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The Sword or the Pen?

The Roles of the Military and Civil Society in Arab Spring Democratization

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Essay Writing

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Research Questions

- To what extent did transitional constitutions and their drafting processes contribute to the failure or success of democratization in Egypt and Tunisia?
- What roles did the military and civil society play in these transitional constitution writing processes, and did they help or hinder the democratization process?

Introduction

Starting in late 2010 with the self-immolation of Mohammed Bouazizi in southern Tunisia, a wave of anti-government demonstrations and revolutions swept across the Arab world, from Morocco to Iraq and almost everywhere in between. Authoritarian leaders were ousted across the region. Tunisian protesters, in the country where the wave of protests started, successfully and almost bloodlessly forced the removal of its authoritarian president, Zine al Abidine Ben Ali, just as Egyptian protestors a few weeks later forced the resignation of their similarly oppressive president, Hosni Mubarak. Many of the protesters, often young people, were driven by a desire for democracy and freedom from the authoritarian regimes that had oppressed them for decades, and both countries started a years-long transitional process to try to turn the revolutionary energy of the Arab Spring into a lasting democracy with increased civil and political liberties. Five years later, both countries have held relatively free and fair presidential and parliamentary elections and witnessed peaceful transfers of power. Tunisia has moved from near the bottom of Freedom House's 7 point Freedom scale to near the top, becoming one of the only countries in the Middle East and North Africa region (MENA) to attain a ranking of "Free." Egypt, on the other hand, has seen its democratically elected government removed and imprisoned in a coup, followed by a dubious election that installed a new military leader who has continued to crack down on human rights, particularly press freedom. Egypt's Freedom Score has remained stagnant throughout the past five years, and it appears that any gains won in the Arab Spring have been lost to a new authoritarian regime. The focus of this article will be to analyze the conditions leading to democratization success or failure in these two countries. As two of the only examples of Arab states even attempting to democratize, a look at these cases is important in the evaluation of democratization theories which were largely conceived in an era in which scholars observed an "Arab exceptionalism" to democratization in which the Arab world remained untouched as democratization spread to nearly every other continent and region.

This analysis will look at Egypt's and Tunisia's transitions through several theoretical lenses. First, I will chronicle each country's transition process, especially their constitutional drafting processes, and examine the effects of these on the failure or success of democratization. Having done that, I will identify institutional actors that contributed to the differences between each country's transition, namely the military and civil society, and assess whether those roles support prevailing theories about democratization.

Theory

Catherine Turner, though noting that transitional constitutions are not the most thoroughly studied aspects of regimes in transition, asserts that transitional constitutionalism is coming increasingly into the spotlight for those study democratization. She asserts this shift is due to a realization that in many modern cases transitional constitutions' role to "shape rather than reflect [the] national identity" and "provide a focal point around which the citizens of a State can unite," (Turner 270). As such, these constitutions must distance the incoming regime with the outgoing authoritarianism, through the incorporation of human rights protections and the inclusion of historically marginalized groups (271-272). Failure to sufficiently remove or abolish the structures by which the former regime maintained their power leads to the risk that another group or groups trying to use those same structures to establish a new authoritarian regime under their own rule.

Others note the importance of not only the new constitutions' content, but their processual legitimacy through means such as transparent and broadly participatory constitution drafting processes (Johnson 1010-1011). Especially in countries with little to no history of democracy, the transitional process can establish important precedents and democratic norms, such as consideration for the views of the minority, coalition building, compromise, and the peaceful transfer of power. Another reason to look at democratic transitions in particular is the fact that transitional constitutions by their nature do not exist pre-transition, but some or all of the institutional actors that play a role in the transition do exist pre-transition, and an examination of those institutions and their role in helping or hindering democratization could lead to important insights about the potential democratization of other authoritarian regimes which do not have a transitional constitution but may attempt to go through democratization in the future.

The military and civil society have both been the subject of discussion for their effect on democratization. There is less written about the military's role, and almost no empirical studies, but the literature that does exist generally agrees that the military's separation from the political realm is important to the survival of democracy, and therefore politicized militaries threaten democratic stability and countries with politicized militaries have a greater chance of returning to authoritarianism (Tusalem 483). The literature on civil society is more plentiful but in less agreement, with some arguing that civil society acts as a democratizing force while others argue that a weak civil society may actually hinder democracy by creating a form of "participatory authoritarianism" (Way 35, Hassan 1). In these opposing arguments, civil society can act either as a mobilizer against an authoritarian regime or a pacifier of revolutionary passion by providing the illusion of some political freedoms.

The selected cases of Egypt and Tunisia provide a unique opportunity to study democratization for two reasons. They are two of the only examples of attempted democratization in the Middle East and Norther Africa (MENA) region, thus allowing an examination of the applicability of these theoretical approaches in a region which has, for the most part, been untouched by previous waves of democratization. This selection of cases also allows an investigation of the intersection between the two theories. Similarities between Egypt and Tunisia in factors like geography, demographics, type of previous regime, even the time of transition–allow us to examine the differences in the transition process and how different institutions in each country influenced the transition processes in ways that contributed to the failure or success of each fledgling democracy. To assess these institutions' contributions, however, requires first a look at the failure or success of democratization and the constitutions that were or were not able to effect lasting change in Egypt and Tunisia.

The Failures of Egypt's Transitional Process and Constitution

The international rights monitor Freedom House gave Egypt a 5.5 out of 7 (with 1 being the most free and 7 being the least free) for the year of 2010, designating Egypt as a "Not Free" country for the last full year of Hosni Mubarak's presidency. In the five years since that score has changed only once, in 2013, a brief improvement to 5 ("Partly Free") after the democratic election of and peaceful transfer of power to Mohammed Morsi, but with the coup the next year the score returned to 5.5 and has remained stagnant since (Freedom House). Despite having

nominally democratized, holding several referenda and a presidential election which was generally considered to be legitimate, Egypt has failed to make any lasting progress in terms of political rights or civil liberties post-Mubarak. A close look at Egypt's transition reveals that this outcome is not wholly surprising, for there is a little to no democratic legitimacy at any step of the transition, from the first days after Mubarak's resignation, through the revision of the election laws and Constitution, to, of course, the military's coup against Mohammed Morsi, Egypt's first freely elected President.

From day one, rather than responding to Mubarak's departure by trying to implement even modest democratic reforms, The Supreme Council of the Armed Forces (SCAF) suspended the Constitution, gave itself all legislative and executive authority, and soon thereafter issued a Constitutional Declaration. This declaration was drafted without transparency, democratic input or public debate (Aziz 8-9). This lack of processual legitimacy could be overlooked, perhaps, if it produced meaningful reforms and an effective framework for transition to a legitimately elected government. However, the military's hastily composed replacement Constitution retained large portions of the previous 1979 Constitution, leaving in place most of the electoral framework which allowed the National Democratic Party (NDP) to maintain their authoritarian grip on the Egyptian state for decades (Aziz 11). Neither this transitional constitution nor its adoption process fulfill Turner's conditions of creating a break from the previous regime or building national unity through broad participation and consensus building. This theme would reemerge in the years-long battle over the form of the new Egyptian Constitution.

SCAF's original Constitutional Declaration was not intended to be the final form of the Egyptian Constitution post-Mubarak, but many of the its inherent illegitimacy continued to define most of the subsequent amendments made to the Constitution in the years that followed. Of post-Mubarak Egypt's five constitutional revisions, four were written by SCAF or SCAF-appointed bodies. One was written by a Constituent Assembly appointed by the democratically elected National Assembly, but even this amendment process was divisive, with the final stages boycotted by many of the secular appointees who were frustrated with Islamist domination of the assembly. Of the five amendment drafting processes, three were submitted to a public referendum (two of the military-authored amendment packages, as well as the parliamentary appointees' package), and though they were approved each time, none of the referenda garnered more than 41% turnout. The most recent and seemingly final form of the post-transition Egyptian

Constitution was written by a military-appointed committee of legal and judicial experts, then reviewed and debated by a military-appointed committee of fifty people which, while representing a broad array of groups (including political parties, unions, and government bodies), did not at all reflect the opinions of the people. Despite having won two thirds of the vote in the only legitimate parliamentary elections in Egyptian history just one year prior, Islamists were only given one appointment in the military's committee of fifty (Johnson 1013-1027).

Over the course of three years, through a convoluted legal web of various (mostly appointed) committees, referenda, Supreme Court rulings, and military decrees, the transitional constitution process in Egypt was almost completely insulated from any democratic participation, and even the Constituent Assembly, of questionable legitimacy itself but much more democratic than any other of the amendment processes undertaken post-Mubarak, had its constitutional amendments all but nullified in a coup by the military. The military's argument was that the public anti-Morsi protests were even larger than the anti-Mubarak ones had been, and in fact the coup was democratic because it was responding to the will of the people. Despite all of the clear legitimacy issues of the various constitutional amendment processes, it is plausible that, if a group of true democratic-minded reformers were in charge of the final constitution writing process, the final result could be an effective democratic constitution capable of establishing a robust new democracy in Egypt. A close look at the content of the Egyptian Constitution as it stands today shows that this is not the case.

After a nominal regime change, two ousted Presidents, three national referenda, and five rounds of constitutional amendments, one might plausibly think that the Egyptian Constitution would be a vastly different document from its 1971, pre-revolution form. Surprisingly (or perhaps intentionally, depending on the motives of the transitional leaders), each round of constitutional change only amended the previous constitution, a new one was never written from scratch. The committees in charge of each round of amendments were always under short and strict time limits, ranging from two weeks to six months. Under these limits, often imposed by the military directly or through a provision in one of the military's previously written constitutional declarations, the various committees and assemblies did not have time to write a new constitution, and only made efforts to amend the 1971 Constitution, thereby leaving portions of it intact throughout the transition process and to the present day (Johnson 1015-1025). Many

of the most contentious changes involved the role of Islam in government. Under the secular SCAF-authored constitutions, religious political parties and any religious participation in politics were banned (as they were under Mubarak), while the Muslim Brotherhood-dominated Constituent Assembly tried to enshrine Islam and aspects of Sharia law into the constitution they wrote. Both of these approaches were divisive, and pursued at the expense of meaningful democratic reform to election laws or human rights protections, and as Aziz notes, even the changes that appeared to be aimed at meaningful reform are not as constructive as they appear, leaving intact potential for abuse by the ruling party (Aziz 7).

One example of such a change is the shift of election oversight bodies (The High Elections Committee, HEC, and the Presidential Elections Committee, PEC) to judiciary control, rather than the pre-Mubarak composition which included some judges (all appointed by Mubarak, of course) and NDP loyalists who simply rubber stamped sham elections (Aziz 14-15). Shifting these bodies to full judicial control should theoretically depoliticize the election oversight process, but in reality it is just as likely (if not more likely) for the opposite to happen–the politicization of the judiciary. The President still has indirect control over the oversight bodies' competition through his appointment of top judges, and putting the judiciary solely in charge of election oversight puts it directly in the political crosshairs every time there is a partisan dispute over election results. Together, these two factors threaten the independence of the judiciary and creates pressures for them to possibly legitimize sham elections just as in the previous regime (20-22). The PEC, especially, is susceptible to corruption due to its constitutional immunity from any form of appeal or legal challenge (52).

Another instance of discrepancy between theory and practical application in the amended Egyptian Constitution can be found in its provisions about human rights. While the constitution in its current form provides nominal guarantees of protection of civil and political rights (which the 1971 Constitution did as well), the state institutions who played a large role in writing the current Constitution went to greater lengths to protect their own interests and autonomy than to protect the rights of ordinary Egyptian citizens (Johnson 1054). While strong, independent institutions can act as a strong buffer against state overreach, many of the changes to the Egyptian Constitution seem to raise the potential for rights violations rather than decrease them. The military gained so much autonomy as to nearly become a fourth branch of government– the Minister of Defense must be picked from among the officer corps and approved by the SCAF,

the military budget is determined by a national defense council rather than Parliament, and military courts retained jurisdiction over all cases involving military or state security personnel, despite this jurisdiction being one of the major complaints of the protesters who first demonstrated for Mubarak's departure in 2011 (1053). The police and intelligence services also gained more independence–the Supreme Police Council must be consulted about any law affecting police institutions, intelligence officers are shielded from civilian oversight, and an explicit requirement the police to respect international human rights standards was dropped from the draft constitution before its passage (1026). Overall, the processual illegitimacy of the transitional constitution writing led to a problematic (at best) final product for anyone interested in a strong liberal democracy and strong human rights protections in Egypt.

Solving Tunisia's Transitional Troubles through Compromise and Consensus

The transition process in Tunisia faced many of the same conflicts as in Egypt, especially the need to balance secular and Islamist interests, but five years after President Zine El Abidine Ben Ali fled the country, Tunisia has successfully established a democracy in a way that Egypt was unable to do. Tunisia in 2010 had a Freedom Score of 6 out of 7 (worse than Egypt for the same year), but since then has improved its score to 2, ranking as one of the only "Free" countries in the MENA region in Freedom House's annual Freedom in the World Analysis (Freedom House). Much of this success can be traced to important differences in Tunisia's transition compared to Egypt's. After President Ben Ali fled the country, the Prime Minister announced that he would serve as interim President, but the Constitutional Council ruled that the proper replacement of the President in the case of his resignation was the President of the Chamber of Deputies Fouad Mebazaa (Johnson 1028). Which of these men took the post is not necessarily what is important about the decision, but that the decision was respected by all parties. Even in a time of regime change, the Constitution and institution of the Constitutional Council were respected. This helps grant legitimacy to the Constitution as an institution in a way that the military's actions in Egypt (which on multiple occasions suspended constitutions and issued unilateral constitutional amendments) did not. If the Tunisia and its citizens were to rally around a transitional constitution as a national unifier, they needed to trust that that constitution will hold legitimate power and authority, and the actions of the government in the days

immediately following Ben Ali's departure formed a basis for that trust, even before any transitional constitution was in place.

The actual constitution writing process itself was also more legitimate and inclusive in Tunisia than in Egypt. Rather than the secretive, appointed committees that simply revised Egypt's previous constitution, in Tunisia a constituent assembly was *elected* to directly draft a *new* constitution. The election of this constituent assembly was overseen by what was unofficially called the Ben Achour Commission, a group consisting of representatives of a broad array of groups, including transitional government appointees, labor unions, political parties across the political spectrum, youth representatives, families of victims of state security services, members of the Tunisian diaspora (1030-1031). The election organized by the Ben Achour Commission would lead to the formation of the National Constituent Assembly (NCA), which was given legislative and constitution writing authority.

The National Constituent Assembly (NCA) was elected using a proportional list system in an election with 70% turnout. Every other candidate on the lists were required to be women, leading to nearly 25% of the NCA being made up of women, representation similar to or in some cases even better than even some Western, more "progressive" countries such as the United States, Canada, Australia, and France ("Proportion of Seats…"). The moderate Islamist Ennahda party won a plurality of seats (41%) and formed a coalition government with a left-leaning nationalist party and a center left secular party. The NCA passed an interim constitution and gave themselves one year to draft a new Constitution, far more time than any of the various Egyptian committees were given. However, even with this extra time, the constitution writing process was still highly contentious, especially after assassinations of several army soldiers, two secular opposition members, and the coup against Islamist President Morsi in nearby Egypt, all eventually leading to the suspension of the NCA's work and threatening the entire democratic transition (Johnson 1031-1035). The process was revived by a group known as the National Dialogue Quartet, made up of two groups of unions, the national bar association, and the Tunisian Human Rights League. The Quartet presented the government and the opposition with a "roadmap" to democracy, including the resignation of the government in favor of a technocratic caretaker government while the NCA finished the constitution. The NCA was able to compromise on the rest of the outstanding issues and the new Constitution was approved within

the next four months (1036). The resulting document, like the process which created it, differs in several important ways from the Constitution that resulted from the transition process in Egypt.

The Tunisian Constitution, unlike its Egyptian counterpart, created mechanisms of horizontal accountability and new institutions to prevent the kind of state abuse that characterized the previous regime. Official duties and powers are explicitly divided between the branches and between the President and the Prime Minister. Examples include: The President is commander in chief of the armed forces, but the Minister of Defense is appointed by the Prime Minister (under consultation with the President) and the President can only declare war with the approval of three fifths of the Parliament. Protections for minority interests exist in the form of committee seats reserved for opposition party members, allowances for minority-authored legislation, and a provision allowing the opposition to, once annually, establish and chair a committee of inquiry. New institutions are created to hold the government accountable to human rights standards, including independent human rights, electoral, good governance, and anticorruption commissions (Johnson 1054-1055). Time will show whether or not these institutions fulfill their mandates and maintain a robust new democracy in Tunisia over the long term, but they go a great deal further toward promoting healthy democratic norms and practices than the Egyptian Constitution, which largely entrenches and protects the existing corrupt institutions from the Mubarak era.

It seems clear that the quality of these two transitional states' constitutions and the processes that created them played major roles in the survival or failure of each country's nascent democracy. But why did these two countries, finding themselves in similar situations, embark on such differing trajectories, and how did they come up with such different constitutions? Two major factors were the roles in each country of the military and of civil society.

The Exclusionary Role of the Military in Egypt's Transition

The Egyptian military played a large role throughout the entirety of Egypt's transitional process. At best, it committed a series of misguided, paternalistic errors that undermined the will of the people they claimed to be representing. At worst, they exploited a power vacuum by executing a series of bold power grabs aimed at increasing their own stature and installing one of their own as the new Egyptian President. Their unilateral suspension of the 1971 Constitution

and complete takeover of legislative and executive authority on the very day that President Mubarak resigned set a precedent of disrespect for any legal or institutional authority (other than their own of course) which they would reinforce over the next few years with several suspended constitutions, more unilateral constitutional decrees, and of course the coup that removed Egypt's first democratically elected President from office less than a year into his term. SCAF only paid any respect to those democratic norms which could be used to legitimize their actions, such as claiming the large demonstrations against President Morsi justified their coup, and then asking for even larger demonstrations to prove that the "will of the people" supported their decision. It is difficult to definitively determine the motives of SCAF at each point during the transition. As an institution they are opaque in their decision making, with many of their biggest decisions–such as SCAF's second constitutional suspension just two weeks after the first constitutional referendum to approve the military's own proposed amendments–came without even an official explanation, let alone insight into any possible alternative motives (Johnson 1015-1018). Their frequent refusals to allow participation by certain sectors of society–especially Islamists, the youth movements that initiated the revolution, and historically marginalized groups like women and Coptic Christians–precluded the kind of inclusive constitution crafting process that scholars widely recognize as necessary for building a legitimate new democracy (Johnson 1011).

The role of the military in democratization is still an underexplored subject, and was even less so just five years ago when Egypt began its failed experiment at establishing democracy, but research that has since been performed suggests that this outcome should not have been entirely unexpected in Egypt. In his empirical study of politicized militaries in the third wave of democratization, R. F. Tusalem identifies several measures of military politicization that correlate negatively with democratic stability. These include whether or not the military has committed or attempted a coup in the pre-transition past and whether, during the transition, the military demands or establishes "reserved domains" and oversight over the constitution drafting process. These reserved domains are constitutionally granted powers increasing the military's independence from the civilian government, including (among others) whether the military controls certain policies like the defense budget and security policy, whether the Minister of Defense and/or the head of government is a member of the military, whether the military can appoint or override civilian positions in the government, and whether the military is held

accountable for past human rights violations (Tusalem 486-487). At all points during Egypt's transition, the Egyptian military fulfilled most, if not all, of these criteria. Though Egypt makes up only one anecdotal case, the result of its attempted democratization align with empirical findings that a politicized military leads to decreased democratic stability and an increased likelihood of authoritarian resurgence.

The Stabilizing Role of the Military in Tunisia's Transition

The role of Tunisia's military in the transitional period is more nuanced than that of Egypt's, but in many ways it also supports the inverse of Tusalem's hypothesis, that an institutionalized or "professional" military would lead to an increase in democratic stability. Like Egypt's military, Tunisia's did not use violence against protesters, leading early analyses of Tunisia's revolution to conclude that, like the Egyptian military, the Tunisian military effectively defected and cemented the departure of President Ben Ali (Pachon 509). Subsequent evidence has since emerged, however, that contradicts that conclusion, and indicates that the military remained loyal to civilian commanders throughout the transition, both pre- and post-Ben Ali (517). In fact, before Ben Ali fled, the military was beginning to cooperate with the security forces, and though the soldiers did not use force against the protestors, this was due to an order not to use their weapons "unless otherwise commanded" (516). The military had been called in to repress civil unrest before, with force, and while it may be impossible to know if the military would have used force if Ben Ali had stayed in Tunisia, the military's history and the wording of the order seem to indicate that the military was prepared to open fire (516, 521). In fact it was not defections by the military that led to Ben Ali's ouster, but defections by mid-level security service personnel who left their posts to go to the airport and take Ben Ali's family hostage before they could flee the country. Ben Ali himself had intended to stay in the country, but upon being told of the defections and that his security could no longer be guaranteed, he fled as well (518-21). Importantly, in the next few days, the military continued to follow orders from the new interim President, remaining loyal to the institutions of the Presidency and the Constitution rather than Ben Ali the individual or the military's own selfish interests. In fact, the despite its apparent willingness to suppress the demonstrations just days before, in the days after Ben Ali's ouster the military proved a stabilizing force in the country, taking over many of the functions of the state security forces–minimizing looting, manning checkpoints, repelling armed Libyan groups, etc.–

which had all but collapsed after Ben Ali fled the country (521). In this way they were able to keep enough public order to prevent anarchy (as happened in neighboring Libya) without suffocating the nascent democratization process (as happened in Egypt). This, in addition to the setting of democratic precedents in the first few days after Ben Ali fled–namely respect for the Constitution in the form of following the Constitutional Council's ruling on the proper interim President and the military's loyalty to their constitutionally appropriate civilian commanders–created a situation in which democratization could potentially, if not easily, take hold.

There are several theories to try to explain the effect of "professionalization" on civilian/military relations, with differing conclusions on questions such as whether a professional military is more or less likely to disobey a civilian leader in a time of potential regime change (Pachon 510-512). However, evidence from the Tunisian case would seem to suggest that the military's professionalism was a contributing factor to its actions after Ben Ali fled, namely their continued obedience to the civilian authorities in a way that helped establish the proper institutional balance to allow for democratization to occur.

Tusalem's hypothesis seems to be supported by the actions of the military in both Egypt and Tunisia, however it does not explain how or why a military is politicized or professionalized in the first place. If past coups predict the likelihood of future coups, for example, what predicts the occurrence of the first coup? One theory, proposed by Ware, holds that these kinds of civilian/military relationships evolve differently based on the threat environment facing a certain country. According to such a theory, the greater threat environment experienced by Tunisia throughout much of the mid- to late-20th century compared to Egypt would lead to a more outwardly-focused military (Pachon 527). Such an outwardly-focused military would be less likely to meddle with internal affairs or risk destabilizing the country internally in a way that would increase the outward threat to the country. Research in the causes and effects of civilian/military relations areas are still in their early stages are not entirely conclusive on many questions, but given the military's clear and in many ways opposite roles in the transitions of Egypt and Tunisia, further investigation could prove relevant in helping to probe deeper into the question of why some authoritarian states go through democratization while others fail.

Civil Society as a Possible Democratizing Force

The military is not the only actor in post-authoritarian transitions, of course, and if one takes the view that a professional and politically neutral military is important for democratization, it begs the question of who is guiding the transitional process instead? Many scholars in recent years have been arguing the importance of civil society in democratization, Two views of civil society have been put forth, as either a promoter or a hindrance on democratization, and, as with the military, the cases of Egypt's and Tunisia's civil societies contrast in important ways with possible implications on the study of civil society and democratization.

The role of civil society in democratization has been a topic of active research and discussion over the past few decades, with most arguing in favor of civil society's democratizing role as a means both of organizing people and of building the social capital and trust necessary to successfully maintain a democratic state (Plaetzer 256). Not everyone, however, agrees with this analysis. A look at the cases of Egypt and Tunisia provide examples of both arguments. Since civil society was first lauded as a great force for democratization, several counter-examples have emerged in which civil society actually worked counter to democratization efforts (Way 40-41, Sahoo 480-481). The existence of such examples adds a wrinkle to the theory of civil society as a democratizer, and some scholars such as Anastasiia Kudlenko posit more nuanced theories, for example that civil society's influence on democratization is context dependent (Kudlenko 170). It is not simply the presence or absence of civil society, or the quantity of civil society organizations which matter, but the "quality," so to speak, of the civil society, and in what way it is mobilized (Way 37). It is clearly of little dispute, however, that civil society plays a role in democratization, either positive or negative, and as with the military of each country, the roles of civil society in Egypt and Tunisia in their transitions differed in several important respects.

Civil Society in Egypt–For or Against Democratization?

Civil society in Egypt has a long history, stretching back well over a century, but since the 1950's that history has been mostly one of government control and suppression (Hassan 5-9). Independent unions, one of the most important forms of civil society in many other countries, have been defeated in Egypt since the early 1950's. Favorable economic conditions in the 50's,

coupled with new socialist laws designed to improve job security and increase benefits such as health care and minimum wage, decreased workers incentives to form independent unions, which were then banned and replaced with one state run labor federation which proved to be ineffectual at securing worker's rights later when the economy eventually went through a downturn (Totnchi 267-268). Other kinds of NGOs are legally allowed to form, technically, but only with government approval, which can be revoked at any time. Even NGOs which were allowed to exist are frequently the target of surveillance and security incursions by the government (Hassan 6-7, 11). Some associations of businessmen were allowed to exist to help the regime craft economic policy. Since their interests lined up with the regime's–Egypt's economic growth–and they did not ask for political reforms, they were allowed to operate with relative autonomy and financial independence (9-10). In the Mubarak era, more apolitical NGOs were allowed to form, but these are often recognized, along with the state union and the businessmen's associations, as means of consolidating his power, counter to the civil-society-as-democratizer argument. Some have called this kind of state/civil society relationship "participatory authoritarianism" (Hassan 1, Plaetzer 261). This argument rests on the principle that by allowing people a limited amount of participation in a way that Mubarak can still control, he can reinforce power structures and slow potential revolutionary sentiment by giving an impression of increased rights and freedom. Others have argued that the internal democracy of civil society organizations in Mubarak's Egypt was weak, and therefore these civil society organizations could not fulfill their theoretical role of producing real democratic discourse or "train" people in democratic norms (Hassan 13).

However, not all of civil society in Egypt worked contrary to democratization. One important exception to Egypt's heavy restrictions on NGOs was the formation of IGURETA, the country's first legal independent union, which formed in 2007, followed by a few more independent unions (Totnchi 270). These unions did not initiate the 2011 demonstrations, but in the later days of the protests they (illegally) formed a labor federation and worked to organize protestors, fulfilling what Lucan Way calls the "traffic cop" role of civil society–they did not get the "cars" on the "road" (the people in Tahrir Square) but once they were there they could organize, direct and channel them toward (Totnchi 272-273, I 36). And of course the April 6th Youth Movement, founded less than 3 years before the protests that ousted Mubarak (and also an illegal organization) played an important role in mobilizing youth, fulfilling a second of Way's pro-democracy roles for civil society, that of "dispatcher," perhaps most in line with the

traditional idea of civil society as mobilizers for democracy (Way 36). The April 6th Youth Movement and newly formed political parties after Mubarak's ouster also all played roles in speaking out against undemocratic provisions in SCAF's election laws and constitutional declarations over the next few months, leading to a some changes and concessions by SCAF (Aziz 36-37, Johnson 1014). Despite Egypt's eventual failure at democratization, many of the positive steps that the country was able to make toward democracy were facilitated by civil society organizations.

Civil Society's Crucial Role in Tunisia's Revolution

Tunisia had a stronger history of civil society under President Ben Ali than Egypt under Mubarak; some groups were repressed, especially Islamists, but Tunisia under Ben Ali had one of the best education systems in the Arab world and a relatively strong labor movement (Boose 310, 314). These groups and more played a much larger role in Tunisia's transition than Egypt's civil society did in their transition. Like in Egypt, civil society did not act as the initial spark of the revolution, but was crucial in facilitating the transition that followed. Allinson points out that the labor union UGTT spread the protests into the city centers and initiated a general strike that threatened the Tunisian economy and hastened Ben Ali's flight from the country (Allison 301-302). Perhaps most importantly, though, were the transitional roles of the Ben Achour Commission and the National Dialogue Quartet. The Ben Achour Commission organized the election of the National Constituent Assembly (NCA) which would write the new Tunisian Constitution, and had representatives from a broad range of civil society organizations, including regional associations, political parties, unions, youth, and the Tunisian diaspora (Johnson 1030). In addition, the National Dialogue Quartet, comprised of a labor union, an employer's association, the bar association, and the Tunisian Human Rights League, played a crucial role in mediating compromise between the government and the opposition when the constitutional drafting process was on the brink of collapse. The actions of these civil society organizations was viewed as so critical to the success of Tunisian democratization that the National Dialogue Quartet was awarded the Nobel Peace Prize in 2015. Some scholars such as Niklas Plaetzer accuse civil society organizations of trapping and slowing revolutionary fervor, which may to an extent be true, but such an argument underestimates the importance of established institutional structures for building a new democracy. Revolutionary fervor without some kind of structure

backing it up is like a house made of sticks–you can build it up quickly, but it can fall apart even faster if the wolf comes along to blow it down. Civil society, acting properly toward democracy, as it did in the Tunisian case, is like the brick house. It may be slower to build, but is much sturdier in the face of opposition.

Egypt and Tunisia present cases both for and against the civil-society-as-democratizer argument, but it cannot be denied that it plays an important role, and it is likely that the actual relationship is more subtle than simply one or the other. From these two cases it can be said that civil society seems to be necessary but not sufficient for democratization. Regardless of whether civil society in Mubarak's Egypt was part of a "participatory authoritarian" regime or not, there is no evidence that these transitions would have gone better if the demonstrators were simply atomized individuals with no collective organization of any kind. Especially in the Tunisian case, it is hard to imagine a National Quartet-like group springing spontaneously from a mass of unaffiliated strangers to coordinate the resignation of the Ennahda government, installation of a new technocratic government, and mediate between the opposing sides, leading to a robust liberal democratic constitution. These cases do not resolve all of the longstanding questions about civil society's exact role in democratization, but reaffirms that civil society plays an important role in one way or another and is worthy of further investigation.

Conclusion

The post-Arab Spring transitions in Egypt and Tunisia offer a useful comparison in the study of democratization. They are similar in geography, population makeup, former regime type, revolutionary circumstances, and even time of transition, allowing for a meaningful look to be taken at what specific institutional factors play a role in a successful Arab democratization, of which there are few existing examples. This analysis looked at the transition process on several levels and through several theoretical lenses, in an attempt to test existing democratization theories on new and unique cases and determine whether an intersection between the theories could be found in a way that leads to a larger framework for understanding democratization. The importance of transitional processes and constitutions have previously been examined, as have the importance of the military and civil society, albeit to varying extents. By looking at both theoretical approaches in one analysis, it becomes clear that the theories are in many ways complementary. Starting from and accepting a transitional constitutional perspective on

democratization, a natural follow up question would be "Why do different countries go through such different transitions?" which can be answered "Differing roles of the military and civil society lead to different transitional processes and outcomes." On the other hand, if one concludes that the military and civil society play strong determining roles in democratization (either for or against), the natural follow-up question is, "How do these institutions lead to the success or failure of democratization?" which can be answered "Through their participation in or exclusion from the transitional government and constitution-drafting process."

This analysis first examined the transition processes itself and found both countries' transitions supported the theory that more inclusively drafted constitutions are more likely to produce consensus documents that will be able to protect minority rights and support the consolidation of a lasting democracy. The country that allowed participation from a broad array of groups and drafted its constitution with a democratically elected body, Tunisia, was able to establish for its new government a separation from the previous regime and a new constitution that establishes horizontal accountability and new institutions to protect civil liberties and political rights. As such, it has been able to retain its democracy and is now one of the only countries in the MENA region listed as "Free" by Freedom House. On the other side of the coin, Egypt's military-dominated, top-down, exclusionary constitution drafting process led to an insufficiently reformed Constitution and a failure to establish the democratic norms necessary for regime change. These failures precipitated a "popularly-supported" coup against the only democratically elected President in Egypt's history and the reemergence of authoritarianism under a military-backed President who was "elected" under dubious circumstances and has since cracked down on human rights, especially press freedom.

These transitions and constitutions, of course, did not appear from a vacuum, but were the product of interactions between various actors, especially the military and civil society. In Egypt, the military took too much control of the transition, eroding what (if any) democratic norms existed in the country, as well as leading to the exacerbation of divisions and the inability to make the fundamental compromises necessary in any healthy democracy. This provides more evidence in favor of Tusalem's hypothesis about a politicized military's effect on democratization. Militaries like Egypt's that have attempted or performed coups in the past and use transitional circumstances to strengthen their own standing through reserved domains are more likely to intervene in civilian politics in the future, just as was observed when President

Morsi was removed in a coup less than one year in to his term. Tunisia presents the opposite case, in which a professional military leads to the right institutional balance between the civilian and military sectors and sets the stage for an inclusive and effective transition to democracy. Such a finding poses the question of what causes a military to first become politicized, or how to professionalize a politicized military. External threat environments may affect civilian/military relations, but more empirical study is needed before such a conclusion can be reach and its implication for democratization be determined (Pachon 527).

One could use the Arab Spring to argue in favor of or against the theory of civil society as a democratizing factor, but it is clear that it played an important factor in both cases. Some have seen both Egypt's and Tunisia's civil society as a form of "participatory authoritarianism" which pacified a population that might otherwise revolt more quickly and/or slowed revolutionary fervor once it was released in the Arab Spring (Hassan 1, Plaetzer 260-262). However, civil society undoubtedly played a large role in both countries, especially in Tunisia. Both countries saw the initial spark of protest organized and amplified by civil society organizations, especially labor unions. The broad inclusion of Tunisian civil society in that country's transition–from their representation on the Ben Achour Commission to the National Dialogue Quartet's salvaging of the constitution writing process when it was about to collapse–are widely considered to major factors that allowed democracy to be consolidated in Tunisia (Johnson 1055-1056). The answer to the civil society question is clearly more complicated than simply a yes or no question, its role is clearly important, and more research is warranted to determine the relationship between civil society and democratization.

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