The electoral system should be appropriate for a country's political, social, and economic conditions and accord with the composition of society while showing due regard for the rights of ethnic minorities and guaranteeing fair participation in decision making for all segments of society.

In emerging democracies and democratising countries with sharp social polarisations, a system of proportional representation is often more effective since it acts to bring all social constituencies into state institutions, which is vital and necessary to support the democratic system. If all constituencies do not have equal opportunity to participate in decision making, elections can have counterproductive results, fuelling contention and social conflict and thus afflicting the transition.³³

In Tunisia, the electoral system was reengineered based on the needs of the transition period starting in 2011. A system of proportional representation was adopted to elect the Constituent Assembly, which was tasked with writing a new constitution and convening legislative and presidential elections. This provided for political representation of all segments of society, as well as for representation and participation of small parties.³⁴ The 2014 electoral law also guaranteed parliamentary representation for women without requiring a quota—women currently occupy twenty-five per cent of parliamentary seats³⁵—through Article 24, which requires party lists to alternate male and female candidates on their slates.

Voting based on a proportional representation system tends to discourage concentrations of power and foster the formation of power-sharing governments, which insulates young democracies against the trap of the electoral or competitive authoritarianism that can result from free and fair elections.³⁶ Regarding the organisation of elections, an independent, civilian board was elected to supervise the 2011 elections, after which the Supreme Independent Election Authority—a constitutional, elected body—was established to oversee the 2014 parliamentary and presidential elections.³⁷

In contrast to Tunisia, where social and political conditions dictated a list system to ensure broad participation by all constituencies, with the goal of writing a consensual constitution; in Morocco, the current system of proportional representation has been a major factor in political instability, precluding the election of a cohesive majority capable of forming a solid, stable government able to enact its program. The system in Morocco enables party leaders to unilaterally control the party apparatus through the appointment of party slates and the national slate for women and youth, which is inconsistent with democratic principles. Similarly, it fosters a system in which loyalty to party leadership is determined on the basis of nepotism, ethnicity, and pure interest. In the Moroccan experience, the existing system has not achieved the goal of boosting participation in elections as it has in other cases, nor has it reduced the incidence of vote buying.³⁸ At the same time, the Moroccan constitution states, ‘Free, fair, and transparent elections are the foundation of the legitimacy of democratic representation. The public authorities shall remain neutral vis-à-vis all candidates...The authorities competent to organise elections shall oversee their implementation’.³⁹

The question here is: Who are the competent authorities and how is the fairness of elections guaranteed? Why does an independent judiciary not organise elections? The constitution is silent on all these questions, allowing the Interior Ministry to unilaterally oversee electoral processes without regard for voices advocating for the creation of an independent national election board similar to that in Tunisia (an elected authority) or Algeria (an appointed body). Morocco’s political stability may indeed have contributed to the political regime’s refusal to heed this demand.

With elections coming in October 2021, it was hoped that voting reforms could be an avenue into broader political reform. Proposals were made to abandon the system of proportional representation, the goal of which is to foster trust between political actors, and instead adopt a two-tiered individual constituency system to encourage greater political clarity and distinction between parties. Voting for individual candidates instead of lists would put citizens more in touch with

elected institutions, strengthen party performance, and enable the formation of strong party coalitions based on programmatic and ideological affinity, in turn giving rise to a well-defined polarity between conservative and progressive parties.

Nevertheless, the electoral reforms approved by parliament in March 2021 both expanded individual constituency seats, in order to promote more direct democratic contact, and adopted a new electoral quotient for the distribution of seats that counts registered non-voters as well as voters,⁴⁰ a change that will obstruct rather than foster democratisation. Although the Constitutional Court ruled the quotient legal, several leaders of the Islamist Justice and Development Party (JDP) in government called it a coup against democracy and a fundamental infringement of the core democratic process that weakens representative institutions, according to Prime Minister Saadeddine Othmani. The JDP asserted that the new electoral quotient would foster tribalism, with the goal of preventing it from winning the coming elections. The new seat distribution system is ‘an aberration with no cognate in international experiences’ whose aim is ‘to create undemocratic conditions that will set Morocco back decades’, party leaders said. The result will be a façade of pluralist politics, made up of weak, ineffectual political parties.⁴¹

In Algeria, the selection of an electoral system is one of the most contentious aspects of political reform. Under the election law ratified by the president in March 2021, parliamentary and municipal elections, scheduled for June 2021, will be held under a proportional representation, open-list system, which will permit voters to rank the candidates on a single list based on their own preferences, unlike the old closed-list system, in which voters simply voted for a list but had no say in how the party ranked the candidates. More progressive than the Moroccan law, the new law requires fifty per cent of candidates on every list to be under the age of forty and thirty-three per cent to hold university degrees.⁴²

Despite these positive aspects, the law stoked widespread controversy by stipulating that blank or spoiled ballots would be counted in the coming elections as a vote cast for all list members equally. This was perceived as a pre-emptive measure by the regime to counter what is expected to be a popular boycott of the coming elections.⁴³

Regarding election oversight, for the first time in Algeria’s history since independence from France in 1962, an independent commission was created to organise and monitor elections. The National Independent Election Authority is made up of fifty members of civil society institutions, including four judges; the body has limited power, however, and is viewed as unconstitutional. Although the 2016 amended constitution provided for the establishment of an independent election oversight commission,⁴⁴ the conditions it sets forth differ from the current body, which was formed and staffed in less than a week. Some observers viewed the move as a tactic by the military establishment to ensure the success of the presidential election on 12 September 2019 and guarantee broad participation.

If one of the primary demands of the popular protests in Algeria in 2011 was transferring authority to organise and oversee all aspects of elections to an independent authority, the military establishment, which controls all levers of state and political decision making,⁴⁵ understood that even if it responded to this demand, little would change over the medium term as long as it was

responsible for selecting members of the independent commission⁴⁶ and coordinating the electoral process.⁴⁷

Judicial Independence

A fair judiciary is a basic precondition for elections. As an independent, neutral body, the judiciary is qualified to supervise and regulate electoral processes insulated from the influence and dynamics of the legislature and executive. The reality in most Maghreb states, however, is that the judiciary is not independent and so cannot function as a guarantor for fair democratic elections.

In Tunisia, an independent commission was formed to oversee elections to guarantee their integrity and limit interference by a non-neutral judiciary until it could be reformed and purged of corruption, enabling it to contribute effectively to the construction of the modern state and guarantee its impartiality. This was a crucial step and lent genuine credibility to the electoral process.

In Morocco, harsh sentences handed down to detained activists with the Rif protest movement (Hirak) and the most recent trials of journalists demonstrate that the judiciary is still subordinate to the executive, contrary to provisions for its independence in Article 107 of the constitution. Despite the progress made on this front, the judicial authority is not a protector of the constitution and cannot be considered a guarantor of individual and collective freedoms. An analysis of the structure of the judiciary in the new constitution shows that it is intimately bound to the authority of the king, in whose name sentences are issued and carried out, although the new constitution does add the phrase ‘in accordance with the law’, which is an improvement.⁴⁸

Articles 156 and 166 of the Algerian constitution amended in 2016 guarantee judicial independence and protect judges from all forms of outside pressure and interference that might undermine the integrity of their rulings, and these provisions were strengthened in the constitutional reforms of 2020.⁴⁹ Even so, the way the judiciary treats prisoners of conscience and individuals belonging to or associated with political opposition, and its swift sentencing of old regime figures to contain public anger, illustrate the degree to which the military establishment controls the judiciary.

A Robust Civil Society

As free, voluntary associations of individuals, civil society institutions play a major role in the success of democratic transition and in guaranteeing the effectiveness of democratic elections in supporting democracy building. Relatively independent of the political authority, they are able to monitor the electoral process, guarantee its integrity, and raise popular cultural awareness. Civil society has become a key factor for consideration in discussions of democracy and political reform, which is to be expected considering the role of civic institutions in fostering a culture of political participation and equipping citizens with democratic experience, thus supporting democratic values.⁵⁰

Nevertheless, given the monopolisation of power and the lack of organisational tools for social mobilisation, authoritarian states, including most Maghreb states, employ a carrot and stick

approach to control civil society institutions and subordinate them to the state. They also use various methods to appoint loyalists as heads and directors of civic institutions or other figures capable of managing these organisations in way that serves the interests of the political regime. These states further exercise control over the media to obscure the activities of some civic associations while highlighting those of others.⁵¹

Many observers believe the role of Tunisian civil society was decisive in the success of the democratic transition in the country. This was made clear in late 2013, in the run-up to the 2014 elections, when the Tunisian General Labour Union (UGTT), the Tunisian Union of Industry, Trade, and Handicrafts (UTICA), the Human Rights League, and the National Bar Association mounted the national dialogue initiative that rescued Tunisia from the crisis that would have engulfed the country and dashed Tunisians' hopes for change and reform.⁵²

Some observers suggest we can speak about a certain receptiveness to political transformation in Tunisia, illustrated in particular by its widespread of culture of citizenship and the weakness of sectarian and tribal ties,⁵³ to explain Tunisians' tendency to vote based on political platforms rather than tribal affiliations. The elections of 2011, 2014, and 2019 were contests governed by the rules of politics in which the conflict over political interests was waged in terms of platforms and ideas rather than sectarian or tribal affiliation. This reality is attributable to the particular model of modernisation experienced by Tunisian society in which the law, social relations, and social institutions were built on citizenship, which helped to incorporate various social constituencies into civic frameworks and weaken the control of tribes. It also increased the effectiveness of elections, allowing the country to avoid social division and conflict; conflict for power is instead limited to the contest between political parties and blocs.⁵⁴

Professor Abdallah Laroui believes that with its distinctive secular rationalism, Tunisia has always resembled the European form of the modern state, a situation fostered by the state's adoption of a uniform, universal, public educational system and the avoidance of a two-tiered system.⁵⁵ In Morocco, for example, some 13.7 per cent of primary and secondary students attend private schools,⁵⁶ while in Tunisia only 7.8 per cent do⁵⁷—an accomplishment the Moroccan minister of education believes is worthy of emulation.

One set of researchers believe that beliefs (including religious beliefs), values, and public attitudes have substantial influence on political systems and reform outcomes. This seems clear in the Tunisian case: In less than ten months, the country transitioned from authoritarian rule to free, fair, transparent elections.⁵⁸ Others speculate that that the apparent relative success of the democratic transition thus far is attributable to the role of women and the legacy of Bourguiba. Tunisian women were crucial to Nidaa Tounes leader Beji Caid Essebsi's presidential victory in 2014 with 68.55 per cent of the vote, over Moncef Marzouki, who was the candidate of revolutionaries and - though not explicitly stated - Islamists. One million of 1.7 million women voted for Essebsi.⁵⁹

It is therefore safe to conclude that the power and effectiveness of Tunisian civil society institutions contributed substantially to making Tunisia the sole Arab exception. This is largely attributable to a compulsory, secular modernisation process in the model of Bismarck or Atatürk,

which touched every area of life, including religion. In contrast, in other Arab and Maghreb states like Morocco and Algeria, modernisation was limited to structural or economic affairs, leaving the value system untouched.⁶⁰

In Morocco, civil society is an elite community par excellence. Yet despite its many achievements, particularly in the realm of human rights, civil society has not become a collective, grassroots phenomenon. Nor is Moroccan civil society independent. Indeed, it is an artificial society to some extent, with many of its organisations created top down without regard for the particularity of the local context. The result is that ‘civil society’ in Morocco is a theoretically ambiguous concept and virtually non-existent in practice.⁶¹ As such, it has little influence in mass politics; largely controlled and directed from above, it is an ineffective actor whose role at best is limited to criticism. Nor does it have any influence on political decision and policy making, since most of its institutions are subordinate to the political authority in one form or another.

The same is largely true in Algeria, where civil society is weak and unable to reproduce itself independent of the political authority/state.⁶² This is to be expected considering the problems it encounters. Algerian civil society is facing a crisis of identity that goes back to the French occupation as well as a crises of participation, a result of the ruling elite’s refusal to include civil society forces in political life, which is dominated by the military establishment. There is also a crisis of integration, seen in the severe divisions within Algerian society, which continues to be dominated by traditional structures. State support for civil society is of limited effectiveness as long as the main purpose of such aid is containment and control through the provision of preferential support based on an institution’s proximity to the central authority. As a result, most civil society institutions in Algeria are dependent on the state.⁶³

Elections’ Contribution to Political and Constitutional Reforms

As the foregoing analysis shows, a healthy political, social, and legal climate and democratic practices did exist in Tunisia prior to the organisation of elections. A consensual constitution and a mature, effective civil society were particularly decisive in ensuring that Tunisian elections functioned as a real mechanism for democratic consolidation. In contrast, Morocco and Algeria lacked the necessary conditions for elections to act as a genuine instrument for democratisation. This is clearly demonstrated by electoral outcomes in Morocco, where elections became a tool to obstruct political and constitutional reforms, and in Algeria, where they served to reconstitute the old regime.

Tunisia

Legislative and presidential elections in Tunisia at all stages proved to be an effective mechanism for rebuilding the institutions and legal structure of the Tunisian state given the consensus among political elites on the form of the modern state, the participation of all segments of society in the transition process, and their shared understanding and political awareness of the rules of the transition. Independent, fair elections helped to usher Tunisia into the post-transition phase, known

in the scholarly literature as democratic consolidation.⁶⁴ This was clearly demonstrated in the democratic election of a president in 2014 who was neither part of the old guard nor associated with corruption, in the first free presidential election after the Jasmine Revolution.

The presidential election called in the wake of Essebsi's death saw the entry of academic Kais Saied, a fierce opponent of the old regime and a strong supporter of the demands of the Tunisian revolution. Running a self-funded campaign, Saied relied on youth volunteers and had no media machine or conventional political backing to speak of. He won an overwhelming victory in the second round of elections in October 2019, taking 72.17 per cent of the vote,⁶⁵ reviving the hopes of the revolution.

One example of how elections contributed to the democratic transition's success is offered by the media, which was opened up to all competitors, allowing citizenry to become familiar with candidates' platforms and ideas and make an informed choice. A rarity in the Arab region, a televised debate was organised for all presidential candidates, laying the foundation for the adoption of this democratic tradition, which has long-standing currency in other democracies because of its positive impact. In adopting this practice, Tunisia entered the exclusive realm of democratic systems, taking another important step on the road to democratisation and indicating a desire to cement a new electoral culture based on openness and dialogue.⁶⁶

Morocco

Although largely conducted in accordance with sound technical and legal standards,⁶⁷ elections in Morocco have not supported democratisation. Since the 2011 parliamentary elections, elections have been neutered to such a degree that they cannot be separated from the larger problems of the aborted transition. In addition, the requisite political and legal conditions for elections were lacking. There are numerous demonstrations of the political regime's manipulation of the will of the electorate in the service of its own interests, specifically in the methods it used to control the outcome of the 2016 elections.⁶⁸

If every democratic transition produces its own legal and organisational lexicon and cast of political and social actors, making room for groups like women and youth, the negligible participation of women in political life is one indicator of the failure of elections in Morocco. Women make up only seventeen per cent of the new government formed in October 2020, in contravention of constitutional provisions for equality between men and women.⁶⁹ Women are thus largely excluded from decision-making power, in particular from positions in the so-called sovereign ministries and even in ministries of strategic importance.

The Hirak and the 20 February movement played a major role in forcing the retreat of the technocratic government elite.⁷⁰ The elections of 25 November 2011 reengineered the position of political parties, and for the first time, the state relinquished the foreign affairs and interior portfolios to two partisan ministers. Regardless, the technocrats returned in force in the new government appointed in October 2019, taking nine ministerial portfolios, or 37.5 per cent of cabinet posts, all of them sovereign or strategically important ministries. This marked the resurgence of the kind of non-politicised governance that theoretically came to an end with the

Arab revolutions and the new 2011 constitutions.⁷¹ This raises questions about the function of elections and their role in political reforms in Morocco.

We may also speculate about the role of the elected government given the persistence of a set of public institutions, bodies, and committees directly subordinate to the monarchy. This essentially makes the elected government a caretaker government, unable to enact public policies outlined in its electoral platform or meaningfully participate in crucial decision making.

Algeria

In Algeria, the military establishment is the biggest obstacle to genuine democratisation, insofar as it sees itself as the guardian of such a transition with the goal of maintaining its own interests and privileges.⁷² Most participants in the peaceful protest movement viewed the 2019 presidential elections as a means of consolidating the counterrevolution and restoring the pillars of the old regime.

In fact, in organising elections, the Algerian regime sought to encourage demonstrators to go home. And indeed given the current constitution, the existing electoral law, and the composition of the bureaucracy, the regime was able to avoid any electoral upset. Ultimately, the regime reproduced its civilian façade⁷³ with the election of a president who is a symbol of the current regime.

There were several indications that the military establishment intended to use the election to impede the political reforms demanded by the Hirak and re-legitimise old regime figures. For example, all the presidential candidates were part of the old guard of the Bouteflika era, which spurred a widespread boycott of the elections, particularly in tribal areas. Thus did the Algerian Hirak set the stage for elections, but instead of proving key to resolving the crisis, the elections simply set off a new crisis.

The outcome of the election in Algeria was a seventy-five-year-old president presiding over a government which a great many scholars doubt will be able to exercise power and enact policies reflective of a genuine transition to democracy. There are also forces contesting the authorities and prerogatives of the executive, legislative, and judicial branches, most significantly the military establishment. The funeral for the army chief of staff Ahmed Gaid Salah—comparable in pomp to that of a head of state—is an apt demonstration of who really wields decision-making power in the country. All of this raises questions about the functional effectiveness of elections in Algeria.

Conclusion

Elections have not contributed to a successful democratic transition in most Maghreb countries, having failed to occupy a crucial position in existing political systems. Practically speaking, the mechanics of government formation remain separate from election results, uninfluenced or resolved by the will of the electorate. The problem is not elections per se, but the context in which they take place, which distorts their effectiveness and function; instead of functioning as a tool for the consolidation of a democratic system, they become a means of obstructing democratisation.

Elections are an instrument for the application of democratic principles, and the principles must precede the electoral process to ensure elections properly perform their main function of guaranteeing a peaceful rotation of power.

Elections failed to bring genuine political reform or foster the consolidation of democracy in most Maghreb countries that experienced political and constitutional transformations with the Arab Spring revolutions because they were held in an unfavourable political, legal, and social climate that lacked the democratic practices necessary to support the function of electoral processes.

This applies to both Morocco and Algeria. Neither country enjoyed the conditions necessary to achieve the goal of elections, although they were conducted in accordance with proper technical standards. Elections were used as a means of control rather than change. In Morocco this led to an abortive transition process, while in Algeria elections were rendered meaningless, resulting in the reconstitution of the old political regime. In contrast, in Tunisia, a progressive, democratic constitution drafted by an elected constituent assembly along with a fair electoral system, a robust, mature civil society, and an independent judiciary that is not subject to dictates of the executive authority combined to make elections a tool for democratisation and the establishment of the rule of law. The question now is if Tunisian elections will continue to support the consolidation of a stable democracy and whether this year's elections in Morocco and Algeria—conducted in the absence of any real political stakes—will devastate what remains of the hope for change and reform.

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¹ Tawfiq Ibrahim, Hassanein (2013) 'al-Intiqal al-Dimuqrati: Itar Nazari' [The Democratic Transition: A Theoretical Framework], Al Jazeera Centre for Studies, 24 January, accessed 18 April 2012, <https://studies.aljazeera.net/ar/files/arabworlddemocracy/2013/01/201312495334831438.html>.

² Ménil, Alain (1996) 'Transition Démocratique: Un Concept Problématique', in L. Hurbon (ed.) *Les Transition Démocratiques. Actes du Colloque International de Port-au-Prince, Haiti* (Paris: Syros), p. 367.

³ Blaise Ogou, Dogba (2016) *Les Evolutions de la Règle Electorale dans les Systèmes Politiques Transitionnels: Les Elections Législatives en Europe du Sud-Est (1989–2009)* (Bordeaux: Bordeaux University Press), p. 1.

⁴ Fregosi, Renée (2011) *Parcours Transnationaux de le Démocratie. Transition, Consolidation, Déstabilisation* (Brussels: Peter Lang), p. 47.

⁵ Huntington, Samuel (1993) *The Third Wave: Democratization in the Late Twentieth Century* (Oklahoma: Oklahoma University Press), p. 68.

⁶ Blaise Ogou, p. 20.

⁷ Madi, Abd al-Fattah (2007) 'Mafhum al-Intikhabat al-Dimuqratiya' [The Concept of Democratic Elections], Arab Committee for Human Rights, accessed 11 January 2021, <http://www.achr.eu/old/art220.htm>.

⁸ Coppedge, Michael et al. (2011) 'Conceptualizing and Measuring Democracy: A New Approach', *Perspectives on Politics* 9 (2), pp. 247–267.

⁹ Rulers have developed tools and methods to control electoral processes—called the 'technology of manipulation' in the literature—in order to achieve other than the desired outcome, most importantly legitimising themselves and alleviating pressures for reform. See Abd al-Fattah Madi.

¹⁰ Ibrahim al-Baz, Majda (2017) *al-Intikhabat ka-Aliya min Aliyat al-Taghyir al-Siyasi wa-Dawruhu fi I'aqat al-Tahawwul al-Dimuqrati fi al-'Alam al-'Arabi* [Elections As an Instrument of Political Change and Their Role in Hindering the Democratic Transition in the Arab World] (Nablus: al-Najah National University Press), p. 3.

¹¹ Ibid.

¹² Democratic elections have occupied a prime position in democracies since Joseph Schumpeter defined democracy in 1950 as a set of measures and institutions by which individuals may participate in the political decision-making process through competition in free elections.

¹³ Tawfiq Ibrahim, Hassanein.

¹⁴ Madi, Abd al-Fattah.

¹⁵ Ibrahim al-Baz, Majda, p. 12.

¹⁶ Ayash, Aisha (2016) 'al-Islam al-Siyasi wa-l-Tahawwul al-Dimuqrati fi Tunis: Qira'a fi Tajribat Harakat al-Nahda fi al-Hukm' [Political Islam and the Democratic Transition in Tunisia: A reading of Ennahda Movement's Experience with Governance], Democratic Arab Centre, September, accessed 7 April 2021, <https://democraticac.de/?p=37201>.

¹⁷ Economic and Social Commission for Western Asia (2015) *What Remains of the Arab Spring? Challenges Impeding the Achievement of Social Justice in the Arab Region* (Beirut: UN Publications), pp. 35–37.

¹⁸ Jamal, Amal and Anna Kensicki (2016) 'A Theory of Critical Junctures for Democratization: A Comparative Examination of Constitution-Making in Egypt and Tunisia', *Law and Ethics of Human Rights* 10 (1), p. 38.

¹⁹ The Tunisian prime minister is more independent of the head of the state under the 2014 constitution than under the Moroccan constitution of 2011.

²⁰ Al-Radisi, Hamadi (2016) 'Tunis bayn Tad'im al-Dimuqratiya wa-Tafakkuk al-Dawla' [Tunisia between the Consolidation of Democracy and the Dissolution of the State], *Siyasat Arabiya*, pp. 17–18.

²¹ Tariq, Hassan (2016) *Dusturaniya ma ba'd Infjarat 2011: Qira'at fi Tajarib al-Maghrib wa-Tunis wa-Misir* [Constitutionalism after the 2011 Uprisings: Readings in the Experiences of Morocco, Tunisia, and Egypt] (Doha: Arab Centre for Research and Policy Studies), accessed 8 March 2012, <https://www.dohainstitute.org/ar/BooksAndJournals/Pages/art738.aspx>.

²² El Mossadeq, Rkia (2014) 'Les Dérives du Pouvoir Constituant', in Omar Bendourou et al. (eds.) *La Nouvelle Constitution Marocaine a L'Épreuve de la Pratique* (Casablanca: Editions la Croisée des Chemins), pp. 9 and 11.

²³ For Michel Crozier, the concept of the defensive strategy is about the political agent's efforts to evade the pressures of other actors by taking cover within the organisation while working to expand the margin for action.

²⁴ The concept of constitutional reform refers to a significant change in the state's constitutional order. The goal of the change is to improve this order by limiting dysfunctions in line with its requirements. See Duhamel, Olivier, and Yves Mény (1996) *Dictionnaire Constitutionnel* (Paris: PUF), p. 1044.

²⁵ Madani, Mohammed (2014) 'Constitutionnalisme sans Démocratie: La Fabrication et la Mise en Oeuvre de la Constitution Marocaine de 2011' in in Omar Bendourou et al. (eds.) *La Nouvelle Constitution Marocaine a L'Épreuve de la Pratique* (Casablanca: Editions la Croisée des Chemins), p. 35.

²⁶ Madani, Mohamed, Maghraoui, Driss, and Saloua Zerhouni (2013) *The 2011 Moroccan Constitution: A Critical Analysis* (Stockholm: International IDEA), pp. 6–7.

²⁷ Meddi, Adlène (2020) 'Quelle Constitution pour l'Algérie de l'après-Bouteflika?' *Le Point*, January, accessed 28 February 2021, https://www.lepoint.fr/afrique/quelle-constitution-pour-l-algerie-de-l-apres-bouteflika-13-01-2020-2357480_3826.php.

²⁸ 'Hadhaqa, Abd al-Hakim (2020) 'al-Jaza'ir: Ma Dalalat al-Muqata'a al-Wasi'a li-Istifta' al-Dustur al-Jadid?' [Algeria: Implications of the Broad Boycott for the Referendum on the New Constitution], Al Jazeera, November, accessed 17 February 2021, www.aljazeera.net/news/politics/2020/11/2/.

²⁹ Nouri, Dris (2019) 'Algeria's Presidential Elections: Stopping a Democratic Transition?' Arab Reform Initiative, November, accessed 4 March 2021, <https://www.arab-reform.net/publication/algerias-presidential-elections-blocking-a-democratic-transition/>.

³⁰ Article 88 of the amended 2016 constitution states, ‘The duration of the presidential term is five years. The president may be re-elected once’. The 2020 amendments made the provision more precise, stating, ‘The duration of the presidential term is five years. No person may hold more than two terms, successive or non-successive’.

³¹ Pérez, Carlota (2020) ‘Les Principaux Points de la Réforme de la Constitution Algérienne’, Atalayar, 14 September, accessed 14 March 2021, <https://atalayar.com/fr/content/les-principaux-points-de-la-r%C3%A9forme-de-la-constitution-alg%C3%A9rienne>.

³² Zaghouni, Rabih (2016) ‘al-Nizam al-Intikhabi ka-Mu’ashshir li-Qiyas Iradat al-Islah al-Siyasi fi Dimuqratiyat al-Mawja al-Thalitha: al-Jaza’ir Namudhajan’ [The Electoral System as an Indicator of the Will for Political Reform in Third-Wave Democracies: The Example of Algeria], Centre for Arab Unity Studies, accessed 2 March 2021, <https://caus.org.lb/ar/home/>.

³³ Ibrahim al-Baz, Majda, p. 14.

³⁴ Qarih, Kinza (2016) *Ta’thir al-Nizam al-Intikhabi ‘ala al-Intiqal al-Dimuqrati: Dirasat Halat Tunis 2011–2014* [The Influence of the Electoral System on the Democratic Transition: The Case of Tunisia 2011–2014], MA Thesis (Oum El Bouaghi: College of Law and Political Science), pp. 73–74.

³⁵ Although this figure (the outcome of the October 2019 elections) exceeds the global average for women’s parliamentary representation, it nevertheless represents a substantial decline from the 2014 elections, in which women won 31% of the seats.

³⁶ Al-Radisi, Hamadi, p. 17.

³⁷ Ibid.

³⁸ al-Tawil, al-Jilali (2020) ‘Hal al-Maghrib fi Haja li-l-‘Awda li-Namat al-Iqtira‘ al-Fardi?’ [Does Morocco Need to Return to an Individual Vote System?], Barlamane, February, accessed 13 April 2021, <https://www.barlamane.com/>.

³⁹ Article 11 of the 2011 constitution.

⁴⁰ Subsequent to the amendment, Article 84 of the law regulating the House of Representatives provides for the distribution of seats to electoral lists using an electoral quotient derived by dividing the number of registered voters in the electoral district by the number of seats designated to the district; under the previous system, the quotient was derived by dividing the number of valid votes by the number of designated seats.

⁴¹ Benasiria, Youssef (2021) ‘Ma‘arakat “al-Qasim al-Intikhabi” fi al-Maghrib: Ma Mawqa‘uhu bi-l-Nisba ila al-Dimuqratiya?’ [The Battle of the ‘Electoral Quotient’ in Morocco: What Does It Mean for Democracy?], TRT Arabi, 23 March, accessed 20 April 2021, <https://www.trtarabi.com/issues>.

⁴² Lahiani, Othman (2021) ‘al-Ri’asa al-Jaza’iriya Tanshur al-Qanun al-Intikhabi al-Jadid’ [The Algerian Presidency Releases the New Election Law], al-Araby al-Jadid, 12 March, accessed 17 April 2021, <https://www.alaraby.co.uk/politics/>.

⁴³ Yahi, Ali (2021) ‘Jadal hawl Kayfiyat Ihtisab al-Waraqa al-Bayda’ fi Intikhabat Barلمان al-Jaza’ir’ [Controversy over How to Count Blank Ballots in Algeria’s Parliamentary Elections], Independent Arabia, 25 March, accessed 19 April 2021, <https://www.independentarabia.com/node/205766>.

⁴⁴ Article 194 of the Algerian constitution amended in 2016.

⁴⁵ Deutsch Welle (2017) ‘al-Jaza’ir wa-Dawr al-Jaysh fi al-Siyasa: Hal Intaha Zaman al-Inqilabat al-‘Askariya?’ [Algeria and the Role of the Army in Politics: Is the Age of Military Coups Over?], September, accessed 9 March 2021, shorturl.at/aIMR9.

⁴⁶ Article 201 of the Algerian constitution amended in 2020 states, ‘The president shall appoint the chair of the National Independent Election Authority and its members for one, non-renewable term of six years’.

⁴⁷ Nouri, Dris.

⁴⁸ Madani, Mohamed, Maghraoui, Driss, and Saloua Zerhouni, p. 46.

⁴⁹ Articles 163 and 172 of the Algerian constitution as amended in 2020.

⁵⁰ Hassan, Iman (2017) ‘al-Mujtama‘ al-Madani wa-l-Dawla wa-l-Tahawwul al-Dimuqrati: Itar Nazari wa-Mafahimi’ [Civil Society, the State, and the Democratic Transition: Theoretical and Conceptual Framework] (Manama: Publications of the Bahrain Institute for Political Development), p. 8.

⁵¹ Ibid., p. 43.

⁵² Al-Radisi, Hamadi, p. 7.

⁵³ Ibrahim al-Baz, Majda, pp. 143–144.

⁵⁴ Ibid.

⁵⁵ Al-Dasir, Amuhammad (2017) ‘al-Tahawwul al-Dimuqrati fi Duwal al-Maghrib al-‘Arabi’, Mauritanian Centre for Humanities Research and Studies, July, accessed 7 March 2021, mabdae.info/2017/07/.

⁵⁶ Research and Statistics Division (2019) ‘L’Education Nationale en Chiffres’, Moroccan Ministry of National, Vocational, and Higher Education and Scientific Research, pp. 4, 6, and 8, <https://www.men.gov.ma/Ar/Documents/Depliant18-19.pdf>.

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- ⁵⁷ Leaders (2019) 'Iqbal Mutazayid 'ala al-Ta'lim al-Khass fi Tunis' [Increased Demand for Private Education in Tunisia], 28 December, accessed 18 April 2021, <https://ar.leaders.com.tn/article/5228>.
- ⁵⁸ Jamal, Amal and Anna Kensicki, pp. 10 and 27.
- ⁵⁹ Al-Radisi, Hamadi, pp. 5 and 7.
- ⁶⁰ Ibid., p. 17.
- ⁶¹ Mawazi, Bilal (2014) 'Dawr al-Mujtama' al-Madani fi 'Amaliyat al-Tahawwul al-Dimuqrati bi-l-Mamlaka al-Maghribiya' [The role of Civil Society in Democratisation in the Kingdom of Morocco], *al-Bahith for Academic Studies* 2, pp. 185–186.
- ⁶² Nouri, Dris.
- ⁶³ Marzouqi, Omar (2015) 'al-Mujtama' al-Madani wa-l-Tahawwul al-Dimuqrati fi-l-Jaza'ir: Ishkaliyat al-Dawr' [Civil Society and Democratisation in Algeria: Problematic Role], Centre for Arab Unity Studies, accessed 13 April 2021, shorturl.at/nzDL4.
- ⁶⁴ Linz, Juan, and Alfred Stepan (1996) 'Toward Consolidated Democracies', *Journal of Democracy* 7 (2), p. 15.
- ⁶⁵ The initial results of the 2019 presidential run-off can be found at the website of the Supreme Independent Election Authority, accessed 15 March 2021, www.isie.tn/ar/.
- ⁶⁶ Al-Zayani, Othman (2019) 'Ta'thir al-Munazara al-Talafiziyuniya fi al-Intikhabat al-Ri'asiya wa-l-Mumarasa al-Dimuqratiya fi Tunis' [Impact of the Televised Debate on the Presidential Election and Democratic Practice in Tunisia], Al Jazeera Centre for Studies, 7 October, <https://urlz.fr/fthr>.
- ⁶⁷ The most significant of these standards are guarantees for ballot secrecy, freedom to vote on election day, the right of candidates to monitor elections in their districts through their agents, protection of electoral districts from interference by any authority or body with the purpose of influencing voters in favour of a particular candidate, a fair and transparent vote counting process, the public announcement of results, and adequate time allowed for the submission of complaints.
- ⁶⁸ Jarmouni, Rachid (2016) 'al-Mashhad al-Siyasi bi-l-Maghrib ba'd al-Intikhabat al-Barlamaniya' [The Political Landscape in Morocco after Parliamentary Elections], CNN Arabic, October, accessed 5 March 2021, <https://arabic.cnn.com/world/2016/10/12/rachid-jarmouni-opinion-morocco-elections>.
- ⁶⁹ Finances News (2019) 'Nouveau Gouvernement: Une Présence Féminine Famélique', October, accessed 12 March 2021, <https://fnh.ma/article/actualite-politique/nouveau-gouvernement-une-presence-feminine-famelique>.
- ⁷⁰ A technocracy refers to government in which most ministers are non-partisan experts in a particular field, such as tourism, industry, economics, agriculture, or medicine. A government made up largely expertise-focused, non-partisan ministers is a technocratic government.
- ⁷¹ Jali, Mustafa (2019) 'al-Tiknuqrat wa-l-Siyasa bi-l-Maghrib: Takamul li-l-Adwar Am Tahdid li-l-Istiqrar' [Technocracy and Politics in Morocco: Complementary Roles or a Threat to Stability?], Al Jazeera Centre for Studies, 3 October, pp. 4–5, <https://urlz.fr/fthD>.
- ⁷² Al-Dasir, Amuhammad.
- ⁷³ Nouri, Dris.