STATE-BUILDING AND THE RULE OF LAW IN POST-REVOLUTIONARY ARAB SOCIETIES: THE CHALLENGES OF TRANSITIONAL PROCESSES

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FOREWORD

It has been two years since the Arab uprisings erupted in Tunisia, triggering unexpected events and structural changes across much of the Arab world. It is obviously too soon to analyse the outcomes of the tremendous transformations that are taking place, and some of the most paramount issues that are still being decided will largely determine the social and political face of the Arab countries in the future.

The events occurred during these last two years have risen as much hopes and expectations as fears of involution and further polarisation. Therefore, it is precisely now that serious and serene analysis and exchange of ideas are needed when identifying what the key elements at stake are in order to shape free, fair, plural, accountable and inclusive societies. In fact, people who massively demonstrated in the streets against tyranny and oppression raised their voices to make the autocratic regimes and the whole world aware of their demands, mainly focused on bread, freedom and social justice.

Once the old regimes were toppled, each country has undergone its own transition processes with its own advances and setbacks, but all of them are being drawn to the enormous challenge of state-building. In such a crucial time, when the shape of their future state and society is being defined and discussed – not without much controversy and dissent –, policy-makers, political parties, state institutions, civil society organizations and individuals from all professional, societal and ideological backgrounds are – according to their capacities and degree of engagement - involved in the process of shaping their societies, its political system, its identity, its institutional architecture, among other elements, through the writing of their Constitution as well as through the reform of its institutions and governance mechanisms.

In this long and complex path towards democracy, two issues that focused public opinion's attention during the past two years need to be analysed and explored in depth: civil-military relations and how the security sector is undergoing or not an essential process of reform, on the one hand; and on the other, what is, or should be, the place of religion in the new Constitutions and how religious pluralism and diversity should be managed in modern, diverse and complex Arab societies.

To discuss some of theses issues, explore how political transitions are evolving in different countries, and exchange different experiences from other countries that went through similar processes not so long ago, the organisers have convened this seminar. The meeting will gather scholars and researchers from different fields of expertise as well as students on international relations and contemporary Arab politics, aiming to shed light on the recent social and political developments within the context of Arab transitions.

Far from intending to give any lessons, the presence of scholars from Europe, Turkey, Tunisia and Egypt aims at discussing the "rights and wrongs" of other transition experiences and enrich a debate which is already much at the core of the democratization processes.

REPORT

Roundtable discussion. Towards a Civil, Secular or Religious State? Managing Religious Pluralism, Secularism and Islamism

Chair: Isabel Ramos Rioja, journalist, international desk, La Vanguardia

Speakers

Lurdes Vidal, head of the Arab and Mediterranean Department at IEMed and professor of Contemporary Politics at the Master on the Arab and Islamic World, University of Barcelona

Amel Grami, professor in the department of Arabic studies of the Faculty of Literatures, Arts and Humanities, University of Manouba

Luz Gómez García, professor of Arab and Islamic Studies, Universidad Autónoma de Madrid

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Revolutions, Transitions and Islamic Rule: What Do People Really Want? (Lurdes Vidal)

The uprisings that shook the region two years ago did not fulfill a religious objective or gather people under a religious banner. In fact, the role of Islamists, their access to power, the need to define the nature and the identity of the State within the context of the Constitutional drafting are some of the elements that paved the way to the reemergence of the debate on Islam in politics and the place of religion in the public sphere.

Traditionally, there has been a trend to depict Islam either as the solution or as a problem regarding democracy and probably the answer is that it is none. Therefore, in order to see to what extent religion should play a role in politics, it is important to

explore how people feel and what they really want concerning this dividing and controversial debate. To such end, some recent opinion polls have been analyzed in order to try to find an answer to the crucial question of "what people want".

During the past two years, many polls have been carried out throughout the Arab world to feel the pulse of the Arab street. The survey carried out by the PEW Research Center "Most Muslims Want Democracy, Personal Freedoms, and Islam in Political Life"[1], the "2012 Arab Opinion Index"[2] by the Arab Centre for Research and Policy Studies and the survey carried out by professor Shibley Telhami of the University of Maryland[3], show very interesting results. The main key findings of these polls reveal that although an overwhelming majority of the interviewees accept Islam in political life, most of them are cautious regarding the application of *shari'a* rule and even strongly opposed to a possible takeover led by religious leaders. Thus, if religiosity appears to be a point of reference in these societies, it does not prevail over other parameters (social, economic, cultural, etc.)[4].

At the same time, such elements do not necessarily mean that these countries are moving towards secularism. The so-called French "*laïcité*" is widely rejected in the region, because it is mainly seen as a regime that rejects religion in society instead of guaranteeing the equal treatment of religious groups. It is therefore convenient to deal with a civil State, which is a sort of compromise between a secular and a religious State and try to reach a consensual middle point where all citizens might be comfortable with.

As political leaders are now struggling to reshape regimes, the debate on *shari'a* has become instrumental for popularity reasons. Political actors as well as observers mainly focused on Constitutions, considering this stage as the first step towards democracy. Although this might be true to a great extent, the debate on the definition of the State and particularly the role of *shari'a* has driven to high levels of social polarization. More precisely, the controversy does not concern *shari'a* as a source of law but the importance the Constitution attaches to it (source of inspiration *versus* principles that must be observed and thus law[5]). Despite the fact that the sole mention of *shari'a* in Western media raises concerns, the reality is that indeed, in Egypt Islam was already mentioned in the 1923 Constitution. Besides, as soon as the National Transitional Council came to power in Libya,

[1] http://www.iemed.org/observatori-es/arees-danalisi/documents/arxius-externs/2012/most-muslims-want-democracy-personal-freedoms-and-islam-in-political-life
[2] http://www.iemed.org/observatori/arees-danalisi/documents/arxius-externs/2012/the-arab-opinion-project-the-arab-opinion-index
[3] http://www.brookings.edu/research/reports/2012/05/21-egyptian-election-poll-telhami
[4] For instance, in Tunisia, only 10% said they would give priority to religion in their choice of a candidate. 17% in Egypt said that *shari'a* should be strictly applied.

[5] Examples: article 219: the definition of shari'a says that it covers every single source of rule. Article 4 gives Al Azhar, a non-elected body, the role of an Islamic judge

Mustafa Abdeljalil publicly declared "*shari'a as the source of any legislation*" (3 August 2011) which raised some fears among EU countries and the USA. Beyond the fears this declaration provoked, it appears that such a statement was actually a part of a strategy consisting in gathering the conservatives and the Islamists as well as reaffirming the identity of Libya as a new independent country.

Focusing on the Constitutional drafting process, Libya is still far from achieving the process and currently decides the way the drafting committee should be elected whereas the process raises questions of legitimacy in Egypt - partly because certain constitutional changes could give rise to a strict application of *shari'a*. In Tunisia, political leaders deal with *shari'a* in a different way: civil society is strongly determined to avoid the mention of it in the Constitution. As a result, the reference to Islam in the Constitution has been limited to the Islamic reformist tradition in the prologue of the Charter[6] that should be accomplished soon. Further reference to Islam as the religion of the State is made in Article 1 and the discussion is currently focused over the writing of Article 148 [7]As a result, these constitutional processes have obviously opened a wider gap between Islamists and their opponents, which reveals the urgent need to reshape the State, to define *shari'a*, and to accomplish the constitutional process. In this view, civil society as well as political leaders must reach a consensus over the identity of the State and, therefore, the role of religion, something that has been overshadowing Arab politics and society for decades and now must be unavoidably addressed.

Tunisia: Ennahda facing the transition (Amel Grami)

As in its neighbouring countries, the Tunisian spring called for universal values, not for "Islamic values". The debate on religion came out after the Tunisian Constituent Assembly election (23 October 2011), which surprised Tunisian citizens as many of them thought that the role of religion in daily life was clear. However, after tense debates on these issues, Tunisian citizens are waiting for a second draft.

Constitutions, according to professor Grami, should define the identity of the country, women rights as well as religious freedom. The controversy, according to professor Grami's point of view, draws from the fact that Ennahdha is very diverse and cannot be captured by only one trend: some trends are more prone to push for an Islamic State ruled by religious law. Actually, many associations, mainly

[6] "Building on the fundamentals of Islam and its open and moderate objectives, on the sublime human values and on the principles of human rights; inspired by the civilisation of the Tunisian people over the various epochs of history; emanating from their reformist movement based on their Islamic-Arab identity and on universal civilisational accomplishments; adhering to the national accomplishments achieved".

[7] "No amendment to the Constitution may be prejudice to: - Islam, being the religion of the state.(...)".

charitable organizations, went out in the streets to urge the National Assembly to use *shari'a* as the main Islamic source. Then, certain issues such as child adoption, the use of alcohol, polygamy were raised. The reality is that Ennahda is under a growing pressure exerted by Salafis (constant demonstrations) who urge the government to implement *shari'a* rule. However, Ennahda's position consisted in maintaining the ambiguous article 1 of the Constitution[8] and allowed Salafis to form their own political party (March 2012).

The issue of the identity of the State has obviously become ground for debate within Tunisian society, a paradigm of modernity according to professor Grami: "before elections Rachid Ghannouchi used to refer to the Turkish model when defining Ennahdha's political project, but such a reference has disappeared from political discourse afterwards (...) they seem to be much more interested in applying a wahabi model".

Beyond *shari'a*, gender equality was one of the main reasons for social confrontation. Indeed, the government adopted an article (article 28) stipulating that women were "complementary" to men, which was - according to feminist and other social movements - an attempt to undermine women's rights. Eventually, after much pressure from civil society organizations, this article was deleted on the second draft of the Constitution.

Polarization between secularists and Islamists has grown in recent months, and violence has erupted within Tunisian society risking derailing the process of transition and jeopardizing social peace. The assassination of leftist politician Chokri Belaïd, is a proof of how violence has attempted to dominate the political and social scene and showed how fragile the whole process is.

Finally, many debates that emerged a few decades ago are discussed again. To that extent, issues such as Salafism in politics or women rights show that transition in Tunisia still has a long way to go.

Transitions in the light of Islamist politics (Luz Gómez)

While dealing with Islam within the Egyptian political arena, particularly with the rise of the Muslim Brotherhood and of Salafism, we mostly adopt political science approaches that prevent us from focusing on their own approach of politics and power in politics. From a religious perspective, it seems that the *ikhwan* ("Muslim brothers") keep on defending their own conception of the relationship that exists between *din* ("religion"), *dunya* ("temporal world") and *dawla*. ("State"). The core of

[8] « *Tunisia is a free, independent and sovereign State. Its religion is Islam, its language is Arabic and its form of government is a Republic*». In Arabic, we ignore whether "its religion" refers to the State or to « Tunisia » as a society.

the problem lies in the way they will be able to "manage" such concepts in order to rule the country.

Historically, the term "democracy" has no Arabic equivalent: Arabs rather use *shura* ("consultation"), which could lead to the notion of "*shurocracy*" ("a regime based on *shura*"); concepts on which the Muslim Brotherhood has been working on. The debates within the movement became all the more tense as the Muslim Brotherhood is not a homogeneous and monolithic block.

Back in 2007, a group of *ikhwan* – mainly youngsters and women led by Abdel Moneim Aboul Fotouh - sought the approval of the Brotherhood guidance bureau to prepare a program for the eventual future political party formed by the movement. Aboul Fotouh insisted on that approval as he was committed to taking the Muslim Brotherhood out from "*din"* and "*dunya"* spheres in order to incorporate the organization into the "*dawla"*. Since then, the organization faces a dilemma between the general trend ("*din*" and "*dunya*") and the political trend ("*dawla*"). In fact, Aboul Fotouh - one of the most liberal voices within the movement- faced strong resistances to the politicisation of the movement: he was finally expelled after he announced that he would run as candidate in Egypt's first post-January 25 Revolution presidential elections. Concerning the movement, despite its reluctance, the movement had to adapt to the new political circumstances after the 25 January Revolution and eventually established the Freedom and Justice Party on the 30th April, 2011, an event that reconciled both trends. However, since their access to power, they face mounting challenges and growing unpopularity.

Within the Salafi universe, the aforementioned concepts are harmonized in a different way. Indeed, Salafis substituted "*din*" for "*da'wa*" (preaching of Islam). Ideologically, Salafis used to stay out of politics: they only owned some institutions, charitable organizations, etc. They were very present in Egyptian society but never participated directly in politics, unlike the Muslim Brothers who had already taken part in politics through independent candidates or alliances with other political parties. Concerning Salafis, Egypt's 2011 Revolution brought about a crucial change: Emad Abdel Ghaffour (who has been living in Turkey and established contacts with Turkish Islamists) is actually trying to promote a balance between Salafism and political participation. Abdel Ghaffour was the leader of Al-Nour party in which he stood up as the embodiment of the most liberal wing. He opposed the founding conservative movement Al Dawa, thinking that the religious movement should have a less relevant role within the political party. Besides, since the transitional process started he has been trying to build a bridge between the Brotherhood and the Salafis: the consequence was that he was chosen by President Mohamed Morsi as one of his advisors. The result of such nomination was that he finally left Al-Nour and created a new political party, "*Al Watan*" (the homeland). The choice of the name is not meaningless. *Al Watan* refers to the *homeland*, to an inclusive sense of belonging that does not exclusively refer to

religion or political Islam. Therefore, there is ground to think that a branch of Egyptian Salafism is evolving rapidly with the new political circumstances and proving more resilience even than the mainstream Muslim Brotherhood.

Roundtable discussion. Civil-Military Relations: defining a democratic political system and reforming the security sector

Chair: Eduard Soler, research coordinator, CIDOB

Speakers

Pere Vilanova, Chair of Political Science. Faculty of Law. University of Barcelona

Yaprak Gürsoy, professor of the Department of International Relations – European Institute, Faculty of Economics and Administrative Sciences, Istanbul Bilgi University

Tewfik Aclimandos, research associate at the Chair of Contemporary History of the Arab world at the *College de France*.

Reforming the Security Sector in Times of Transition: "Mission Impossible" (Pere Vilanova)

Security sector reform (SSR) cannot be implemented in times of transition as far as it is a task that only the State can undertake. Since the advent of the Arab spring, experts as well as journalists have been over-using concepts. Yet, in times of transition – transition being defined as a process during which State political system is moving from an authoritarian rule to a democratic regime - we need to be more careful: one thing is national transition and the role of armed forces in transition is a different issue.

With the Arab uprisings, the concept of "regional transition" emerged again: it defines a move during which several State systems of neighboring countries enter into a transition. In all cases, the military issue is important, for what the military did or did not do, or intended to do or could have done. According to such a concept, we assist to the "fourth wave of regional transition":

- The first wave occurred in 1974-1975, in Southern European countries (Portugal, Greece and Spain), where internal structural reasons stimulating transition were coupled with a regional environment that served as an

incentive, a reference and added value (joining NATO or the EU). In all three cases the army was at the core of the regimes and made the right choice at the time.

- The second wave took place in the Southern corn of Latin America (Chili, Argentina, Uruguay...) in the 80's. They went together following the same rhythm and after the process new civilian governments emerged from clean and fair elections.

- The third wave was the post-Soviet transitions, a macro-regional transitional process with its own characteristics;

Today's transitions in the Arab world are characterized by a common set of conditions:

▪ They started simultaneously from one side to another, with some exceptions (Mauritania, which had attempted to build democracy long before; Sudan which faces it own internal problems, Saudi Arabia which experienced some protest movements that remain largely uncovered by world news, and Bahrain where the issue is far from being settled).
▪ To a certain extent, they were matching the standards of the Council of Europe.
▪ These transitions split into very different processes.

In each country, the armed forces play a different role depending on the ultimate role they played in the old regime and on the expected benefits from the possible transition (since they will intend to preserve the power and privileges). Obviously, the nature of the institutions within the previous regime is crucial to determine the role of the army, as well as the neighboring regional dimension and the influence of powerful external friends.

Transition and Military Rule in Egypt (Tawfik Aclimandos)

Three distinct political processes are set up in Egypt: a democratic transition (stalled), a "revolution" (alive) and a theocratic project (in the Muslim Brotherhood's hands). Indeed, democracy is about majority and representation, whereas a revolution is not necessarily representative: in the former, the countryside plays a considerable role whereas, in the revolutionary process, big cities are at the core of the process.

According to professor Aclimandos, democratic transition has failed because the army was not interested in the process. In fact, during the last six months, there have been more attacks against journalists than under Mubarak rule. We have to

take into account that there is absolutely any trust in neither law nor institutions as far as, since 1981, the Emergency Law has been continuously implemented and the vast majority of police officers have always worked under such conditions. Therefore nobody really thinks that law can be seriously implemented, which explains the reason why security problems and social malaise have emerged. To that extent, much evidence tends to demonstrate a poor democratic commitment.

In addition, the security context is currently unmanageable: the spread of weapons throughout the country, the possible collapse of police and the Sinai problem are considerable issues the State has to deal with. People live under real problems and do not have any hope that the State can solve them. There are more than 4 million unemployed university graduates, hundreds of thousands of thugs out in the cities, many street vendors and children who have been abandoned. At the same time, Mubarak system - concentrating the power in the hands of a few - is not dismantled yet. Indeed, the deep State has been maintained:

- The presence of the military within the state apparatus – as well as in the economy - is still overwhelming. Yet, the army – which was initially against the revolution - is not committed to promoting a democratic transition. The military fulfilled one objective: preventing the Muslim Brotherhood from building a coalition with the young revolutionaries. Eventually, this objective has been reached as the former have not built any coalition with the latter.

- The *mukhabarat* ("secret services") system has been strengthened since Morsi came to power. They strongly disagree with the Muslim Brotherhood political agenda and act to counter the influence of the Brotherhood and the Salafis in politics as the *mukhabarat* totally distrust them.

Thus, as long as the deep State is not controlled by civilians, there is no opportunity to carry the transition process further. At the moment police officers are in a state of confusion, those who opened fire against demonstrators during the revolution are treated as traitors, but those who did not and disobeyed orders are insubordinates. For that reason, it is urgent to start with reforming the Egyptian Police Academy in order to reform the deep State. Such a project is all the more laborious as the *ikhwan* seem to fiddle with the situation: on the one hand, they insist on the need to dismantle corruption network whereas, on the other hand, they pretend to defend the State, displaying their sense of national responsibility.

Military rule *versus* civilian rule: Turkey Case Study (Yaprak Gürsoy)

Turkey can be a point of comparison as the regime illustrates the current need in the Arab world to control the military. Since 1950, the Army has been tightly involved in the political process in Turkey, and has intervened at least four times in

Turkish political life, making the process of democracy consolidation very long, slow and complicated. One explication lies in the fact that the military was reluctant to abandon its considerable privileges (overuse of military law, extended powers of the Supreme Military Council, etc.)

The change truly occurred under the AKP party (in office since 2001) as it contributed to making the military increasingly unpopular. The reforms pushed by the AKP were slow and subtle and they mainly took place from 2006. However, the most interesting thing is to analyze the reasons why the military did not interfere in AKP-led reforms. Indeed, the military strongly believed they were still in control of the democratic reform process in Turkey and that only the form would change, but not the substance (*i.e.* the AKP was powerless). In addition, this process is a condition to the accession of Turkey to the European Union. Finally, in 2007, although the Army led an anti-AKP campaign, the AKP party further increased its share of the popular vote. This credit became all the more significant as the AKP forcefully affirmed its authority over the military.

However, the democratic process – that lasted almost 50 years - is still "in progress", which should lead us to concede that the shift from military to civilian power is not a short-term process. Also, it is convenient to keep in mind the role played by the EU in compelling Turkish leaders to carry the democratic reform process further and forcing the military to cede powers.