



In this section:

Interview: Heba Morayef 46

Tunisia:
playing by the rules 50

Interview: Riadh Bettaieb 52

Libya: threats of division,
evidence of unity 56

Interview: Aref Ali Nayed 59

Syria's perilous Arab Spring 62

Yemen since Saleh 66

Bahrain: evolution, not
revolution 68

Egyptian transition

How does the country find a way to move from authoritarian rule to democracy without triggering counter-revolution?

By **Bahgat Korany**, Professor of International Relations at the American University in Cairo (AUC) and Director of the AUC Forum

Post-revolution transition situations – in Egypt and elsewhere – often present a generalised bottleneck. The challenge is to get through the bottleneck toward democratisation, thereby avoiding a potential counter-revolution. To cope with this challenge, we must answer two questions:
- Why does this bottleneck exist? (Diagnosis)
- What are its components, and how to deal with them? (Prescription).

Present-day Egypt is, rather than a monolithic bloc, a set of competing groups in a Hobbesian state of nature. The confrontation is among three principal 'Ms' not yet trained in the rules of democratic contest: the military, the mosque and the (liberal-leftist) masses. The winner that will determine the way out will be the group or coalition most capable of coping with three basic problems: daily security, the economy and governance.

Uncontrollable fall-out

What happened in Egypt in January–February 2011, after 59 years of authoritarian rule, is comparable with a pressure cooker explosion. The outcome is not, at present, a smooth transition to democracy, but rather a huge fall-out of uncontrollable debris. Social demands and political groups are mushrooming daily. Many of these groups confront each other nakedly in the liberated public space, exchanging blows to undermine each other rather than working together to build alliances. This public space becomes an arena for zero-sum games rather than coalition-building or Latin American 'pactos'.

The military, through the Supreme Council of the Armed Forces (SCAF), is the only unified political

What happened in Egypt after 59 years of authoritarian rule, is comparable with a pressure cooker explosion

actor. It possesses gun-power and controls Egypt's 'deep state'. Its men head some public services and governorates, and it controls considerable financial resources through its economic empire. But because of its mastery over these assets, SCAF is exaggerating its capacity to run the country. This is apparent in its (mis)management of 'deep society' dominated by Islamists, their social units and mosque-goers.

The mosque allows its mass followers to meet five times a day (during daily prayers) and holds a form of general assembly once a week (during the Friday prayers). Very few political parties have such a capacity for frequent face-to-face co-ordination and mass mobilisation.

Alongside these two polarised 'deep state'/'deep society' groups stand the mass of liberals and leftists, including feminist and workers groups – the third 'M'. They do not possess the power assets of the other two Ms, but accrue power by arbitrating between them and acting as 'balancer', if not 'bridge-builder'. They could, if united, trace a path for a coalition to get out of the bottleneck, mitigate zero-sum tactics and provide a needed third way between theocracy and militocracy.

The effectiveness and credibility, however, of any group or coalition will be a function of its capacity to get out of the bottleneck by coping with major challenges. Three stand out.

Major challenges

The first is the issue of daily security. Not only are police forces discredited because of past excesses, but security infrastructure itself is in shambles. Prisons have been forced open, police stations invaded and set on fire and their ammunitions stolen. The result is a situation where people feel increasingly responsible for their own security, taking the law into their own hands – with many excesses. Moreover, the public space could be penetrated by thugs, drug dealers and organised crime. There is even talk of emerging al Qaeda cells in Sinai. If security sector reform is not initiated and security re-established, revolutionary forces themselves could be discredited as being responsible for the chaos – and the way becomes open for counter-revolution.

The second major challenge lies in the economy. This sector presents the greatest challenge – and prerequisite – to revolutionary success. The revolution led to high expectations being immediately satisfied



at a time when resources are shrinking as tourism and foreign investment are drying up. Compared with 5.5 per cent in 2010, the growth rate in 2011 was 1.8 per cent. In addition, the local private sector suffers from wild-cat strikes, sit-ins and forced factory closures. If not reformed and boosted, it could depart, taking with it funds, know-how and networking assets.

Although Egypt could count on an International Monetary Fund loan, it has to pay the price by reducing subsidies, which account for 40 per cent of government expenditure. Although most subsidies go to the top 20 per cent of the population, their reform is risky and necessitates general economic reform. Such reform includes the tax system, which accounts for only 15 per cent of national revenue, and integration of the informal sector estimated now at 40 per cent of the labour force. Besides, economic reform has to show immediate dividends to bolster minimal governance.

The third and main issue is the one of governance. Although it is important to establish democratic norms (separation of powers, independence of the judiciary, rule of law, transparency and accountability),

the most immediate challenge is civil-military relations.

Military mindset

For the last 60 years, all four presidents have been from the military with its mindset of hierarchy, obedience and non-transparency. When a civilian president was elected in May 2012, the military reacted with a series of decrees to limit his powers and give its organ – SCAF – legislation and veto powers. As yet, the military has refused to make public its budget or its huge economic assets (estimates differ widely but they are probably 15-20 per cent of the economy). Its intelligence service – the Mukhabarat – is the only security organ and information storehouse that remains intact. Increasingly it is filling the space left by Ministry of the Interior organs and the Military Police as the guardian of public buildings.

If civilian rule is not bolstered, Egypt would continue as a ‘military society’, even a Mukhabarat state. Neighbouring Turkey’s experience, for instance, could be a source for security sector reform and the establishment of civil primacy in governance. ■

■ **The main challenge for civilian President Mohamed Mursi is his relationship with the military and judiciary**



Today's Egypt

Professor Gareth Stansfield talks to Heba Morayef, Egypt Director at Human Rights Watch, about the challenges facing her country

The protestors in Tahrir Square and other parts of Egypt called for democracy, social justice and an end to rights abuses. How would you assess the success of the Egyptian transition with regard to each of these demands?

It is too early to assess success and answer whether the demands for democracy and justice have been satisfied. There have been different phases in the past two years, each with their own challenges and partial successes. First was the uprising against [former President Hosni] Mubarak's police state, then a year and a half of military rule, and now Mursi's presidency.

This last phase started on Sunday 12 August 2012, when Mursi pushed aside the two leading military generals: Mohammed Hussein Tantawi, the head of Egypt's Higher Military Council and head of state after Mubarak resigned from the presidency, and Chief of Staff Sami Annan. This is when the Muslim

Brotherhood started to have full decision-making power. This current phase is full of challenges, especially regarding bringing about democracy, ensuring justice and ending rights abuses.

International election monitoring organisations concluded that although the elections were disorganised, they were sound overall and reflective of the parties that are most organised at a grassroots level. In sum, the elections facilitated a transition in power. None of us knew until the results were announced on Sunday afternoon who had won. In this respect, they set a good and important precedent for Egypt.

But the most serious challenge in this third phase came after Mursi's 22 November Constitutional Declaration in which he gave his decrees and laws immunity from judicial review, thereby undermining respect for the rule of law. This means that if Mursi were to pass a law that violates human rights, victims affected by that law would have no recourse to a remedy, a clearly unacceptable state of affairs. The judiciary in Egypt has always had a mixed reputation – there were the many judges who oversaw Mubarak's fraudulent elections and sentenced dissidents under repressive laws, but there were also judges who would annul executive decrees on the grounds of

constitutional and sometimes international rights. Egypt is in dire need of judicial reform but Mursi's Constitutional Declaration is not the way to do it and has created a political crisis with the legal community. At the moment, it's difficult to see what exit strategies there are, apart from a repeal of the declaration.

With respect to Mursi's record on justice and human rights, the picture is far more mixed. Elections are only ever one small part of the picture and are not in and of themselves sufficient to indicate a transition to a more democratic system. In addition, the functions and content of democracy, that of basic rights, are just as important as the procedural elections. With respect to freedom of expression, gender equality, the role of religion in legislation, freedom of religion and the impact on minorities, there is reason to be concerned.

I remain cautiously optimistic about the potential to successfully advocate for some human rights issues, such as police abuse. Mursi has shown that he is interested in addressing arbitrary detention and accountability for police abuse, albeit in a very ad hoc manner. At the discourse level, Brotherhood officials say that they are against torture and plan to reform the police, but in Mursi's first few months in office, we are yet to see any serious steps taken in that direction. However, as Mursi has only had full authority in this area since 12 August 2012 and as he must deal with the full bureaucracy of the security sector in Egypt – the backbone of Mubarak's police state – it is too soon to say conclusively whether they will push for true security sector reform and whether he has sufficient control over the Ministry of Interior to push this through.

Two areas of human rights are particularly worrying: gender equality and freedom of religion and expression. In Egypt, the understanding of the new political leadership is very different from international human rights law when it comes to women's rights and issues such as abolishing prison sentences for expression-related offences (e.g. the decriminalisation of defamation of religion).

We have already seen a number of cases filed against journalists and prison sentences handed down for "insulting the president". This carries with it obvious risks for the political space which currently exists, as well as for the ability of the opposition to criticise and hold the Brotherhood to account in the future. In addition, the idea that defamation of religion should not be criminalised has no buy-in in Egypt. We are seeing a spike in the number of blasphemy prosecutions, which represents a threat to religious minorities and those who interpret religion differently to Sunni majority views.

These battles are currently being played out in the Constituent Assembly, and it is still unclear at this stage whether the 'principles' or 'rulings' of Sharia will be the framework put down as the main sources of law, and how such a framework will

be ordered, whether for example Al Azhar will be given a role as sole adjudicator of these terms. It is unclear whether this will go through, but if it does, it will fundamentally affect the future of Egypt. The constitution is therefore key to watch.

The legacy of Hosni Mubarak's regime persists in contemporary Egypt. Could you give us an insight into the legal and institutional framework that, according to Human Rights Watch, continues to impede a democratic transition?

The year and a half of military rule was a continuation of the Mubarak regime but one where, for the first time, we saw the military exposed instead of being the power behind the throne. In addition to the corrosive nature of military rule, which saw new forms of military abuses, including violence against protesters and military trials of thousands of civilians, the military monopolised the political decision-making. They put a break on reform, including security sector reform, when civil society initiatives were attempting to bring in changes in the first months of 2011. With regard to reforming the legal framework, with the exception of the political parties' law, the military refused to amend other key laws, including the trade unions' law and the associations' law.

This means that, at present, the authoritarian legal and institutional framework of the previous regime in Egypt is for the most part still in place, and we see this with the security services in particular. The military remains the backbone and it will continue to attempt to protect its space and resources and to stay outside civilian oversight. This will be a barrier to a democratic transition.

In addition, the security services remain the same as before with regular reports of torture and excessive use of force by the police. There have been no trials of police for the crimes of torture they perpetrated for decades under Mubarak, nor has there been real accountability for the violence of January 2011. While Mubarak and his former Minister of Interior Habib al-Adly were sentenced to life imprisonment, all other assistant ministers of interior on trial and senior security chiefs – basically all those who were in command and control – were acquitted.

Out of 38 trials of lower-level police officials for the violence on January 2011, there have been 26 verdicts, with 21 acquittals and only five convictions and three of those were suspended. This has given even more support to police officers and the Ministry of Interior, which has warned the Muslim Brotherhood not to disrupt their activities, otherwise security on the streets will be affected. If no security sector reform is implemented, the same abuses of the Mubarak regime will continue.

Furthermore, the Mubarak legal framework remains largely in place, apart from the loosening of the law on political parties that now allows parties

■ A mural in Cairo depicts a combination of the faces of Egypt's former president Hosni Mubarak and Field Marshal Mohammed Hussein Tantawi

People have taken more space for themselves and there is less fear in today's Egypt about addressing taboos

Accountability and the issue of military impunity are very important battles for the human rights community

to form for elections. There was no reform of the NGO law, however, and staff of unregistered NGOs have been put on trial. Equally, the lack of a trade union law means that the executive power is able to deny freedom of association or assembly. With the significant exception of the plethora of new political parties in Egypt, it is business as usual, but with a different executive in power.

People have taken more space for themselves and there is less fear in today's Egypt about addressing taboos. However, there is no legal framework to protect this new space, no reform of Mubarak-era laws, which criminalise legitimate expression and assembly. So, without legal reform, police and security agencies can continue to interfere in their actions.

What is the situation with regards to corruption in Egypt?

There has been a lot of anti-corruption rhetoric from the very early days of the revolution in Egypt because an end to corruption was one of the main demands of the uprising. This rhetoric was first aimed at the Mubarak regime, his sons and their associates. Rage against the power practices of the former regime was a mobilising factor during the uprisings.

In the immediate aftermath of Mubarak's ousting, when the military took over, we did not see any attempt to comprehensively target corruption. And the reason here again is that the Egyptian military is complicit in ensuring that there continues to be a lack of transparency and that no one really knows what is happening.

The military controls large sections of the economy, nobody knows exactly how much. They own everything from real estate and heavy industry factories to mineral water companies and travel agencies. So far, nobody has managed to document evidence of corruption within their businesses. However, we know that the higher business community was operating with corrupt practices and that the military may have been involved.

Therefore, there was no interest in taking action against corruption beyond a few ad hoc trials against figures directly associated with Mubarak. These trials often took place in absentia. This was 'it' for the anti-corruption measures.

There are various activist groups who are pushing for anti-corruption measures. The Muslim Brotherhood has said that one of its priorities is dealing with corruption, but now that Mursi is in power, they have to balance this aim with outreach to the business community in Egypt, as well as their desire not to ruffle too many feathers.

How do you envision the future of civil-military relations in Egypt?

The military is very integrated into Egyptian society. Military officials are placed across Egypt as governors and leaders of key institutions in an omnipresent way,

and they are integrated throughout the business sector and different layers of government. This cannot be rolled back with short-term measures. The process will take time.

In the year and a half when the military ruled Egypt, we saw a serious deterioration in human rights protections. We saw abuses that were terrible: protesters killed, female demonstrators sexually assaulted by military officers. There were hundreds of cases of torture by the military, none of which were investigated. The only two cases which were investigated were the sexual assault of female protesters in March 2011 under the guise of 'virginity tests' and the killing of 27 Coptic protesters in October 2011, when military vehicles ran over, crushed and killed 14 people and a further 13 were shot dead with live gunfire.

In both these cases, we have not seen proper accountability. The only military officer put on trial for the 'virginity tests' was acquitted, despite an admission from ruling military generals that the incident had taken place. And only three soldiers were given sentences ranging from two to three years for 'involuntary manslaughter' after a partial and unsatisfactory trial before a military court.

Accountability and the issue of military impunity are very important battles for the human rights community. Ultimately, there will never be accountability for military abuses until military personnel can be tried before civilian courts, instead of military courts, which fundamentally lack the independence to try these abuses.

Women have played a prominent role in the Arab uprisings. How and to what extent has the status of women in Egypt been challenged since the overthrow of the old regime?

After the first few days of the uprising, especially once the violence had ended, we saw a huge increase in the proportion of women in every demonstration across the country. There were therefore thousands of Egyptian women who experienced a new sense of empowerment and a desire to have an equal stake in determining Egypt's future. This did not translate into positions of decision-making in the aftermath, however.

This is not surprising as we moved from a popular uprising to a military-dominated regime, which did not understand women's rights at all. We also saw a rise in violence against women by military and police officers and a failure to investigate violence against them.

Under Mubarak, women were discriminated against in personal status laws as well as in some criminal code provisions derived from Sharia law. When the Parliament was convened in the first half of 2012, some Salafist members of parliament put forward proposals to repeal a women's right to unilaterally initiate no-fault divorce, to decriminalise female genital mutilation, and to lower the marriage



■ Women chant anti-military council slogans as they protest against the military council violations against female demonstrators in Cairo

age from 18 – all proposals that amounted to a regression in women's rights. However, at the time, the opposition from women's rights activists, liberal political parties and the support of the independent media was such that they backed down.

However, we know that the Salafists and the Muslim Brotherhood have a socially conservative agenda that is not consistent with the rights of women as defined by the international legal framework. This causes much concern with women's rights groups going forward who fear that once a new parliament is elected there will be further legal reforms that could roll back some of the small gains the women's rights movement has achieved.

The same debate exists in the Constituent Assembly drafting the constitution. As it stands, Article 68 does not allow full equality between men and women because it limits equality with the terms "insofar as it does not conflict with the rulings of Sharia". The retention of this provision will set a clear ceiling on future legislative reform for women's rights since the rulings of Sharia are clear on inequality of inheritance and marriage, divorce and custody rights for women and men. The compromise on the table is to delete that provision altogether, but it's not clear whether or not that will happen since Salafi members are adamant about retaining it.

How can the international community help support Egypt in its transition?

I think one way in which the international community can help support Egypt's transition is by developing a coherent policy on the promotion and protection of human rights, which, for many countries, is supposed to be part of foreign policy. The international community needs to remember the lesson of the Egyptian uprising: giving unconditional support to Mubarak was not a good strategy for ensuring stability in Egypt and human rights cannot be ignored, otherwise years of abuse will lead to an uprising.

This recognition was to a certain extent reflected in the changes to the European Neighbourhood

Policy in the spring of 2011, which set out a form of human rights conditionality in its relations with Egypt, but we have not yet seen this implemented.

Western and other governments need to treat human rights as a serious part of their foreign policy engagement because there is still an opportunity to influence while the Muslim Brotherhood is susceptible to international pressure. At present, the Brotherhood is seeking international recognition and Egypt's political leaders need to hear messages concerning police abuse, freedom of expression, gender equality, inclusiveness and diversity, and the role of religion in the modern state.

These are difficult discussions but there are treaties that set out these issues in objective, legal terms. Related to this, the promotion of human rights as part of a foreign policy toward Egypt should be the norm rather than the exception, in order to make these issues become a normal part of regular discussions.

The second aspect that the international community should prioritise in its relations with Egypt is security sector reform. Comprehensive police reform that is based on a sound process and international standards is key to ensuring security and economic stability in Egypt in the future. So many of the crises of the past two years, which in some cases brought down cabinets, were due to excessive use of force by the police and the killing of protestors.

Finally, the economic situation is dire, and any international financial assistance, regardless of its conditionality, needs to take into account socio-economic rights, since huge sections of the Egyptian population live below the poverty line. Both donors and international financial institutions must remember that social justice was one of the key demands of the Egyptian uprising.

They need to act with transparency in Egypt about their operations and the conditionality they attach to this. Here again, police reform will be key since it will have an immediate impact on the tourism industry. ■

Playing by the rules

Tunisia has all the key elements to ensure a successful transition



By **Erik Churchill**, Tunis-based development consultant and analyst

Tunisia's transition to democracy following the popular uprising in January 2011 that toppled former dictator Ben Ali is widely seen as the most successful of the Arab Spring. The cohesiveness of Tunisian society and the relative strength of Tunisian state institutions were fundamental to this success. While the political and cultural structures in place have undoubtedly aided Tunisia's ability to withstand the difficulties of its transitional period, Tunisian leaders have made key choices that have ensured that the transition has remained peaceful and based on democratic principles, albeit with some recent concerning developments. Despite these gains, risks remain, particularly from the still-fragile economy and from cultural conflicts that have polarised the country.

While Tunisia's uprising was sudden, it did not come out of nowhere. The underlying problems that led to the overthrow of Ben Ali were widely acknowledged. Over the past decade, the Tunisian government had increasingly found it difficult to meet the growing challenge of unemployment in the country. Young people, in particular, struggled to find employment. Job seekers, who often had been

well educated and were ready to enter the workforce, were stymied by a stagnant economy made worse by increasingly rampant regime corruption. When Mohamed Bouazizi, the fruit-seller in the central Tunisian city of Sidi Bouzid, self-immolated, many Tunisians saw in him a reflection of a wider struggle that the Tunisian government was unable or unwilling to confront.

Playing by the rules

Following massive popular unrest and the departure of then-president Ben Ali, the political transition was marked by a remarkable willingness for political actors to play by the rules of the game. The first transitional government, made up largely of former regime officials, was replaced under popular pressure by a committee to set up the elections led by jurist Yadh Ben Achour, and a technocratic government led by Béji Caïd Essebsi, who had been a popular figure in Tunisian independence leader Habib Bourguiba's government. While many questioned Essebsi's role in the previous regime, his insistence on holding elections and his commitment to stand down after these elections helped to focus political energy on building political parties and preparing for the elections.

The 23 October 2011 elections were a milestone. Well organised and internationally recognised as

free and fair, Tunisians brought to power for the first time a government that was truly representative. The government was tasked with a dual mandate of writing the new constitution and ensuring the day-to-day activities of the government. The Islamist party, Ennahda, which had been banned and repressed under the previous regime, calmed its fiercest critics with its insistence on forming a coalition government alongside two secular parties, the Congress for the Republic and Ettakatol.

While much of the debate over the constitution has remained inside the Constituent Assembly, one key element was a compromise by Ennahda on the issue of Islamic law (Sharia). Many conservative members of Ennahda fought for the inclusion of a reference to Sharia in the new constitution, but the moderate side of the party ultimately won out, under the pretext of not wanting to further divide Tunisian society over what would have been a controversial issue. By the end of November 2012, negotiations over the content of Tunisia's constitution were still ongoing

New-found freedoms

Much of the political debate during Tunisia's transition has been over cultural and religious issues, debates which the previous regime strictly prohibited. The rise of hitherto repressed ultra-conservative religious groups has divided Tunisian society and shaken the political and security apparatus. With new-found freedoms for both religious conservatives and secular liberals, these groups have often clashed over issues such as media bias, the rights of women to wear the Islamic face veil (which was previously banned), the showing of films critical of Islamism, and the display of artwork that many have deemed offensive.

Public debates over these issues have often descended into violence with many secularists accusing the government of being complicit in attempts to restrict freedom of expression. The government has argued that it is important not to repeat the mistakes of the past by cracking down too hard on ultra-conservatives, a measure which could push them underground and lead to greater violence. However, as attacks have increased and threatened the image of the tourist-based economy, the government has struggled to balance these competing movements.

While culture wars have often dominated the media coverage of Tunisia's transition, opinion polls have shown that the economy remains Tunisians' major preoccupation. As it stands, the political upheaval and extended transition has left the Tunisian economy vulnerable. The coalition government's first major challenge was to restart the economy and begin the process of creating more equitable economic development across the country. Progress has been slowed in two key sectors of the Tunisian economy: by the economic crisis in Europe, which has held back exports; and continued security issues in Tunisia and the region, which have hurt tourism.

The G8 summit in Deauville, France in 2011 promised Tunisia financial aid to help it through the transition – these commitments, while not yet entirely fulfilled, have proved critical for the government. International financial institutions have stepped up aid to the country while the United Nations has provided support for governance reforms and measures to increase the role of civil society and associations. Gulf countries, notably Qatar, have also played a major role in helping to meet Tunisia's financing needs.

Security issues remain an important factor for Tunisians. The perception of rising crime has been a major preoccupation. The conflict in Libya further destabilised the country, with previously secure borders becoming porous. Exacerbating the problem is the perception among Tunisians of security under Ben Ali. Under the former regime, a self-reinforcing feedback loop between the heavy presence of police, the absence of information related to crime, and the draconian penalties for lawbreakers created the impression of an extremely safe and secure society. With those elements gone, Tunisians are anxious for their government to take control of the situation. Major reforms in the security apparatus and justice system are badly needed, but will take time and help from outside.

Looking forward, Tunisia's transition remains on track. Elections are scheduled for 20 March 2013, which will be the first under the country's new constitution. Thus far Tunisia's success has been based on the ability of political actors to continue to operate within the norms of civil discourse. While major divisions separate the Islamist and secular camps, there is widespread agreement that these issues should be solved through elected representatives and at the ballot box. An increasingly organised and vocal civil society has taken root, which will pressure the government for positive changes through democratic, citizen-based action.

Nevertheless, major risks remain, particularly because the underlying causes of the uprising have yet to be systematically addressed. With high unemployment and high inequality, the government will be under pressure to deliver, making it vulnerable. Likewise, the ability of Tunisian society to deal constructively with ultra-conservative religious groups remains uncertain. These groups have shown their ability to destabilise the country quickly and there is not yet a clear policy response that has been articulated by a major political party. Finally, while Ben Ali is in exile, the vast majority of institutions, in both the public and private sector, remain in the hands of those who worked with the former regime. The rise of a new political party with elements of the former regime will be a major challenge for all political parties to handle.

Tunisia has the elements in place to transition to a well-functioning, responsive and inclusive government. Its future success will rely mostly on all political and civil actors playing by the rules and respecting the outcomes of democracy. ■

■ The international community has promised financial aid to help Tunisia through its transition. US Secretary of State Hillary Clinton is pictured here greeting members of the public at the Baron d'Erlanger Palace in Carthage, Tunisia in February 2012

Tunisia has the elements in place to transition to a well-functioning, responsive and inclusive government

The quiet revolution

Professor Gareth Stansfield talks to HE Riadh Bettaieb, Tunisia's Minister for Investment and International Cooperation, about the challenges facing the country



Minister, it is often stated that Tunisia is the most successful example of a transition to democracy within the Arab Spring context. Why do you think this is?

Tunisia entered a new phase in its contemporary history after the revolution of 14 January 2011. This revolution, which impressed the world with its peacefulness and maturity, came to put an end to tyranny and corruption and to achieve the values of freedom and dignity. Since then our country has reached a crucial turning point towards establishing a democratic transition, a process that is being continuously strengthened.

Major steps have been made in this direction, the most important of which was the organisation of the first fair and transparent elections. These resulted in a pluralistic constituent assembly in charge of writing a new constitution for the country and preparing the needed laws regulating public life in the transitional

phase, particularly the electoral code and the press code. A road map was set up for the next political steps, and most importantly the presidential, legislative and municipal elections, whereby the end of October 2012 was determined as the deadline for the completion of the new constitution and the end of March 2013 would be the date of the future elections. However, the drafting and passing of the Constitution has been delayed, which will see a further delay in the elections.

This is a strong signal at both domestic and international levels showing a clear vision and a commitment to implementing the process of democratic transition within a framework of broad consensus.

One of the choices showing the success of this democratic transition is the formation of a coalition government composed of the first three parties that won the elections, which is working today in an atmosphere of harmony and co-operation with all

political economic and social parties, to serve the national interest and achieve the desired goals in spite of the difficulties it faces at times.

Dialogue and consensus are valued as key rules in addressing all the political sensitivities, with the participation of civil society and the various structures in developing orientations and policies. These are the most prominent factors in the success of this democratic transition, and we are determined to consolidate this approach to consecrate principles of freedom, democracy and the right of everyone to participate in building the new Tunisia.

Could you give us an overview of both the new business opportunities that have been generated by the Tunisian revolution and the country's urgent challenges?

The new Tunisia is now striving to meet the development challenges it is facing, aware and convinced that the success of the democratic transition and the consolidation of its foundations can be achieved only by setting a dynamic development and economic strategy to secure the grounds for growth and balanced welfare for all the people and in all regions of the country.

The process of essential economic reforms is consistent with the requirements of the new democratic reality of the country in the scope of an integrated and comprehensive approach aimed at establishing a system of sound economic governance, providing a business environment capable of ensuring economic and financial integrity and transparency in business management.

This strategic direction has enabled Tunisia to engage in the international system and dynamics of economic transparency, so as to provide the different economic actors and investors in Tunisia with a predictable investment climate, reinforcing their confidence in the country so that it can rapidly regain its position as one of the most promising destinations for investment in Africa, the Arab world and the Mediterranean region.

Could you describe in detail how your Ministry has sought to tackle the economic difficulties in Tunisia? Which aspects of development are considered as the most important?

Tunisia experienced economic difficulties after the revolution due to the disruption of production and the decline in the tourism sector, as well as in investment and export, which is quite normal in the midst of a revolution that overthrew the whole political system.

Thanks to the awareness of our people, the marked improvement in the political landscape of the country and the resulting progress on the path of democratic transition, the beginning of 2012 was characterised by an improvement in economic conditions. Domestic and foreign investment rates have recovered compared with 2010, as have

exports, agricultural production and tourism, which experienced a significant revival.

This improvement has helped to achieve a growth rate in most sectors of about 4.5 per cent during the first three months of 2012, as compared with 2011's negative outcome -2 per cent.

The Ministry of Investment and International Cooperation played an important role by working hard to intensify communication between Tunisia and our financial partners at both multilateral and bilateral levels in order to inform them about the government's future work programmes and the overall reforms to be introduced. This sensitised them to the country's needs in terms of financial resources to boost the economy and stimulate its activity, as well as the need to contribute to the completion of development projects to respond to urgent priorities, especially those related to employment, improving living conditions and fighting poverty.

The Ministry also made great efforts to recover the pattern of foreign investment through intensification of contacts and diversification of promotional campaigns with major emphasis on supporting businesses operating in Tunisia and providing all required assistance.

Thanks to these efforts, foreign direct investment recorded an increase of about 9 per cent during the current half-year, compared with the same period of 2010 and more than 40 per cent compared with the same period of 2011. These are important indicators with profound implications that confirm the confidence of investors and foreign business owners in the new Tunisia.

How are trade and foreign direct investment being encouraged? Which particular sectors have witnessed an increase and which do you hope to see expand?

Everyone knows that 2011 was characterised by a downturn in the investment rate but, at the same time, we recorded the highest proportion of foreign delegations to visit the country, aimed at discovering the new features of the investment climate. Most of them turned their ideas into real projects, which heralded an economic recovery through 2012.

The flow of requests confirmed which current and which new sectors should be on our list of operational priorities. The current sectors are: traditional and technical textile, mechanical engineering industries, electric and electronic, aeronautical components and food-processing industries. Alongside these, the expanding sectors of interest would be: offshoring and outsourcing of service activities, renewable energies, projects of infrastructure and franchising.

During 2011 the Tunisian economy maintained its position as the top-ranked African economy in terms of fair competitiveness, according to the annual classification of the World Economic Forum in

■ A girl holds a Tunisian flag as people wait in line to vote, October 2011, in Tunis, in the country's first-ever free elections, following the ousting of autocratic leader Zine el Abidine Ben Ali

We are determined to consecrate principles of freedom, democracy and the right of everyone to participate in building the new Tunisia

Relations between Tunisia and the Arab countries experienced a significant rebound after the revolution

Davos. Despite occasional disruptions, the economic cycle allowed Tunisian exports to get to most international markets at the agreed time and of the expected quality.

Today Tunisia moves forward confidently to absorb sectors that rely on human intelligence as a driving force and incentive to development. We are confident that the establishment of the principles of good governance and the embracing of transparency across our economy will enhance the ability of Tunisia to attract new investments. This is especially true for inland areas and in sectors with high technology content and will reflect the degree of efficiency enjoyed by Tunisian human resources.

How do you perceive Tunisia in the Middle East region? How is the country interacting, co-operating and competing in the Middle East?

Relations between Tunisia and the Arab countries – and the countries of the Middle East and the Persian Gulf in particular – experienced a significant rebound after the 14 January revolution. This was especially embodied by the multiple visits by officials of both sides and the exchange of delegations (Qatar, Saudi Arabia, UAE, Kuwait and Oman) to explore the opportunities of expanding development co-operation, sharing expertise and taking advantage of the capabilities of other countries, as well as studying elements of complementary action. The aim is to create a united bloc in order to overcome

the economic difficulties that countries may face individually and to create a strong alliance to open access to other regional and international markets.

After the 14 January revolution, Tunisia also worked to reinforce its position in the Arab world and particularly in the Middle East, by enhancing its relations with the Arab and Islamic countries. This has been done through the exchange of information on the establishment of a new quality of economic relations, which contributed to economic integration and the development of technical co-operation, which helped to create new employment positions for university graduates.

Tunisia sought to invite and attract Arab investors in Tunisia and learn more about the offered opportunities and incentives and the new investment climate, which has become based on transparency and good governance so that investors become more confident. This is a practical step to intensify co-operation and advance the level of effective partnership.

Tunisia is working to organise forums promoting investment in our country, taking care to participate in various events abroad such as in the UAE, Saudi Arabia and Qatar. It is also working on activating the role of joint committees and works councils between Tunisia and its partners in the Middle East.

The most important objective that Tunisia is seeking to achieve is its integration into North African and regional blocs in order to exploit opportunities of fruitful co-operation and constructive partnership with its partners.

Minister, could you explain why Tunisia is a safe and attractive place to invest?

Many experts today are calling Tunisia the “smart site” of the Mediterranean and it is relying on its historical advantages to host investors and international corporations. Thanks to its preferential and structural assets, Tunisia has followed advances recorded by world industry. The textile, mechanics, electricity and aircraft component industries have enabled the country to occupy the position of first industrial exporter on the southern shore of the Mediterranean towards the European Union. And whether it is high-end garments or extremely sophisticated highly technological mechanical or technical parts, Tunisian institutions respond in a timely manner and with accuracy to orders coming from Europe, America and other Arab and Asian markets.

On 14 January, 2011, Tunisians – who are among the most advanced Arab people in terms of education and qualifications – stood up to

■ Improved relations: Tunisian Prime Minister Hamadi Jebali (centre) greets the Crown Prince of Qatar Sheikh Tamim bin Hamad Al-Thani (right), July 2012 in Tunis





express their will to free the country from a rule that had lasted 23 years. In fact, these people who have the highest connectivity rate to information networks on the African continent according to the networked readiness index, used information and communication technologies to achieve the first electronic revolution in human history.

These people, known by their distinctive talents and passion for new technological innovation, were and still are the great wealth of Tunisia, continuing a business culture that has been known for its success for more than 3,000 years.

Since the beginning of 1970, thousands of international firms have flooded to Tunisia aiming to enhance their competitiveness and confident in the Tunisian skilled labour force and their eagerness to rise to challenges, as well as their experience and internationally recognised technical and scientific skills.

Thanks to its position at the heart of the Mediterranean, Tunisia has always been and remains an outstanding platform for the development of activities and international presence of companies. It has extremely favourable legislation, a living

environment to international standards, modern networks of communication with neighbouring markets and more generally with international markets. The country provides investment opportunities incentive schemes, a comprehensive educational system and an environment conducive to sustainability.

Looking forward, what are the greatest obstacles and opportunities that lie ahead? How do you view the future of Tunisia?

After ending the dictatorship, the country is in the construction phase according to international democratic principles and has thus promoted a new positive image that it is experiencing for the first time in its history. In our reading of the international press, we note that the view of specialists about the future of Tunisia as a destination for foreign investment remains positive, especially since Tunisia has now emerged from being under the shadow of unrepresentative authoritarianism allowing her most valuable assets – her people – to show to the world their skill in the workplace and their passion to embrace challenges. ■

■ **Supporters celebrate and wave flags during a closing meeting of the Islamist Ennahda party in Ben Arous, southern Tunis, in October 2011, ahead of the country's first democratic elections**

Libya: threats of division, evidence of unity

The problems facing the reconstruction of Libya are many, but there are hopeful signs – not least the apparent success of the recent elections

By **Tim Niblock**, Emeritus Professor of Arab Gulf Studies at the Institute of Arab and Islamic Studies, University of Exeter

All of the revolutions and uprisings in the Arab world, forming part of the Arab Spring, sprang from similar causes and motivations. All, however, have different characteristics, outcomes and prospects. Much has depended on the socio-economic structures present in the country concerned, the strength and character of the different political groupings which

ushered in the new era, the relationship that the armed and security forces had under the previous regime and the position they adopted during the uprising, the manner in which the previous regime handled the outbreak of unrest and opposition, and the role of outside powers/influences.

The problems facing Libya's transition and reconstruction have stemmed from the vacuity of the formal political structures present in Libya before the uprising, the absence of any coherent political discourse or organisation outside of those structures, the disintegration of most of the regular



army, the relative weakness and lack of credibility of the state's administrative organisation, the manner in which regional particularities were strengthened by the disparate character of the uprising (with each effectively waging a separate struggle), the emergence of independently-operating militias with their own agendas and interests, and the heavy military and financial involvement of external powers and bodies (each with its own political agenda).

Development and reconstruction

The problems facing the development and reconstruction of the Libyan state, in light of these characteristics, have been substantial. In the long term, Libya needs substantial expansion of its infrastructure so as to enable the emergence of a more balanced economy, educational facilities geared to the needs of the contemporary age and governmental/administrative structures that ensure the proper use of the country's resources in the interests of the population.

Yet such developments are impossible without two structural requisites. First, central government must have a monopoly on the use of force in the country; and second it needs to enjoy a reasonable degree of perceived legitimacy. These two requirements, moreover, are mutually dependent. A central government with monopoly over the use of force but limited popular legitimacy will morph into dictatorial patterns of authority. A government with strong popular legitimacy but no monopoly over the use of force will be unable to pursue effective or coherent policies.

The possibility of Libya being able to satisfy the two key requisites may seem remote. In the current situation, powerfully entrenched and militarised political groupings have frequently been able to limit and undermine central government authority. The weakness of central government has been both a cause and an effect of nationally debilitating division. Strong militia groupings, with their own distinctive political agendas, exist in many parts of the country and are particularly powerful in Misrata, the Western Hills, the Sirte district, Derna and more generally in Cyrenaica. The groups in the south of the country are smaller and more disparate, but also exercise significant control over parts of that region.

One of the most highly publicised aspects of localist intransigence (from a central government perspective) has been the refusal of the Zintan militia to hand Saif al-Islam Gaddafi over to the national judicial authorities. But the problem is also evident in the relative autonomy with which the Misrata local council has acted (including making agreements with foreign governments and developing its own air links to the outside world), and also in unilateralist actions taken by groupings and authorities in Cyrenaica. The external provision of weaponry to particular militias has aggravated the problem.

The prospects for Libya's future are more positive than the background might suggest

Meanwhile, locally organised groups have, on occasions, taken the law into their own hands, accusing individuals and communities of complicity with the Gaddafi regime and exacting their own punishments. Sometimes this has been done in a racially prejudicial manner – where black Libyans have been the main victims. The vortex created by weak governmental credibility, ineffective administration and growing regional tension could easily destroy the country.

Positive future

Yet the prospects for Libya's future are more positive than the background might suggest. Despite the apparent disarray within the country, the population remains predominantly optimistic about the future. Most Libyans remain committed to a united Libya (whether or not accompanied by devolved powers at the local/regional level).

There is a widespread determination to create governing institutions based on popular representation and enabling genuine accountability, and an antipathy to external forces whose manoeuvres threaten to disrupt the country's harmony.

Association with outside powers, whether Western or Arab, has not brought popular support to those politicians who have sought to play this card. The country's hydrocarbon resources, moreover, give governmental authorities the means to build a unifying national infrastructure, with benefits to the whole population.

It will not be possible to move quickly to the disarming of militias, nor to the establishment of an effective, democratically based government, but current indications are that incremental progress in those directions is possible. In the short term, compromises have to be made. Governmental legitimacy must rest on the electoral process, but pragmatic arrangements with powerful local leaders/movements will also be needed.

To agree to disarm, existing militias will need to feel trust in government, buttressed by a sense that their communities stand to gain from a less militarised environment and an effectively functioning state. Local sensitivities and identities, given an extra edge by the course and character of the revolution, will need careful handling. The existing militias are too powerful to be confronted directly, and they also carry their own dimension of legitimacy, based on their role in the revolutionary struggle.

■ Demonstrators cheer after storming the headquarters of the Islamist Ansar al-Sharia militia group in Benghazi, September 2012



■ Libyans queue to hand over their weapons and ammunition to the military in Tripoli's Martyrs' Square, September 2012, as the authorities try to clear the streets of arms left over from the war

Successful elections

The elections for the General National Congress, held at the beginning of July 2012, provide ample evidence that an optimistic scenario holds some realism – although a positive outcome is by no means guaranteed. Despite widespread expectations that the vote would lack credibility, disrupted by local dissension and reflective of externally supported Islamist radicalism, the elections have been a success. Voter registration was high (almost 2.9 million out of 3.5 million eligible voters), the turnout was about 62 per cent, there were relatively few disruptions to the electoral process, and external overseers (of which some 27,000 were present) were mostly convinced that the elections were fair.

In the party lists (allotted 80 out of the 200 seats) there was a clear winner: the National Forces Alliance (NFA) led by Mahmoud Jibril – who had served as Libya's initial prime minister after the outbreak of the revolution, having previously held office as head of the National Planning Council under the Gaddafi regime.

The NFA won significant support in each of Libya's three major regions, and gained almost half of the party list seats (39 out of 80). The ability of the NFA to pursue its liberal developmentalist line in future developments, moreover, is strengthened by the two seats won by its ally, the National Centrist Party of Ali Tarhuni. The Justice and Construction Party, regarded as the political arm of the Muslim Brotherhood, came second with a total of 17 seats. Other parties, whether Islamist or secularist, were

The elections have strengthened the basis for governmental legitimacy in Libya

confined to the margins – none gaining more than three seats.

In the constituency seats, where 2,639 candidates were competing for 120 seats, voting did not take place under party labels. While it is difficult to be sure of the ideological complexion of many candidates, there are indications that Islamists performed better at this level than in the party lists. Initial surveys suggest, however, that voters focused on the qualities of individuals and not on any supposed party alignments. The election of well-respected and well-known local personalities, of whatever ideological persuasion, should add to the strength of the Congress and its ability to prepare the basis for the parliamentary elections that should follow.

The elections, therefore, have strengthened the basis for governmental legitimacy in Libya. The centralisation of power may be a prolonged process, but the possibility of moving towards it incrementally now seems more realistic and feasible than it did in the early part of 2012. ■



A positive future

Professor Gareth Stansfield discusses Libya's prospects with HE Aref Ali Nayed, Libyan Ambassador to the United Arab Emirates; former Chief Operations Manager of the Libya Stabilization Team; and former Coordinator of the Support Offices of the Executive Team of the National Transitional Council of Libya

The Libyan revolution has surprised many people. On various occasions, you have identified four key foundations of the old system – tyranny, corruption, cruelty and injustice. Can you comment on the achievements made with respect to each of these aspects?

Libya has achieved a great victory in ousting the most serious obstacle to freedom, compassion and democracy in Libya: Muammar Gaddafi. His rule was pernicious, strangling Libya's potential, limiting our growth, denying our history and resulting in the deaths and disappearance of untold numbers of innocent people. That said, we must remember, in Libya and outside, that not one person or family ever has a monopoly on tyranny, corruption and cruelty. All people have the capacity to do wrong to one another.

Over this past 18 months or so there have been a number of occasions to be proud of, and these are things that may have surprised those observing the situation in Libya. Libya has been lauded by a number of commentators as having bucked certain trends or having achieved a 'smooth' transition.

■ **Libyan Ambassador to the UAE Aref Ali Nayed speaks to media during a press conference in Dubai, UAE, September 2011**

There are certainly some very promising signs in the relative calm of the current political scene in Libya, and the inclusive nature of the government

However, while we can be encouraged by these comments, Libya is not there yet.

The systematic destruction of Libya's religious heritage and the cowardly attack on the US Consulate in Benghazi in September 2012 ran counter to international and Islamic conventions and customs, which demand hospitality to travellers, emissaries and especially to diplomats. These attacks by extremist fringes in our society are a case in point. A small group took it upon themselves to lurk in the shadows and act without consent and public deliberation – dictating to the rest of Libyan society through violence and intimidation. These fascistic actions are tactics that Libyans know well and have hated for decades, and they are certainly not the goal for which tens of thousands spilled their blood.

The young people who bravely stood up to demand a free Libya in the very earliest days of the revolution against unimaginable violence set us very high standards to follow, and all those during the long fight who sacrificed their lives for the same cause mean that as a country we must live up to the very highest of ethical standards. The faith in a free Libya that I have seen from young people is phenomenal, and their tenacity in fighting tyranny, corruption, cruelty and injustice is formidable.

One of the major areas of concern for the National Transitional Council has been to focus on infrastructure developments. Why has this been the case and which aspects of development have been most important?

Forty-two years of systematic under-investment in Libya's infrastructure have set the country back considerably. Libya's natural and human resources, and its strategic position for trade between Africa and Europe, mean that a well-managed Libya has enormous inherent potential. A Libya governed for the benefit of its people can be an exemplar for the region.

In a country as vast as ours, with population dispersed across a variety of landscapes, infrastructure is the great enabler, and investment in this area will help facilitate much better access to public services and to the vitally-needed services that will be the backbone for growth at all levels and in all areas of Libya. I remember travelling in the south of the

country some five years ago – a colleague was injured and we needed to travel all the way to the north of the country to seek adequate medical treatment. The neglect of Libyans living in remote areas cannot continue.

However, infrastructure development in Libya needs to be approached in two distinct but complementary ways. Libya needs a strengthened physical infrastructure including roads, ports, airports and communications, which together provide services to the population and create an enabling environment for growth. Just as important is investment in Libya's soft infrastructure, which will help Libya to ensure dynamism in the medium and long term. Investment in education, job creation, and the technical capacity to take Libya's communications into the 21st century will be a good start.

Looking forward, what are the greatest obstacles and opportunities that lie ahead? How do you view the future of Libya, particularly with regards to the government's ability to govern and unify tribes and other factions?

Libya is right now in its moment of greatest opportunity, but it is also facing great challenges. We have had elections, and are starting to get used to the democratic process and the responsibilities that come with it.

Libya is a diverse country and, like most others, has a wide variety of ethnic, regional and interest groupings. The challenge for the country as a whole, and for the government in particular, will be the inclusion of these different voices in the political process. There are certainly some very promising signs in the relative calm of the current political scene in Libya, and the inclusive nature of the government of national unity that has been created under the leadership of Prime Minister Ali Zeidan, which represents the broad range of mainstream voices in Libyan society.

Creating a unified army is a particular challenge, however, and one that needs to be approached with great care. Gaddafi feared a strong army and set about fragmenting Libya's armed groups into a series of battalions that were controlled by his close family and inner circle. The current situation with the militias is not a sustainable solution for Libya. The process of integration into a truly representative professional army, made up of individuals from across the country that are fighting for a Libya that is united and free, will be the only long-term solution that ensures both the stability of Libya and, importantly, its security.

What are your thoughts on the first free election since the toppling of Muammar Gaddafi, which took place on 8 July 2012? How important were they for the future of Libya, both symbolically and for the functioning of the state?

The elections were a tremendous experience and

a great achievement. Libyans had not had the experience of voting for around five decades, and went to the ballot boxes with great excitement, proudly taking pictures of each other, holding up their index fingers marked with indelible ink.

Some commentators were sceptical about the aggressive schedule for the elections, emphasising the time needed to prepare and for political parties to develop. However, it became clear that it was incredibly important for the country's stability that elections be held in good haste, so as to empower a new government to take the bold steps needed to make sure Libya could begin the process of rebuilding and renewal.

As the Libyan Ambassador to the UAE, what are your objectives and how do you plan to achieve these? How is the UAE contributing to the stabilisation of Libya?

Libya's relationship with the UAE is very important. The UAE was the first country to offer full diplomatic recognition to an NTC-appointed ambassador, and it has been supportive of the Libyan people from the start. The UAE offered vital diplomatic support in the early days of the revolution in the Gulf Cooperation Council and the Arab League – both vital in laying the ground for UN Security Council Resolution 1973, which helped avoid a bloodbath in Benghazi.

I am not a career diplomat but was appointed by NTC Chairman Mustafa Abdel Jalil during the turbulent days of the revolution and had agreed with him that I would stay on only until free and fair elections were held. During this time, my objectives were twofold: help to facilitate relations between the UAE and Libya which would support the stabilisation of the country and ease suffering, and the restoration of Consular Services to Libyans in the UAE and the region.

I actually submitted my resignation on the day of the elections but it was not accepted, and in this new era for Libya my goals will remain for the most part the same. However, the stabilisation of Libya involves a different set of challenges. Libyans right now are looking towards improving the education system, the generation of employment, and the building of infrastructure and public services that are intelligent and cutting-edge. After an era of neglect in all these

The tides of change that have resulted in the various Arab Springs, and in a new era of hope in Libya, are still ebbing and flowing

sectors, Libyans are impatient for a country that is flourishing and up-to-date. There are a great variety of sectors where the UAE has a unique experience in quickly establishing world-class facilities.

How do you perceive Libya in the wider Middle East and North Africa region? How is the country interacting, co-operating, and competing in the Middle East?

For millennia, Libya has been plugged into the wider networks of the Middle East and North Africa, as a hub for trade and a crossroads for learning across the north of Africa – interacting, co-operating and competing with its neighbours in the Middle East, Northern Africa and Europe alike.

This outlook of openness towards the region suffered a brief hiatus under the insular Gaddafi regime, which did nothing but result in a stunted Libya. Our economy suffered with corrupt deals that benefited only a few in Libya and many outside. It is clear that Libya can no longer isolate itself and its future depends precisely on Libya's strengthened interaction that is respectful of the Libyan people and mutually beneficial.

However, it is still unclear what the future will be for the Middle East, and how this will affect the longer-term scope for stronger international relations in the region. These tides of change that have resulted in the various Arab Springs, and in a new era of hope in Libya, are still ebbing and flowing.

Libyans are making their presence felt in international political and economic fora. They are making a bold case for their country and its potential. The opportunity is here right now for our country to be an exemplar in the region by fostering a strategy for sustainable growth and prosperity that is rooted in the region and in the possibilities for mutual growth that exist here.

How important is international co-operation and support to the current and prospective stability of Libya?

Libya's stability is first and foremost dependent upon Libyans being united and free. However, supportive international co-operation in a spirit of respect is fundamental to kick-starting Libya's positive future. That said, we have seen a number of instances in the world where external pressures after periods of conflict and change have been incredibly counterproductive.

Currently, Libya needs to narrow the gap between the capacities that it has and the expertise and education required for Libya to make the kind of advances that its people demand and deserve.

Expertise from abroad that is not found in Libya is a vital addition to promoting and revitalising Libya's economic and social growth. This will be especially important in fundamental areas such as education, health, infrastructure and communications. ■



Syria's perilous Arab Spring

Although the country's struggles are far from over, thoughts are turning to the challenges of creating a stable post-Assad regime

By **Dr Marwa Daoudy**, Lecturer in the Department of Politics and International Relations, Middle East Centre, St Antony's College, University of Oxford

People have risen in Tunisia, Egypt, Bahrain, Yemen, Libya and Syria and initiated a worldwide quest for political rights and social justice. Wrongly characterised as politically and economically stagnant by neo-Orientalists, the Arab world has set the regional and international agenda since 2011. From Madrid to the Occupy Wall Street mobilisations throughout the US, a powerful source of inspiration was found in the courage and determination shown by protesters in Arab capitals.

However, after more than a year of popular uprisings, the revolution in Syria is still struggling to achieve its goals. The trigger was the arbitrary imprisonment and torture of school children in the small town of Deraa for drawing graffiti inspired by the Tunisian and Egyptian revolutions. From Deraa,

popular protests spread to the rest of the country. The tragic death toll is estimated at more than 40,000 civilian casualties (including more than 3,000 children), with an additional 70,000 disappearances. According to the United Nations High Commission for Refugees (UNHCR), the number of Syrian refugees seeking assistance in neighbouring countries has more than quadrupled between April and November 2012, reaching 400,000. The toll is expected to considerably inflate in the next months, as further insecurity and bloodshed are spread in the country. Indeed, the escalation of violence witnessed in Aleppo and Damascus since July and August 2012 raise the very real prospect of a civil war of devastating magnitude taking hold in Syria's urban centres.

Sectarianism, failed reforms and repression

Syria has been controlled by the Assad family for the past four decades. The family continues to rely on the support of key communal and interest groups, and their power base rested less in the political institutions and the Baath party than the links established with extended networks. The country is characterised by ethnic (Arabs, Kurds, Armenians, Turks and Tcherkess) and religious (Sunnis, Druze, Duodeciman Shi'as, Ismaelites, Yezidis and Christians: Syriacs, Chaldeans, Greek-Orthodox, Catholics, and other) diversity. The Sunni Arabs represent about 70 per cent of the population.

The Assad family belongs to the Alawite branch, which constitutes about 11 per cent of the 24 million estimated Syrian population. However, the regime's leadership structure and security apparatus is dominated by only segments of the Alawite group and not the whole community.

In addition to the extended family and clan, the army, the security and intelligence services, known as the Mukhabarat, remain the cornerstones of the regime. Their mission is to defend the clan in power, rather than the state and its citizens. Bashar al-Assad's personal popularity since 2000 had also allowed the regime to limit the scope of internal reforms and preserve the power of the security services over society.

The path of neo-liberal economic shift with no political reform was adopted in 2005. The liberalisation of the economy followed steady progress with public-private partnerships in the oil and transport sectors; private banks, media and universities were legalised, and more space allocated to the private sector. However, no defined policy or adequate tools were adopted. The Baath Party and secret services were given increased power in administrative and economic decisions, and new monopolies controlled and established by governmental elites. Further crackdowns were carried out on intellectuals, activists and the private press.

Confronted by a large movement of revolts since 15 March 2011, the Syrian regime has opted for a survival strategy and chosen the path of repression

rather than political settlement. Protests are said to be part of a wider conspiracy aimed at spreading insecurity in Syria. Another strategy was to play the sectarian card, in order to appear as a safeguard of minority rights. When the protests started, the regime mobilised the Mukhabarat, which are dominated by Alawites and remain loyal to Assad. The objective was also to prevent any shift within the Alawite community.

Until recently, protesters have shown extreme lucidity in keeping a united front beyond sectarian divides and resisting the regime's attempts at framing the unrest along confessional lines by arming 30,000 villagers in the Alawite provinces and giving licences to kill to their shadow militias, the Shabiha, or armed thugs, brought in from the Alawite regions. But Syrians are now killing each other in isolated incidents on the basis of their uniforms, alleged loyalties and religious affiliations. According to a commission of inquiry established by the UN Human Rights Council, war crimes were committed in June and July 2012 in Houleh and Tremseh, in the province of Homs, where unarmed civilians, including hundreds of children and women, were brutally slaughtered.

Resistance and insurgency

All components of the population, including Christian and Alawite elites, continue to actively contribute to opposition movements in the provinces of Deraa, Homs, Hama and Idlib, as well as in Damascus and Aleppo. Peaceful rallies are met with heavy military assaults and house-to-house arrests and killings. However, resistance to the regime has moved in recent months from non-violent rebellion to armed insurgency. A hundred rebel groups are believed to operate against regime forces throughout the country. Besides the Free Syrian Army (FSA), many of the groups are still unknown. It is also believed that Jihadists are now actively contributing to military operations on the ground.

The regime is still in control of the army and the security forces, despite increased defections to the FSA, but the balance of power appears to have recently shifted in favour of the insurgents. Areas close to the Turkish border around Idlib, as well as in Homs, Damascus and Aleppo, continue to escape government control. The battle for the country's two major urban centres, Damascus and Aleppo, will be decisive. As the regime clings to power and rebel groups launch simultaneous attacks throughout the country, the risk of a fully-fledged civil war is looming. The country appears to be heading towards a protracted conflict.

Foreign military intervention on 'humanitarian' grounds has been advocated by some, and firmly rejected by others (including the author) who believe that it will prolong the conflict, strengthen rather than weaken the regime's support base, result in considerable civilian casualties and put the country under external tutelage. The counter-insurgency is

■ Fleeing civilians walk past a member of the Free Syrian Army in Aleppo's district of Salahedin, Syria, July 2012

Syrians are now killing each other in isolated incidents on the basis of their uniforms, alleged loyalties and religious affiliations



■ Syrian residents carry the bodies of people whom protesters say were killed by forces loyal to Syria's President Bashar al-Assad, Deraa, June 2012

increasingly, and successfully, relying on guerrilla tactics, backed by weapons smuggled by army defectors. Explosions and clashes have successfully targeted the heart of the security and defence headquarters in the capital, Damascus, killing high-ranking military officials.

Being in a web of strategic networks, the consequences of instability in Syria would be far-reaching. Events can turn in any direction and the next few months will be crucial.

Post-Assad challenges

In the international debate on state (re)building, state reform policies aim to eradicate conflicts and restore sustainable peace. The aim is no less than to preserve stability and the rule of law. A new interventionist consensus has emerged from this process whereby conflict prevention, resolution or transformation may be achieved through institutional reforms in so-called fragile states, through sustainable human development policies or the implementation of good governance principles.

However, foreign-led reform policies can have negative consequences; at the heart of the matter is the lack of internal legitimacy and the subsequent tension between national identity and a representative state based on a social contract. The international donor community can indeed play a role in providing advice and guidance on best practices, but it is crucial for the success of long-term reform policies that ownership of the process remains with internal actors. A stable and reliable (re-)building process has to be internally led.

A long-term and responsible vision is needed at this stage to prepare for sustainable and peaceful transition in Syria, as increasing violence and insecurity have led to the collapse of institutions and public authority. Declining incomes from oil sales and the public sector, and a freeze on trade with

Turkey and the European Union have impacted on the population's daily life. Most regions have no heat as fuel oil has become scarce or even non-existent. Prices have risen dramatically and electricity is being cut on a daily basis for six hours in major hubs such as Aleppo and Damascus.

In parallel with fighting the regime, among the challenges the Syrian opposition will need to address is planning for transition to a post-Assad Syria. All religious and ethnic components of the population, including the Alawite community, should be included in the process. If given guarantees for the post-revolution phase, the Alawites would be drawn into the transitional phase leading to political pluralism; otherwise, they might resist to the bitter end. Prosecution should be sought against the ones who have perpetrated crimes. But the bulk of the army (with approximately 220,000 soldiers and officers, with an additional 300,000 in reserve) will need to be integrated somehow. All this presumes that control of military and security affairs is effectively handed over to civilian rule in the transition period.

The new institutions will be confronting core issues: the challenge of dismantling the extensive security and intelligence apparatus, while maintaining public security; the adoption of a new Constitution representing all components of Syrian society; reforming the political and legal systems, and establishing the rule of law; and last but not least, preventing retribution from happening by allowing for an effective process of reconciliation.

Core debates on the relationship between religion, state and society, and the protection of the Alawite, Christian, Druze and Kurdish minorities have already been initiated among different opposition groups. To secure legitimacy, the battle should be won from the inside and transition planned by local actors, while preserving the country from chaos and insecurity, in an inclusionary rather than exclusionary process. ■

A long-term and responsible vision is needed to prepare for sustainable and peaceful transition

SYRIA CRISIS APPEAL

YOU CAN MAKE A DIFFERENCE

Please help us to provide
emergency relief for
people who have been
forced to flee their homes.

DONATE NOW

**THE UN REFUGEE AGENCY:
YOUR BEST CHANCE TO HELP**

Give now by donating at
www.unhcr.org.uk

Or please send a cheque
or postal order to

UNHCR, FREEPOST
RRLT-YRGA-UCHY,
Strand Bridge House,
138-142 Strand,
London WC2R 1HH



Yemen since Saleh

New Yemeni President Abd Rabbu Mansour Hadi faces a number of challenges in his new role



By **Sarah Phillips**, Senior Lecturer, Centre for International Security Studies, University of Sydney

Abd Rabbu Mansour Hadi was dropped into the Yemeni presidency in a single-candidate election following the resignation of President Ali Abdullah Saleh in February 2012. His promotion from Vice President – a position that he had held since 1994 – to the top job has not (at least not yet) altered the ‘rules of the game’ in the political system that he formally leads.

Despite having served as the Vice President for nearly 20 years, Hadi was never the secondmost powerful political figure in the country; this status was reserved for others. Therefore, while some of the lower-level players have been shuffled around, the underlying power structures remain largely unchanged. These more powerful figures include: General Ali Muhsin, the first major player to defect from the regime during the protests in March 2011

and whose defection triggered that of many others within the military and bureaucracy; the powerful al-Ahmar family (particularly Hameed al-Ahmar); and also former President Saleh and his family, some of whom still wield considerable influence and (arguably decreasing) disruptive power.

Since becoming President, Hadi has been trying to prise the grip of former President Saleh and his loyalists from key parts of the military and civil service by restructuring both. This has been a cause of conflict as the incumbents try to hold their ground. For example, when President Hadi attempted to remove Saleh’s half-brother (Mohammed Saleh al-Ahmar) from his position as the commander of the Air Force in April 2012, Saleh’s supporters retaliated by attacking Sana’a Airport and forcing it to close for nearly a day.

The Air Force Press Secretary stated at the time that the commander “had been convinced to step down, but the ousted president and his relatives

■ Members of Yemen’s elite Republican Guard and pro-army tribesmen gather for a group photo atop a military vehicle as they secure a road leading to Lawdar town in the southern province of Abyan, June 2012

are forcing him not to do so". There are similar stories from elsewhere in the military, particularly surrounding the ongoing attempt to conclusively remove Saleh's nephew, Tariq Mohammed Abdullah Saleh, from his position as the commander of the Republican Guard's powerful Third Brigade.

Obstacles and ambitions

In addition to the obstacles posed by those loyal to the former president, Hadi must also contend with the ambitions of Ali Muhsin and the al-Ahmar family if he is to emerge as a relatively effective leader in his own right. Both Ali Muhsin and the al-Ahmar family appear to feel entitled to the spoils of Saleh's removal and each claims to have helped lead the protest movement.

This claim plays poorly to many of the independent protesters, who feel that they brought the Saleh regime down and that Muhsin and the al-Ahmar family are capitalising on their success for their personal political ambitions – ambitions that clash with those of many of the young protesters.

The Gulf Cooperation Council Initiative that delivered President Saleh's resignation essentially tried to paper over the political chasm between elite factions and Sana'a's relationship with the rest of the country. Saudi Arabia and the United States each had strong interests in avoiding a prolonged period of political turmoil between Yemen's rival factions and as such, the Initiative was drafted with the apparent hope that the factions could be contained, or at least sidelined, by its edicts.

In Yemen, however, formal institutions have never had significant influence on the personal relationships that underlie processes of political bargaining. The depth of these rifts makes it important that observers not take seemingly positive steps in the formal sphere as definitive indicators that these divisions have been overcome. If this is to happen, it will almost certainly happen slowly.

The Initiative also set a hasty schedule for reform: a new government of national unity was formed and cabinet members were derived equally from the ruling party (General People's Congress – GPC) and opposition (Joint Meeting Parties – JMP). The resulting government is divided and the accusation of 'meddling by the other side' for political advantage is widely made. Some ministers from the GPC are believed (at times with good reason) to remain loyal to the former president, while ministers from the JMP are often charged (also fairly at times) with being beholden to either Ali Muhsin, the al-Ahmar family, or to both.

During its time in opposition, the JMP did not create shadow ministries to critique government policy in any systematic way. There is, therefore, a general lack of experience by the cabinet that is exacerbated by the fact that at least half of its members had no prior experience (or probably even real



■ Women at the Taghyeer (Change) Square, April 2012, where anti-government protesters have been camping for more than a year to demand regime change in Sana'a

expectation) of serving in government.

Of course, no system of power is transformed instantly, and this is particularly true for those built on networks of patronage and selective privilege for elites who remain included in the 'new' order. Genuine changes to the rules by which competing elites negotiate the balance of power will take longer to percolate through, and at this stage it remains uncertain whether such a shift will occur as a result of Saleh's resignation.

Constraining factors

President Hadi is significantly constrained by several factors in both the political centre and in the periphery. He is relatively isolated from many of Yemen's elites, in part because of his ongoing reliance on Ali Muhsin and the al-Ahmar family for political support. Second, being a southerner, he has no natural northern tribal constituency, something that has been key to the survival of previous leaders and political orders in the north.

His status as a southerner is not of major benefit to him either, however, as he is widely seen as being a part of the despised old regime by those southerners whom he most needs to convince of his legitimacy. These factors, combined with the very public proclamations of support for his leadership from the international community (particularly the US and UN), risks leaves President Hadi looking weak to significant sections of the Yemeni public.

Interwoven into each of these issues is a humanitarian crisis, in which levels of food insecurity and acute malnutrition in children are estimated to include at least 30 per cent of the population – levels that are comparable with those in Afghanistan. Ordinary Yemenis urgently require normalised access to basic necessities: security, food and markets.

If Hadi can – and chooses to – assert himself against the old order he could conceivably catalyse the trust necessary to either re-engage some groups in the political process or isolate those that seek to destroy it. This remains a challenging prospect and the external focus on Yemen's security problems risks further diverting attention from these urgent problems. ■

No system of power is transformed instantly, and this is particularly true for those built on networks of patronage and selective privilege

Bahrain: evolution not revolution

Bahrain is in real need of political reform, but to ensure stability, change needs to happen in stages

By **Ronald Neumann**, former US Ambassador to Bahrain (2001-2004), Algeria (1994-1997), and Afghanistan (2005-2007)

Bahrain's repetitive demonstrations, unlike a simple Arab Spring narrative, are part of a 40-year series of tensions that have divided the island's communities, introduced regional dimensions, and brought sharp tension among Western policy goals.

Bahrain became independent in 1971 as part of the regional reshaping that accompanied Britain's withdrawal from domination of the Arab side of the Persian Gulf. Iran officially withdrew its territorial claims to the island, but Iranian politicians mention them periodically. Weapons found on the island in preparation for a 1981 coup were sourced to Iran. Shi'a-Sunni tensions in Bahrain were frequently accompanied by charges and suspicions of Iranian meddling. While undocumented in the most recent troubles, the Shi'a demonstrators of the early 2000s frequently carried pictures of Iranian Ayatollah Khomeini.

Elections were held in 1929 and again after independence. However, after the 1973 suspension of parliament, the Sunni al-Khalifa family ruled alone, albeit with support from Shi'a as well as Sunni merchant families. Recurring demonstrations for greater democracy led to an uprising in 1994. While not exclusively Shi'a, the demonstrations were a predominately Shi'a affair. They were not very violent and were regularly suppressed, although allegations of torture were frequent.

Reforms

Sheikh Hamad Bin Isa came to power in 2000 and introduced numerous reforms. Political prisoners were released, exiles returned, the press became freer and in 2002 a true elected parliament took office. However, the constitution allowed monarchy control through an appointed upper house and limitations on parliamentary powers led many in the Shi'a

community to see the reforms as falling well short of the promised democracy. The Shi'a community, which claims 70 per cent of the population, was certainly under-represented (how much is uncertain without a census; the Sunni contend that the balance is closer to 60-40). Simmering demands for government accountability and equitable representation increased and, inspired by the Arab Spring, eventually overflowed into demonstrations and two radically different narratives of events.

The government points out that concessions including release of prisoners and removal of troops from the streets led only to threats and demands that the government yields on most major points before beginning negotiations. The Shi'a opposition sees government refusal and brutal suppression of calls for reform. The repression was real, as the commission requested by King Hamad and led by the internationally-respected Cherif Bassiouni documented many government human rights abuses. However, it also acknowledged abuses by the demonstrators.

The radical fringe on both sides has severely hampered efforts at compromise. Largely Sunni demonstrations supporting the government may have been as large as those for the opposition. An energised Sunni block opposes any concession, regards the Shi'a as Iran's proxies, and believes the choice is between firmness and revolution. The royal family itself appears divided between hard liners centred on the Prime Minister and senior court officials on one hand, and reformers, now heavily discredited, ranged around the Crown Prince.

On the other side, a hard-line opposition group has called for regime change. The major Shi'a opposition party al-Wifaq – immobilised by fears of being out-manoeuvred by its own radical fringe and suspicious of the government – has refused negotiations without pre-conditions, thus reinforcing government suspicions. A commission was called by the King to discuss solutions over represented government supporters and consisted of contrasting speeches rather than dialogue.

Where once Shi'a and Sunni were found on both sides of political divides... they are now deeply estranged

Community division

Community splits have deepened radically. Where once Shi'a and Sunni were found on both sides of political divides, intermarried and socialising more freely than in other Gulf states, they are now deeply estranged. The communal aspect is a particularly difficult part of the Bahraini issue. Community



losers cannot become winners; one-man-one vote democracy becomes a code word for sectarian domination. Bahrain badly needs political reform, but stability needs mechanisms to balance and resolve differences.

The regional dimension is important. The Arab monarchies of the Gulf Cooperation Council (GCC), determined to support their fellow monarch, stationed GCC forces in Bahrain. While not used against demonstrators, they symbolise GCC support just as GCC money, principally from Saudi Arabia, ensures that Bahrain can withstand economic disruption. Clearly, the Saudis will not tolerate a Shi'a-dominated Bahrain. Yet continued cycles of violence and repression are also not in the Saudi interest since they risk inflaming Shi'a in Saudi Arabia. There are mixed views of how much reform the Saudis would accept in order to see Bahrain return to calm. What is clear is that the unified Arab pressure seen in Libya and

Yemen will not be replicated in Bahrain. Sufficient force is available to keep the opposition from winning by confrontation, but force alone cannot restore stability. There is a slow but dangerous trend toward greater violence that is likely to produce reprisals and make solutions harder.

Western interests

The West has multiple interests. One is the free flow of oil. A Gulf oil blockage would return Western economies to recession; avoiding this is a legitimate national interest. The US naval base is essential to the free flow of oil in the Persian Gulf and confronting Iran if necessary; roles that cannot be managed well from outside the Gulf. The GCC support of Bahrain guarantees that no Gulf state will help pressure Bahrain by relocating the base inside the Gulf.

Yet reform is also a major Western interest, both for principle and practicality, for without reform

■ An anti-government protester walks in front of riot police as she arrives to participate in an anti-government protest in Manama, Bahrain, January 2012

instability will continue. US and UK policies of selling some arms and withholding others have alienated everyone. The government feels insufficiently supported and the opposition perceives double standards for Arab democracy. Finding a path out of the conflict will be difficult given the deep communal fears, divided counsels, the external involvement of GCC states and possibly Iran, and cross-cutting Western interests.

King Hamad's views of how to resolve his country's political dilemma are uncertain. He called for the Bassiouni commission and has announced several changes, including police reform and limited additional powers for the parliament. However, the new parliamentary powers are few, and the extent to which the security reforms have been implemented is unclear as reports of excessive police violence continue to recur. As positions have hardened, Bahrain has become more than ever a zero-sum political culture where suspicions are intense, compromise distrusted and direct dialogue is hampered by divisions within the parties.

There is still room to restart the political reform process of 2000. Without endangering the monarchy,

grievances over land seizures and excessive corruption could be addressed along with more equitable representation, real judicial controls of security forces and true accountability for wrongdoing. However, a strong monarchy accountable under law with significant powers is needed to balance community divisions. Given the intense suspicions on all sides, change, if it comes at all, will probably have to come in steps; evolution rather than revolution but with enough guarantee of its end state to acquire support. If Western powers are to have influence, they need to speak openly of both reform and support for a strong monarchy.

Without this clarity the regime and its neighbours will reject 'reform' as tantamount to starting down the slippery slope to oblivion, while the opposition will hold back and hope for greater Western pressure on its behalf. Such a policy will be attacked as unworthy of democratic ideals. Yet policy must start from the situation as it is. Effective diplomacy has to meld both interests and principles and explain itself clearly. Without clarity, diplomacy will remain ineffective – and still be condemned for hypocrisy. ■

■ Bahrain's King Hamad arrives at a ceremony held to mark completion of the Bahrain Independent Commission of Inquiry's recommendations, in the Safria Palace in Sakhir





No more ill-gotten gains

Combating bribery and corruption in the leadership elite is a critical step in reviving economic prospects and ensuring there is no return to the old political order

■ Tahrir Square, Cairo, March 2011. The newspaper headline claims that former President Hosni Mubarak's yacht and riches are in Sharm el Sheikh

By [Brigitte Strobel-Shaw](#), Chief, Conference Support Section, Corruption and Economic Crime Branch, United Nations Office on Drugs and Crime (UNODC), Vienna

The events in North Africa and the Middle East over the past months are redefining the politics of the region. Old regimes have been washed away in a wave of protests and actions that have been driven primarily by ordinary citizens seeking dignity and a new way of life.

Frustrations with the status quo included a variety of grievances, but standing at the centre of these is the strong perception that the old leadership elite were corrupt and accumulated wealth illegally at the expense of the wider citizenry.

The issue was raised again and again: in blog posts, in anguished interviews on the street as protestors confronted security forces, and in animated discussion groups convened to shape the future of the emerging societies. While the Arab Spring is still unfolding, the question of how to combat bribery and



In this section:

Securing the future 73

Elections and the management of conflict 76

Retribution or reconciliation? 79

Building the rule of law 82

corruption in the nascent new order must be one of critical concern to decision makers, both within the region and outside.

As has been so clearly articulated by those who stood at the forefront of bringing change, bribery and corruption have skewed patterns of wealth and ownership, insulated leaders from their citizenry and, thanks to the actions of a few, resulted in declining economic prospects for everyone.

Two key themes are now squarely on the table: the first is how ill-gotten gains from leaders who have now left office can be returned to their countries of origin and used in productive ways to promote development and prosperity for all; and secondly, how in the new order that is being constructed can systems and processes be put in place to ensure that the use of bribery and corruption on a large scale is confined to history, along with the regimes that practised them.

Both of these objectives are difficult to achieve. They will require clear leadership to put the issue at the top of the policy agenda. Effective justice systems equipped with measures to prevent and prosecute acts of corruption are essential in this effort. While there will be a need for external support, the role of outsiders will need to be carefully judged: critical to the success of new strategies that promote better governance is local ownership, which can be undercut if external ideas (no matter how good or effective elsewhere) are simply imposed. A country-led and country-based approach to any assistance is of great importance.

Returning assets

At the same time, much has been learned from past experience and new leaders can draw on this expertise, thus benefiting from outside assistance. Most prominently, in the case of stolen assets taken abroad, support is needed in the form of willingness from the countries that hold them to identify, freeze and return them. The return of assets has proved more complex than had been hoped.

While there has been broad political agreement that this should occur, the actual process of doing so has been hampered by a number of factors. These include the long time that it takes to gather and present relevant evidence, the lack of capacity and expertise to engage in processes that are comparatively new and untested, and the procedural, legal and administrative requirements that are in place in most countries which hold the assets in their banks.

These difficulties continue to illustrate the urgency of building trust and confidence between the different players; procedural obstacles are often used as a pretext for a lack of confidence as to the intentions of the other party. It must not be forgotten that freezing and returning the assets is of great symbolic value: it demonstrates not only that rightful

At the core of their vision when they took to the streets was that the wealth of the country belongs to all who live in it

ownership is restored, but is also arguably one of the most critical disincentives to those who assume leadership positions in future to engage in corruption – a resounding sign that impunity for criminal acts extends to no one, no matter their position.

Legislation and reform

The longer-term focus on putting systems in place has to begin as early as possible, building on the political momentum that currently exists for change. Here the United Nations Convention against Corruption provides a ready framework for guiding new policy makers.

A note of caution is appropriate: the Convention has been ratified by many countries, including those in the region before the Arab Spring. But the implementation of the provisions was selective, they were often not enforced for acts committed by members of the political elite who could act with impunity. New legislation and reformed institutions will be needed. But more important will be the political commitment to ensure that all are considered equal before the law and that no one is above it.

The men and women of all ages and all persuasions risking their lives on the streets of towns and cities across the region, with the aim of securing change for themselves and their children, have the right to see transparent governance free from the scourge of corruption. The idea, surprisingly widely accepted, that citizens in the region were content to accept their lot within regimes that did not act in their own interests and that were not of their own making, has been decisively disproved. At the core of their vision when they took to the streets was that the wealth of the country belongs to all who live in it and could not be stolen by only the few who had connections and political control.

Unless this vision becomes a reality, both through concrete actions and transparent political decision making and commitment, the risks taken by many brave people and the gains that they have made on the streets will be once again lost in the smoke-filled rooms of political power. ■

The views expressed herein are those of the author and do not necessarily reflect the views of the United Nations.



Securing the future

What are the challenges and prospects for security and justice transitions in the wake of the Arab Spring?

■ Libyans in traditional dress participate in a protest organised by civic bodies and liberal and moderate political parties, demanding the handover of arms by a proliferation of militias, in Benghazi, 21 September 2012

By [Mark White](#), Head of the Security and Justice Group, Stabilisation Unit and [Stephanie Blair](#), Senior Security and Justice Advisor, Security and Justice Group, Stabilisation Unit

In general, security and justice sectors of those Arab states which have experienced upheavals have been intimately associated with maintaining 'regime security' rather than being the promoters of 'human security', leading to oppressive institutions which rule through repressive measures.

To a significant degree, the invidious behaviour of security actors combined with the lack of an independent judiciary provoked demands for change, alongside a range of other interlocking social and economic factors. This desire for change, driven by high levels of corruption and insufficient rule of law and access to justice, provides both an opportunity for

Crime and communal violence are a threat to political change as citizens assert their demands

meaningful change, but also brings the risk of further conflict and violence.

Lessons from previous leadership changes in the region suggest that violence such as crime and communal violence are a threat to political change as citizens assert their demands. Thus the reform of these institutions will be critical to peaceful transitions. In essence they are part of the problem and they will be part of the solution in a region where politics and security are intertwined.

The challenge will be to deal with issues of past impunity and corruption, while not undermining prospects for transition, particularly given that the roles of security actors, both formal and informal, will remain fluid. Success will rely on retaining the support of key institutions, most notably the army in the short to medium term, while not undermining prospects for longer-term reform.

It is also important to recognise that international donors are unlikely to be seen as 'neutral', and previous engagements with political elites will taint public perceptions, particularly in an environment in which security sector decision-making remains opaque. This article will review the challenges and prospects for meaningful transition and suggest some principles for support to security and justice reform.

Longer-term reform

It is clear that the Arab Spring is incomplete, particularly with regard to the shape of political and security relationships given the role of security actors in supporting, and in some cases removing, regimes. For example in Egypt, the military appeared to be setting the pace of events, and arguably negotiated the political settlement post-election, while state institutions remain weak and fragile. How these states organise the delivery of security and justice is what is currently at stake.

Security has been identified by actors across the region as critical to addressing the social contract between the state and citizenry, with improvements in public security and the capacity and responsiveness of the police in particular. Yet there can be no meaningful change while security actors continue to be above the law, given the legacy of the repressive actions of the security institutions and the significant role they continue to play.

Thus it is highly likely that any reforms will be challenging and time consuming before citizens

experience any improvements in security and justice delivery.

Security and justice transitions are political as well as technical processes, perhaps even more so in this region. Thus principles of political focus, legitimacy, capability and sustainability can help to ensure transition supports the wider political process. Transition lies ultimately in the hands of the host nation and is context specific. These are Arab revolutions, and the state/society relationships they may promote need to be negotiated and determined within their respective societies, not imposed by the West.

Rates of change

While best practice, and more likely lessons identified from other contexts, can be shared, it is not for us to dictate the pace or nature of change – the Arab Spring has been led by the people of the region and each country is experiencing different rates of change. Any security and justice intervention will therefore need to recognise different responses demanded by each country's circumstances.

A number of common challenges emerge from the lessons of previous security and justice transitions:

- the challenge of transforming the security sector in a country without a tradition of democratic norms and practice;
- the challenge of understanding the political context of transformation;
- the challenge of moving beyond the defence sector;
- the challenge of a highly limited knowledge base;
- the challenge of finding acceptable limits to state secrecy while respecting the need for confidentiality in certain areas; and
- the challenge of finding the appropriate balance between democratic accountability and control on the one hand and security body professionalism and discipline on the other.

Recommendations

In light of what we know of security and justice transitions, a number of recommendations emerge to support reform in the region:

Local ownership is a well-recognised principle of security sector reform as are the inherent political underpinnings of security and justice work. Thus our work must be conducted with and at the request of these new governments, delivered in response to locally led requests in co-ordination with others. The principle here is assistance, not aid.

We need to better understand the role of civil society and their demands for democracy promotion in response to the hard security approaches of these regimes as a catalyst for the Arab Spring. While taking into account the legacy of the authoritarian regimes and the support of the security institutions, security and justice reform is a new topic for the



■ On the same week that he was pushed into retirement, former Egyptian Defence Minister Field Marshal Mohammed Hussein Tantawi (left) received the Grand Collar of the Nile, Egypt's highest state honour, from President Mohamed Mursi at the Presidential Palace, 14 August 2012

region, which will require the continued support of a nascent civil society.

There is a requirement to understand the challenge of engaging on security and justice issues in a context where the legal tradition and social norms are dominated by Islam. For instance, do we understand enough about how traditional and secular link up? The international community will need to accept Islamic principles into security and justice doctrine while maintaining an approach that marginalises violent, extremist narratives.

Equally, there is a need to accept that some of the prior capacity-building support, particularly on counter-terrorism, was part of the problem rather than the solution. Hence, moving forward there will be a need to much more carefully balance international counter-terrorism objectives in the

region with the need to create space for greater state/society relations.

A role and a voice

Finally, in managing transitions – the immediate goal of providing security through disarming militias and restructuring the security institutions – it will be important to show young revolutionaries that they will have a role and voice in the new countries.

In conclusion, meeting the demands for change, particularly in disentangling the symbiotic relationship between the head of state and the security sector, is an essential component of reform.

Yet, such security transitions take time and political will. The Arab Spring is not complete and while the opportunities for change exist, the prospects for change are fragile. ■

There is a requirement to understand the challenge of engaging on security and justice issues in a context where the legal tradition and social norms are dominated by Islam

Elections and the management of conflict

The vacuum created by rapid political change can generate further sources of dispute and even conflict as factions compete for power and other regional actors interfere. What are the factors to be considered when deciding the form such elections take?

By **Brendan O'Leary**, Lauder Professor of Political Science at the University of Pennsylvania and Professor of Political Science at Queen's University Belfast. In 2009-10 he was the Senior Advisor on Power-Sharing in the Standby Team of the Mediation Support Unit of the United Nations

Competitive elections are a necessary component of democracy. They are both a means of conflict management, because they decide who should govern according to rules, and a source of conflict, because they confirm winners and losers. They are less conflictual when the losers accept the new rules and believe they have positive future prospects in the new order, inside and outside the electoral arena. Controversy, however, surrounds five pressing questions that confront the holding of elections in post-revolutionary or post-war countries.

When?

The first is when should the first elections be held? As soon as possible? That is, after there is sufficient public order and restructuring of administrative arrangements and the mass media to hold credible elections and render the newly-elected government legitimate? Should there, conversely, be a long delay to enable the provisional government to make the state (and civil society) fit for democracy?

What is at stake is not just a matter of time-management. At issue is to what extent, in scope and time, the unelected provisional government has authority to shape the permanent or final constitution. When parts of the old regime remain in place (especially the military, security and intelligence agencies) the legitimacy of any unelected transitional government is likely to decay rapidly. When the old regime is destroyed by war, in which outsiders have played a role, the establishment of order will not be quick, and an impatient public may be quickly



disillusioned by the new incumbents.

Early elections favour both the old regime incumbents and the best-organised opposition under the old regime; late elections favour the provisional government, which can entrench itself and disorganise the opposition.

If making a widely acceptable democratic constitution is the first order of political business, that enables the when question to be answered. There is much to be said for electing a constitutional (or constituent) assembly within 18 months of the fall of the old regime, provided that assembly simultaneously serves as the state-wide parliament that elects and holds the second transitional government to account. An elected transitional government will have legitimacy while the new constitutional order is being drafted and ratified, after which there can be further elections under the new rules.

Democrats, therefore, need to think about the necessity of having two state-wide elections within three years: one within 18 months and certainly no later than two years to elect the body that serves as a constituent assembly and as a transitional parliament; and then another within a year, to elect the first state-wide government under the newly-ratified final constitution.



■ Nobel Peace Prize laureate Tawakkol Karman shows her inked thumb after casting her vote at a polling station in Sanaa, Yemen, February 2012

Sequencing

The second question is one of sequencing. Among state-wide, regional or local elections, which should come first? Multiple controversies may arise. The old regime may have restructured local and regional boundaries and rendered them controversial: in this case, state-wide elections and an agreed process for settling regional and local boundaries should come before regional or local elections. The state itself may not previously have been legitimate in some regions: in this case, great care has to be taken to achieve an inclusive constitution-making process, building support across all regions.

Some have argued that state-wide elections should come first, maintaining that if regional governments are elected first secessionist impulses may be encouraged. It is quite common to suggest that Yugoslavia broke up because its regional (republican) governments held democratic elections before federal elections took place (Linz and Stepan 1992¹). That argument, however, overlooks the importance of the election system used in Croatia and Serbia (winner-takes-all in single member districts), which arguably

did much more to intensify polarisation than the sequence within which elections were held.

Other things being equal, there is a strong case for holding the first local, regional and state-wide elections at the same time, provided that the same electoral system is used at all tiers (to avoid confusion), and that there is agreement on the units of government. No harm is done if for practical administrative reasons there is a short interval of a matter of weeks between each election. Near simultaneous elections at all tiers of government ensure that all incumbents acquire early legitimacy, over-centralisation is inhibited and party-building is encouraged.

Functions

The third question is the most important: what functions are elections to serve? It is usually not asked because it is supposed that the answer is obvious: to enable the people(s) to choose their government(s). This answer presumes, however, that there is agreement on who should be entitled to vote. Creating an electoral register is often disputed when many citizens are in exile, the old regime developed exclusionary citizenship laws, or people have been internally displaced by conflict.

¹ Juan J Linz and Alfred Stepan. 1992. 'Political Identities and Electoral Sequences: Spain, the Soviet Union, and Yugoslavia.' *Daedalus* no. 12 (2):123-39.

The answer also begs the question of what type of government is being elected. What model of executive-legislative relations will be pursued? Presidential, parliamentary, or some hybrid of the two? Will the state be federal or a union-state or unitary? Whatever its precise territorial format, how decentralised will the state be? Will there be directly elected governors or mayors or collegial regional and local governments?

These questions have to be definitively decided by the constituent assembly rather than at the very first elections. The role of the constituent assembly should remind us that elections have another key function. They enable the people – or the peoples in a multi-people state – to be ‘represented’ in the full array of meanings attached to that phrase.

Choice of system

The entirely related fourth question is the choice of electoral system, which breaks down into many further vital questions. What numbers of offices are to be filled by elections? Should different election systems be used for different offices? Should there be many electoral districts or one per territorial unit? Should the electoral system focus on candidates or parties? What electoral formula should be used? One that encourages proportional representation (PR) or one that encourages the emergence of a clear winner or some hybrid? For comprehensive evaluations see Taagepera and Shugart 1989², Lijphart 1994³, and Cox 1997⁴. These questions are again best resolved in each country’s constituent assembly. Democrats should therefore focus on the election system to be used for the formation of the constituent assembly.

There is a strong case for using PR for such an opening election. Party list-PR in the country as a whole, or in regions (if there are agreed boundaries and reasonable prospects of collecting fair electoral registers) are both reasonable options. Under list-PR the constituent assembly is likely to represent reasonably all significant national, ethnic, religious or linguistic minorities that organise themselves (O’Leary 2010⁵), and it is easier to ensure that many female candidates are elected under this system. Using list-PR also encourages the building of political parties, the key agents of government in established democracies.

A constituent assembly elected under list-PR may decide to choose different electoral systems for

²Rein Taagepera and Matthew Soberg Shugart. 1989. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven, CT: Yale University Press.

³Arend Lijphart. 1994. *Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies, Comparative European Politics*. Oxford: Oxford University Press.

⁴Gary W Cox. 1997. *Making Votes Count: Strategic Coordination in the World’s Electoral Systems*. Cambridge & New York: Cambridge University Press.

⁵Brendan O’Leary. 2010. ‘Electoral Systems and the Lund Recommendations.’ In *Political Participation of Minorities: A Commentary on International Standards and Practice*, edited by Marc Weller and Katharine Nobbs, 363–400. Oxford: Oxford University Press.

Those concerned with maximising fairness and transparency have a range of international organisations to which they can turn for advice

the future, or for different tiers of government, or for different offices, after an informed debate to which minorities contribute. By contrast, a constituent assembly elected under a winner-takes-all system is much more likely to dictate a constitution from a narrower base of support, and with less lasting legitimacy, and is highly unlikely to decide on the use of PR systems. To discourage too many micro-parties the assembly should not be too large or an overt threshold in votes should be required.

In the first recent democratic elections in Tunisia, Egypt, Libya and Iraq fantastic numbers of ‘parties’ imagined that they had viable prospects. Public education programmes are therefore required to encourage party-alliances and mergers. The United Nations Electoral Assistance Unit is especially competent at organising party-list PR elections.

Electoral administration

The fifth but not the last question in importance is electoral administration (Massicotte, Blais, and Yoshinaka 2004⁶). Again, it breaks down into further queries. Who should conduct the election? Parties should not, but they need access for scrutiny and they need to be consulted, and they may be permitted to make nominations. An independent electoral commission is the increasing international norm. It should, however, be federalised in federal countries to reduce suspicion that the centralists will steal the results.

Should there be uniformity in electoral administration? Should the electoral commission’s decisions be open to judicial review? Not when the judiciary is contaminated by the old regime. Should there be a provisional election law with clear rules regarding registration, deposits (to deter frivolous or strategic candidacies), sources of funding, advertising, and campaigning? The answer in each case is yes.

What requirements must valid candidates fulfil, for example, in citizenship, residency, age, or educational qualifications? In particular, are some of those associated with the old regime to be excluded from the initial elections? How will these qualifications and disqualifications be validated? Many of these questions cannot be put off until the constituent assembly, although it will certainly have to reconsider them. Those concerned with maximising fairness, transparency and uncontentious review of these subjects have a range of international organisations, including the UN, to which they can turn for advice. ■

⁶Louis Massicotte, André Blais, and Antoine Yoshinaka. 2004. *Establishing the Rules of the Game: Election Laws in Democracies*. Toronto: University of Toronto Press.



Retribution or reconciliation?

The way in which the Arab world's fledgling democracies deal with their ousted leaders will have a significant impact on their future

■ **Behind bars - Bouzaid Dorda, former spy chief in Muammar Gaddafi's government, during a court session in Tripoli, July 2012. Dorda is the first senior Gaddafi official to be put on trial in Libya since the revolution**

By **Simon Laws**, QC, criminal law barrister and former prosecutor at the International Criminal Tribunal for the Former Yugoslavia

As the countries of the Arab Spring attempt to build new states in place of the region's repressive regimes, few choices will affect their futures as profoundly as their method of reckoning with the past. Crimes call out for punishment, but punishment alone cannot bring reconciliation. Each country must choose its own path; in doing so, the routes that have been followed by other nations in the past 40 years are the obvious place to start.

Criminal prosecutions are the first resort of successor regimes. As the prosecutor in the trial of former Egyptian president Hosni Mubarak is quoted as saying: "Retribution is the solution". Trials are legally inescapable: international law requires that those guilty of human rights abuses be punished. As recently as February, Spain's 1977 decision to grant amnesties for the crimes of the Franco era was condemned by the Office of the UN High

Will mass prosecutions promote the stability that is a condition for reconciliation?

Commissioner for Human Rights as being contrary to international law.

With the advent of the International Criminal Court (ICC), some choices may no longer be taken at a national level; the United Nations Security Council (UNSC), in referring the Libyan situation to the ICC, has triggered an unseemly tussle between the new leadership in Tripoli and the Court over the fate of Saif Gaddafi.

However, its geographic jurisdiction is a patchwork: among Arab nations only Jordan is a state party affording the ICC automatic jurisdiction. For the others, a referral by the UNSC is mandatory before the prosecutor can begin an investigation. As the case of Syria shows, this imperfect mechanism is vulnerable to member states choosing to protect their strategic interests over the lives of civilians.

There are three main models for non-ICC prosecutions for those accused of past abuses. Domestic courts have the virtue of emphasising the authority of the nascent nation: their use has a strong appeal to successor regimes.

The tribunals established for Cambodia and Sierra Leone offer the second solution, namely international involvement in a domestically based court. Additional resources, expertise and legitimacy are the prizes here. The third model, represented by the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), sees prosecutions taking place in an international tribunal.

Their impact cannot be seen as solely retributive; they have also been highly effective in removing from the region those individuals most likely to undermine the process of reconciliation. Meanwhile, the courts of Bosnia-Herzegovina and Rwanda show that the existence of an ad hoc tribunal is no bar to the operation of the domestic courts.

Bosnia has a caseload that will take perhaps another 15 years to complete, which will make the wars in the former Yugoslavia, by the end, the most heavily litigated conflict in history. Is it possible, or permissible, to imagine reconciliation being inhibited by retribution on this scale?

Criminal accountability

The leaders of the collapsing regimes of the Arab Spring will have to be tried; a free Syria will demand that Al-Assad and other prominent figures are held criminally accountable for what Hillary

Clinton succinctly described as their “rule by murder and fear”.

But prosecutions of the few cannot provide a complete solution to the challenge of breaking with the past. What is to happen to the thousands of soldiers and shabiha who carried out murderous orders or the many others complicit in maintaining the regime? Can they all be prosecuted? Could the infrastructure of the new court system cope, or might it be necessary to turn to an altogether different, possibly non-Western model?

Rwanda’s Gacaca courts (lawyer-free, but local and swift) were born of necessity – they have dealt with staggering numbers of cases and are widely judged a success at the national level (despite the reservations of international human rights lawyers). But will mass prosecutions promote the stability that is a condition for reconciliation?

The army posed a recurring threat to the stability of Syria before Hafez Al-Assad assumed power. The Al-Assad family successfully yoked the military to the regime by, among other tactics, permitting military leaders to engage in lucrative criminality. The successor regime will urgently need to have the military under control; mass prosecution can only complicate this.

This may call for a realistic assessment of how far down the chain of command indictments reach. Greece adopted a pragmatic approach to the fall of its military dictatorship by prosecuting 100 senior figures – the process was swift and seen as satisfactorily punitive. Compromise can be an ugly word when it actually denotes widespread impunity, but without stability, reconciliation is unthinkable.

Truthful testimonies

Despite the enthusiasm of the Mubarak prosecutor, it is unlikely to be the case that retribution is the whole of the solution. Hostility and division tend to survive the fall of repressive regimes. Party members and the regime’s wider power-base inevitably attract their share of blame.

Lustration – the removal from office or employment of those who had collaborated with repressive regimes – was widely used in Eastern Europe after the fall of Communism. In its primitive form, it was criticised by human rights campaigners as involving a denial of natural justice, but Hungary and Poland in particular evolved a more nuanced form that offered a second chance to those prepared to tell the truth.



■ Pro-Mubarak protesters shout slogans and hold portraits depicting the former Egyptian president during his trial in Cairo

El Salvador's model involved a commission that investigated abuses and recommended a purge of more than 100 senior military figures complicit in human rights abuses. This targeted approach is to be sharply contrasted with the disastrous blanket policy of 'de-Baathification' seen in Iraq, which contributed to the anarchy that followed the fall of Saddam Hussein.

The Truth Commission (TC), generally understood to mean an officially sanctioned body with power to investigate widespread abuses of the past, has formed a part of the reconciliation process in more than 20 countries.

The South African model, which offered amnesty in exchange for truthful testimony, is much the most well known. It provided a voice to the wronged and left

behind an historical record of the wrongs of apartheid, available in perpetuity on its website. More than 20,000 people contributed to its proceedings, a level of inclusion impossible in conventional courts.

The experience of Sierra Leone shows that a TC is capable of functioning in parallel with the holding of trials, in theory providing the potential for retribution and reconciliation to take place simultaneously.

Nor should it be thought that the role of the TC has to be limited to providing a forum for victims and the establishment of an agreed national narrative, important though these may be. In Chile, the TC's findings were used as the basis for providing compensation for victims. It is a model that is highly adaptable to local needs.

It may, however, be simply naïve to think that a TC can achieve reconciliation in societies that retain toxic levels of underlying ethnic and religious tension. It may be no coincidence that the Yugoslavia TC came to nothing and that discussions in respect of a TC for Iraq have, so far, led nowhere.

The fledgling Arab nations must have all the help that the UN can offer in making the hard choices that lie ahead, and the time for planning is now. The list of potential solutions, already long, may need new and innovative additions. For criminal regimes under pressure, what could be less welcome than seeing plans for their downfall take shape and the time for retribution and reconciliation approach? ■

It may be naïve to think that a Truth Commission can achieve reconciliation in societies that retain toxic levels of underlying ethnic and religious tension



Building the rule of law

Moving towards a fairer and less arbitrary and exclusive political system is vital for political and economic development in the Arab world, but there are no quick fixes

By **Andrew Rathmell**, Senior Principal of the Governance, Security and Justice Team at Coffey International Development Ltd

The Arab Spring movements were, in part, motivated by protests against the absence of an equitable rule of law. Most noticeably, abuses by security forces were the proximate sparks for rebellion in Tunisia and Egypt. However, the pattern of protest against the arbitrary interpretation of laws and the discriminatory deployment of state security apparatus was clear across the region.

Unfortunately, the absence of the rule of law has been a feature of the Arab world in the modern period. The colonial and mandatory powers imposed very partial law and order that served metropolitan economic and political interests. Since the 1930s, most Arab states have been ruled by autocratic or, at best, oligarchic regimes under which the rule of law was notable by its absence. Whether republican or monarchical, Arab regimes have fostered a culture



of impunity in which elites have applied their interpretation of the law and state coercive power in ways that have impeded political, social and economic development.

Since moving from the arbitrary whim of rulers to a robust rule of law culture is one of the critical factors underpinning economic and political development, the transitional Arab states face an immense, but vital, task in building rule of law within their societies. The omens have not been good so far.

The rule of law has many definitions, but its core tenets include equality before the law and the principle that the law imposes constraints on the arbitrary exercise of power.¹ The gradual and hard-fought ascent of the rule of law in the West is generally credited with enabling economic development, as well as the consolidation of pluralist political systems.

¹For the purposes of this chapter, we focus on one of the elements in Albert Dicey's classic definition: "No one is above the law and everyone is equal before the law regardless of social, economic, or political status." Albert Dicey, *An Introduction to the Study of the Law of the Constitution* (1885).

A difficult legacy

While there is some variation across the Arab world, all Arab states face a grim legacy in trying to build a culture of the rule of law that can underpin political, social and economic development. Since the Mandate period, most Arab states developed as autocratic regimes ruled by an intertwined political, security and business elite. Whether operating in a republic or a monarchy, the state security and judicial apparatus was usually used to support the elite and defend the regime, not to provide justice and security for the wider population. The arbitrary deployment of state power was the norm.

In many cases the judicial and security apparatus had evolved from colonial/Mandate-era ones, which had similar regime security roles. During the Cold War, Arab world security apparatuses were variously supported by the Western and Eastern blocs in ways that strengthened regimes, paying little attention to developmental needs or to promoting an overarching rule of law.

There were, of course, efforts before the Arab Spring to promote a wider rule of law. From a commercial perspective, sanctity of contract was vital for economic development and made some progress in countries with more open economies reliant on international investment such as the Gulf Cooperation Council (GCC) states. In less economically developed Arab states, there were efforts by external actors such as the European Union, United Nations, World Bank and bilateral donors such as the US to promote technocratic improvements to the administration of justice, often with a focus on civil and commercial justice issues. None of these efforts, however, changed the underlying dynamics of the status quos.

The rule of law during the Arab Spring

Although the absence of a rule of law may have sparked many of the protests that led to the Arab Spring, there has been limited progress at best in the transitional states in addressing the issue.

Debate on the issue has been most evident in the states where transition has moved the fastest –albeit in very different ways: Tunisia, Egypt and Libya. Not surprisingly, Tunisia's relatively smooth and relatively successful transition, albeit with some recent concerning developments, has allowed its polity to begin to address rule of law issues. It is here that we see the emergence of an open debate and some steps to curb the arbitrary power of state security agencies and to seek to hold elites accountable to the laws of the land.

In Egypt, with a much more deeply embedded political-military-economic elite, the status of the reform trajectory remains unclear. Indeed, with the breakdown of basic order in some parts of the country, the 'deep state' has had some success in arguing for a return to a more authoritarian approach to policing and the maintenance of public order. Nonetheless, activists in both the liberal and Islamist movements are

■ Tunisian lawyer and human rights activist Radhia Nasraoui, co-founder of the Association against Torture in Tunisia and a member of the executive committee of the Tunisian Bar Council, the Tunisian Human Rights League, the Tunisian Association of Democratic Women and Amnesty International Tunisia



■ In November 2011, thousands of protesters in Cairo's Tahrir Square demanded an end to military rule

The prospects for promoting the rule of law in the Arab Spring states are mixed but, overall, poor

actively engaged in an effort to articulate what a more lawful political system may look like and how arbitrary power may be constrained. In Libya, efforts to reassert a state monopoly over force have stumbled to date, but the relatively fair election in July 2012 provided an opportunity for the government to demonstrate that it can be a government “of laws and not of men”.

In cases such as Syria and Yemen, internal opposition and state repression have made the situation even worse in the short term with breakdowns of basic order, leaving any prospect for longer-term reform a distant vision. In countries such as Algeria, Jordan, the GCC states and Iraq, there have been attempts variously to head off or quash incipient protest movements. In most cases, the states’ responses have relied again on the arbitrary exercise of power.

Prospects and policy priorities

Taking a broader comparative approach, the prospects for promoting the rule of law in the Arab Spring states are mixed but, overall, poor. The absence of the rule of law is not a simple technical issue of adjusting legal codes or reforming judicial or policing institutions. Instead, it is about the deep structures of power and influence at the heart of a society’s political economy. Even the most progressive Arab Spring states are a long way from tackling these issues. By way of comparison, most of the former communist states

of Eastern Europe have made considerable progress in strengthening the rule of law since the fall of the Berlin Wall. Their path was eased, however, by the fact that they have become tightly enmeshed in the structures, institutions and cultures developed in Western Europe since World War II.

A number of the Balkan states, while having progressed, are struggling to constrain state power and also to control non-state and criminal networks. Further afield, for every example of a former authoritarian state that has made progress – not least some of the Latin American and South-East Asian states – there are others where little progress is visible, notably in Russia, Central Asia and some parts of Africa.

For the Arab Spring countries and their international community partners, this is not a counsel of despair. Instead, it is a reminder that, while moving towards a fairer and less arbitrary and exclusive political system is vital for political and economic development, there are no quick fixes. The international community has learned that short-term technical fixes have little value. Instead, there needs to be real political will from key elites and social groups within Arab Spring countries to address this issue.

This will mean that established and new elites need to be willing to accept constraints and limits on their behaviour. While some may voluntarily do so, history tells us that such constraints often only come about as a result of sustained struggle over long periods of time. There is plenty of good work that is being done on these issues – for instance improving the supply of justice and security and empowering civil society to demand more accountability.

Nonetheless, the real lesson for the Arab world is that promoting the rule of law will remain a central issue in the struggles for power and ideas currently engulfing it. ■