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“Worker’s Revolutions and Worker’s Constitutions: Egypt and Tunisia in Comparison”

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Introduction

Analyzing a constitution is a bit like trying to hit a moving target. As sites of contestation, which both constrain and are constrained by other political institutions, constitutions mean different things at different times. The problem is compounded significantly in Egypt and Tunisia, where post-revolutionary constitutions do not yet exist. It had been my hope to analyze the actual text of these documents, but that would require them to have been written and approved already. When I started this project that seemed likely, but politics have intervened. Despite that setback, both countries are currently engaged in constitutional processes that to varying degrees involve the trade union movements in each country. The goal of this article is to review the constitutional processes currently taking place, identify who claims the right to speak for workers in them, and assess their successes thus far. It concludes with a preliminary look at international comparisons of the role of workers in constitutional struggles in transitioning regimes.

Egypt’s Vertical Cleavage

Egypt’s trade union history stretches back to the turn of the 20th century. Many of these early unions operated without governmental recognition. Despite this, for the last 60 years one trade union federation with close ties to the government has dominated workers’ organizations. The Egyptian Trade Union Federation (ETUF) was the exclusive, hierarchical, peak federation in Egypt,

and all other union organizing was effectively banned.¹ This organization evolved to be an arm of state policy with its leadership originally tied to President Nasser's ruling clique, and later selected by President Sadat in the period of economic opening, and finally associated with President Mubarak's National Democratic Party (NDP).

Successive regime compensated for this iron grip on union organizing by providing benefits to certain sectors of the labor force. Perks included guaranteed government jobs, free higher education, and rigid labor laws that protected workers from lay-offs. Publicly run enterprises in light and heavy manufacturing, in addition to an expansive bureaucracy "sopped-up" the excess labor in the market.

These long-standing economic policies were challenged by Egypt's pivot towards the West under President Sadat. This process entailed an economic opening, a reduction of subsidies, and the cultivation of more private enterprise, cutting into state largesse. This pivot failed to correct long-term inefficiencies in the Egyptian economy, and by the late 1980s, the country faced a severe balance of payments problem.² Like other developing countries, Egypt adopted a program of structural adjustment at the behest of the international financial institutions (IFIs).³ While this structural adjustment program languished for many years with mixed results, a renewed push in the early to mid 2000s saw the introduction of a labor flexibilization law, the sale of state owned enterprises, and the curtailing of organized labor's traditional input on economic policy.

The turn towards neoliberal economics and away from the regime's traditional partner in stability precipitated an upturn in labor militancy. Strikes, the legality of which was technically

¹ Joel Beinin, "Workers' Protest in Egypt: Neo-liberalism and Class Struggle in 21st Century," *Social Movement Studies* 8, no. 4 (2009): 449–454, doi:10.1080/14742830903234320.

² African Development Bank Group, "Egypt: Economic Reform and Structural Adjustment Program Project Performance Evaluation Report (PPER)," May 16, 2000.

³ Nicola Pratt, "Maintaining the Moral Economy: Egyptian State—Labor Relations in an Era of Economic Liberalization," *The Arab Studies Journal* 8/9, no. 2/1 (October 1, 2000): 111–129, doi:10.2307/27933783.

enshrined in the labor law adopted in 2003, were only allowed under the auspices of the ETUF, which rarely called them. Instead, wildcat (unapproved) strike took off dramatically in the mid-2000s. To combat increased labor militancy, the 2005 union elections were egregiously corrupt, even by Egypt's rather low standards. More activist labor organizers were pushed out of the formal structure and began to make common cause with others discontented with the Mubarak regime. Throughout the 2000s, independent labor organizations became increasingly vocal, calling for both local and general strikes. These efforts culminated in the emergence of an independent union movement under international tutelage.⁴ These independent trade unions proliferated and generated new repertoires of contention. Many of these techniques were adopted by the revolutionary movement of 2011, which involved a large number of worker activists, as well as a general strike.

The general strike of February 2011 was a decisive moment of the January 25th Revolution, followed just two days later by the military removal of President Mubarak. As a key constituency of the revolutionary movement, workers were hopeful for a better deal under a new regime. Egypt's military rulers in the Supreme Council of the Armed Forces (SCAF) occupied a unique space in Egyptian political economy. In addition to more conventional military-industrial interests in advanced weapons systems and munitions, the Egyptian military produces consumer goods stretching from bottled water to poor quality home appliances. These military production factories employ a mix of conscripted labor and civilians. Unsurprisingly, trade union organizing within production factories was severely curtailed. As such, the military was an unlikely ally for the emergent labor movement, casting something of a shadow over labor organizers' hopes for more favorable conditions after the revolution.

⁴ Beinín, "Workers' Protest in Egypt."

Three Assemblies, No Movement

The constitutional process laid out by the SCAF was opaque from the beginning, and beset by problems. The initial constitutional statement issued by the military stated that a committee would be established to amend the constitution, and that a popular referendum would be held.⁵ A substantive constitutional statement was issued after a popular referendum in March 2011. This document stated that the two-be-elected parliament would draft a new constitution within 60 days. Debate over the referendum centered on whether to hold elections for the parliament or write the constitution first. Despite this debate, the referendum passed easily. The constitutional draft maintained a Nasser-era clause that 50% of parliamentary seats be held by “workers and farmers,” a condition that had become widely ridiculed, as members of Mubarak’s National Democratic Party from the upper classes or with entrenched financial interests ran as “workers and farmers.”⁶

Islamist parties dominated the new parliament in 2012. It was decided that 50 seats of the proposed 100-member constituent assembly would be held by sitting parliamentarians, ensuring an Islamist foothold. The Muslim Brotherhood’s Freedom and Justice Party secured the largest number of votes, with the more conservative Salafi parties securing an expected number of seats. These Islamist victories led to the selection of a largely Islamist constituent assembly. Most of the political parties with historical ties to the labor movement, including Social Democratic and Socialist Alliance Parties withdrew from the vote entirely. The Nasserist Karama Party received one seat on the assembly. Islamists dominated with 66 of 100 seats. A small number of seats were reserved for trade unionists, all drawn from the legacy ETUF, who along with liberal and leftist parties, soon withdrew from what was seen as an Islamist takeover of the constitutional process.

⁵ Casey Britton, “Press Release: Egyptian Military Constitutional Proclamation,” *Http://worldanalysis.net*, February 13, 2011, <http://worldanalysis.net/modules/news/article.php?storyid=1742>.

⁶ “Overview of Egypt’s Constitutional Referendum,” *Carnegie Endowment for International Peace*, <http://carnegieendowment.org/2011/03/16/overview-of-egypt-s-constitutional-referendum/1w5z>.

Thus, the first constituent assembly in post-revolutionary Egypt failed to represent the interests of the independent trade unions who took part in the revolution. Instead, to the extent it functioned at all, it represented the interests of liberal political parties and Islamist parties, both of whom shared a generally neoliberal economic orientation. The military leadership that oversaw the process was also hostile to labor actions, having banned “illegal” strikes as one of their first actions during the first week of their rule.

Egypt’s first constituent assembly did not have much time to create a lasting impact on the future of the country. In April 2012, a court order declared the Parliamentary elections illegal, and the assembly was dismissed with the parliament. A new assembly was crafted with a more limited role for Members of Parliament, and a supposedly more “balanced” number of Islamist and non-Islamist politicians and activists. While a larger number of seats – thirteen, was reserved for unionists, most of these went to professional unions (e.g., pharmacists, lawyers, actors) as opposed to working class unions who had been most threatened by economic reforms and most emphatically joined the revolutionary movement. Several of those who were working class activists were also members of the Muslim Brotherhood. As such, these members entered the assembly not so much as workers, but as Islamists.⁷

The supposedly “balanced” nature of this assembly collapsed before its work was complete. Islamist members, who still enjoyed a majority, pushed for more explicitly Islamic elements in the constitution. In reaction, liberal, leftist, and religious minority representatives variously froze, suspended, quit, or failed to show up to the meetings of the organization. Eventually an organized boycott emerged that encompassed almost all politically active non-Islamist members. Fearing another intervention by Egypt’s activist court system, in November of 2012 President Mohammed

⁷ Ahram Online, “Official: The 100 Members of Egypt’s Revamped Constituent Assembly,” June 12, 2012, <http://english.ahram.org.eg/News/44696.aspx>.

Morsi issued a “temporary” constitutional declaration which immunized his previous decisions, appointed a new prosecutor-general, extended the timeline for the assembly to work, and prevented the courts from dissolving the assembly. In the following week, the constitutional assembly, shorn of the Islamists' most bitter critics, finished a draft constitution in a marathon session. The constitutional referendum was held in two blocks in December 2012, and passed despite losing in Cairo governate. The Muslim Brotherhood's Freedom and Justice Party supported the constitution, while all other major political parties opposed it as being too favorable to Islamists.⁸

This constitution, conceived in contention rather than consensus, did not last. On July 3rd, 2013, following street protests and growing conflict between the Muslim Brotherhood and the state's security establishment, President Morsi was removed in a coup d'état that also saw the suspension of the constitution. Once again, Egypt was under military rule. Much like SCAF's interregnum after the January 25th revolution, a vague constitutional process was outlined. Two months ago a pared-down list of fifty names surfaced as the new constitutional assembly, largely comprised of the leftist, secular, and liberal activists who had been so frustrated by the leadership of the Muslim Brotherhood and flocked to the military coup. One seat was reserved for the head of the legacy ETUF, while others, like in the previous assembly, went to professional syndicates outside the structure of the ETUF. Despite this relative stasis at the level of constitutional design, much political agitation has taken place in the political realm outside of the assembly.

New Enemies, Strange Bedfellows

Prior to the January 25th revolution, the independent union movement had clear opponents and allies. The ETUF was their enemy, and with it the various apparatuses of Mubarak's sclerotic

⁸ Dina Amer, “Morsi's Sins Beyond the Constitution,” *Jadaliyya*, <http://www.jadaliyya.com/pages/index/9034/morsis-sins-beyond-the-constitution->.

police state. Their allies were the diverse elements that can be lumped together as the “opposition,” from the leftists of co-opted parties like Tagammu, to the various youth movements, to the Muslim Brotherhood. After the revolution, the political scene was scrambled, with many of the same players on the board, but in different positions. Muslim Brothers occupied positions of political power, and sought to inherit Mubarak’s institutions to the fullest extent possible. This meant changing their position on the ETUF from one of hostility to one of co-optation. The military itself, formerly a shadow player in the economic structure of society was dragged into the spotlight, an agency above the state, vaguely hostile, but to which petitions and exhortations could be directed, much like Mubarak himself had been. The ETUF was now locked in its own internal battle between reformist elements, old-guard Mubarak loyalists, and new Muslim Brotherhood-affiliated up and comers. The independent unions remained a threat, but also a potential ally against the Brotherhood, whose electoral strength and institutional reach was impressive.

The first military government appointed one of the independent movement’s allies to the role of Minister of Manpower, Ahmed al-Borai. Dr. Al-Borai is a respected labor lawyer and long-time ILO expert. Al-Borai quickly moved to dismiss the board of the ETUF and push through a law ending its role as the sole legal union confederation. The new ETUF board he appointed included youth, independent activists, a limited number of regime remnants and Muslim Brothers. The infighting on this new board mirrored the fighting in the constituent assembly, with ‘revolutionary’ members resigning, leaving an odd Mubarak-Brotherhood alliance left in charge of the institution. At the same time, political development on what is known as the “trade union freedom law” stalled. The Supreme Council of the Armed Forces shelved it, and the Morsi government decided to draft its own, which would have a larger role for the ETUF. Al-Borai’s

aggressive moves earned him the contempt of the Brotherhood, and the suspicion of the military. He was soon sacked and replaced by a more moderate figure.⁹

Despite its representation of anywhere from 2 to 4 million Egyptian workers, the independent union movement failed to emerge as a constituency for any strong political party. Its leaders spread among the Revolutionary Socialists, Karama Party, Socialist Alliance, and the Constitution Party. Multiple attempts to form a left-liberal alliance, of which workers would be a key constituency, failed. Additionally, some workers aligned with the Muslim Brotherhood or Salafi movements, further diluting the ability of the group to make an organized front. Even within the independent union movement, there were major divisions. One group, led by Kemal Abbas, grew out of the Center for Trade Union and Worker Services, an NGO with ties to industrial workers. The other group, the Egyptian Federation of Independent Trade Unions, grew out of an effort to organize bureaucratic workers in the mid-2000s and is led by a the President of the first independent governmental union, Kamal Abu Eita. During the past two years, efforts at reconciliation to form a united front for independent workers have consistently been derailed by a combination of political differences, disparate views on legitimate organizing, and Nile-sized egos.¹⁰

Despite the setbacks in organizing and infighting, workers have achieved some of their main goals in Egypt. Under the Morsi administration, a new minimum wage was set in accordance with a nearly decade old court settlement. The ETUF has been challenged as the de facto, if not de jure, sole voice for workers. The post-coup government also appointed Kamal Abu Eita as Minister of Labor, though his early comments discouraging strikes were viewed as a betrayal by other unionists. Recent statements suggest that another long-standing goal, a maximum wage, will soon be set in the

⁹ Al-Borai, Ahmed Hassan, Interview by author, Cairo, Egypt, April 2012.

¹⁰ El-Mergany, El-Hamy, Interview by author, Cairo, Egypt, April 2012.

country, though at the same time, reports from the constituent assembly suggest the 50% quota for farmers and workers will be scrapped.

Tunisia's Horizontal Cleavage

Tunisia's trade union movement predates the state's independence. In fact, trade union organizations were a key component of the independence movement, serving as the street-presence of Bourgiba's movement. Instead of co-opting this movement early on, the most Bourgiba could hope to do was contain it. Its first leader, Farhat Hached (whose face still adorns every trade union office in the country) was an independence leader without equal outside of Bourgiba himself. Like its analogue in Egypt, the UGTT is an exclusive, hierarchical, peak institution in labor in the country. It claims somewhere around 700,000 members.

During the Bourgiba era, the UGTT walked a fine line of resisting and accommodating itself to the regime. Interestingly, during the era of one-party rule, the union maintained multiple political streams and orientations within, effectively making it the only political institution in the country with something approximating pluralism. During the early years of independence, Tunisia maintained a centrally planned, socialist-influenced economy.¹¹ While not as thoroughgoing as the reforms in Egypt, it included redistribution of land seized from pre-independence institutions and nationalization of some industries.

A plan for industrialization included growth in the hydrocarbons sector, as well as increased mining operations. This increase in the industrial sector included expanded unionization rates, as did the growth of the bureaucracy established to manage a planned economy. The UGTT established a mixed structure, containing both region-based and sectoral unions. The organization

¹¹ Nicholas S. Hopkins, "Tunisia: An Open and Shut Case," *Social Problems* 28, no. 4 (April 1981): 385–393, doi:10.2307/800052.

established offices throughout the country, and unlike their counterparts in Egypt, existed relatively free from interpenetration by the security services.

In 1970, the regime pivoted towards economic opening, and saw an upswing in economic activity. Much of this success can be attributed to increase oil and phosphate prices, and relatively less of the benefits reached the laboring classes.¹² Labor unrest increased dramatically in the middle of the decade, at first consisting mostly of wildcat strikes. By 1978, these frustrations boiled over into national strikes and protests, eventually winning support from the leadership of the UGTT.¹³ This protest wave constituted the largest threat to the Bourgiba regime since independence. This uprising foreshadowed the 2011 Revolution in many ways. In addition to the widespread working class discontent, both saw a horizontal cleavage in trade unionism. Unlike their peers in Egypt, workers did not break from the UGTT and form their own union, instead turning on their leadership and forcing them to adopt a more militant line. In turn, the regime sacked the union leadership, but was unable to penetrate the organization downward, into the rank-and-file members.

This pattern was repeated in the 1984 Bread Riots. The Tunisian government cut subsidies on basic foodstuffs, resulting in major protests across the country. Once again, the rank-and-file unionists organized and joined protests, dragging their leadership along with them. Once again, the regime ejected the leadership, in this instance arresting and imprisoning more than 100. The leadership was replaced with regime loyalists.¹⁴

The regime transition in 1987 brought an increased commitment to neoliberal reforms and structural adjustment. The UGTT adopted a position of support for the government officially,

¹² Christopher Alexander, *Tunisia: Stability and Reform in the Modern Maghreb*, 1st ed. (Routledge, 2010), 77.

¹³ Nigel Disney, "The Working Class Revolt in Tunisia," *MERIP Reports* no. 67 (May 1, 1978): 12–14, doi:10.2307/3011401.

¹⁴ Jim Paul, "States of Emergency: The Riots in Tunisia and Morocco," *MERIP Reports* no. 127 (October 1, 1984): 3–6, doi:10.2307/3010972.

despite increased agitation for democracy among working class members. Like his predecessor, President Ben Ali replaced union leadership with his own cronies. The unique sectoral and regional organization of the union preserved rank-and file militancy despite continued elite cooptation.

Like in Egypt, the late 2000s saw an increasingly sclerotic regime. Labor agitation in Tunisia was regionally based, with a concentration in the southern mining region of Gafsa. While local union offices supported a general strike of phosphate workers in 2008, the union leadership maintained its quiescence. Regional offices of the UGTT became the main site of contestation, a place of organizing and resistance, not only on economic and workplace issues, but also for protests over the war in Iraq and other political issues.

When protests over the self-immolation of Mohammed Bouazizi emerged in December 2010, they quickly spread to UGTT offices. Regional offices supplied both an organizational backbone, and ‘cover’ from security services. While the regional offices were certainly not sacrosanct from search by security forces, it remained a politically sensitive activity. Leadership of the UGTT not only resisted the protest movement, they took up the role of “loyal opposition” helping to form a transitional government with remnants of Ben Ali’s regime.¹⁵ Once again, rank-and-file members resisted this development, and the transitional government fell.

Constitutional Process, Supra-constitutional Role

The transitional Tunisian government called for rather swift elections for a constituent assembly. These took place in October 2011, and resulted in an impressive victory for the Islamist Ennahda Movement. The constituent assembly was invested with broad powers of governance during the transition, and a deal was struck between Ennahda and two smaller parties; Congrès pour

¹⁵ “Tunisian General Labor Union (UGTT),” *Tunisia Live*, <http://www.tunisia-live.net/2011/12/26/tunisian-general-labor-union-ugtt/>.

la République (CPR) and Ettakatol, both representing the center-left secular population. The three parties divided the Tunisian Presidency, Speaker of Parliament, and Prime Ministerial roles.¹⁶

The make-up of the political parties itself is interesting, with many outside observers expecting the UGTT to take on a role similar to that of Solidarity in Poland, and run as, or explicitly back, a political party. The UGTT decided not to do this, and in fact did not publicly back any political party in constituent assembly elections. Several of the center-left and secular parties enjoyed relationships with and shared members with the trade union movement.

Throughout 2012, the constituent assembly worked on the new constitution, while the ruling troika of parties governed. Conflicts between the UGTT and the ruling Ennahda party started almost immediately. Unlike in Egypt, the UGTT was largely devoid of Islamist elements. Furthermore, the Tunisian regimes suppression of Ennahda and cooptation of the UGTT meant that trade unionists and Islamists had no history of even basic cooperation. Their struggles were separate, and back channels of communication almost non-existent. The UGTT began a push for better wages, while the Ennahda movement maintained a liberal free-market line. The conflict spilled into street actions in February 2012 when garbage was dumped at a variety of UGTT offices around the country. The union vocally blamed Ennahda.¹⁷ The following months saw an increase in labor strife, as the newly elected board of the UGTT flexed its political muscle. More leftist and militant in orientation, the leadership of the UGTT now contained both the revolutionary youth and remnants of the old regime, both of whom had reason to make life difficult for Ennahda. At the same time, Ennahda's relative lack of experience with governance, and rigidity on economic issues exacerbated the situation.

¹⁶ "Tunisia's General Election: Islamists to the Fore," *The Economist*, October 29, 2011, <http://www.economist.com/node/21534808>.

¹⁷ Calls for solidarity were published in the Trotskyist website www.socialistworld.net Committee for a Worker's International, "Tunisia: Hands Off the UGTT Trade Union!" <http://www.socialistworld.net/mob/doc/5599>.

The constituent assembly produced a draft of the new constitution in August 2012. It included constitutional rights to the formation of unions, and the right to strike, limiting the latter to strikes that do not endanger the “life, health, or security of people.”¹⁸ The UGTT found this to be an unacceptable limitation and protested vigorously over it in both 2012 and 2013.

Despite not having a presence in the constituent assembly, the UGTT began to act more like an opposition party than a labor union. In addition to protesting articles of the constitution that addressed labor issues, the UGTT became a vocal critic of an article of the draft constitution describing women’s roles as “complementary” to men’s’. By using the threat of strikes and social protest, the union was able to push not only its economic interest, but also a broader slate of liberal and leftists ideas. In early 2013, the union concluded a social pact with the business association and the government, returning to a more conventional tripartite role. Outside of the ruling troika, political parties began to organize themselves more consistently, and smaller parties began to merge to form a left-labor block outside the government. Most accounts suggest that the UGTT has actively supported this counterbalance to Ennahda.

Two major political assassinations brought the work of both the government and the constituent assembly to a halt in 2013. In February, Chokri Belaid, a leftist activist, was assassinated outside his home. Left and liberal parties, as well as the UGTT blamed Islamist groups for the attack. The UGTT called for a general strike and the dismissal of the government. The strike was cancelled at the last minute when the Ennahda Prime Minister stepped down, and a caretaker government was formed.¹⁹

¹⁸ Translated by the International Democracy and Electoral Assistance Organization “Draft of the Constitution of the Republic of Tunisia,” http://www.constitutionnet.org/files/2012.08.14_-_draft_constitution_english.pdf.

¹⁹ “Tunisia Strike Call after Killing,” *BBC*, February 6, 2013, sec. Africa, <http://www.bbc.co.uk/news/world-africa-21360358>.

While a tragedy for leftist politics in the country, Belaid's assassination galvanized support for a secular alliance, including members of the former regime. The UGTT used its position outside the government and the constituent assembly to call for a broad "national dialogue" which Ennahda was forced to join under public pressure. The national dialogue emerged as a second track to the formal constitutional negotiations, where UGTT mediators could shape the legislation from the outside. Despite the assertion that the final draft of the constitution was complete in the spring of 2013, the UGTT had found a way to reopen key issues for more debate, including the legality of strikes.

In July 2013, Mohamed Brahmi was assassinated. A leftist leader, he was seen as more moderate than Belaid, and in fact was considered something of a bridge to Ennahda. Police reports have stated that he was murdered with the same gun as Belaid, in what many have taken as a clear sign of intimidation. Spontaneous demonstrations broke out on Habib Bourgiba Avenue in downtown Tunis. In addition to calls for the fall of the regime, protesters called for the elimination of "Brotherhood Government" a reference to Ennahda's historical ties to the Muslim Brotherhood. Others called for an end to "rule by terrorists" putting the blame for the recent political assassinations squarely on Ennahda. Political gridlock stopped the work the national dialogue, the government, and constituent assembly. This time, UGTT carried out a two-day national strike, which saw wide adherence in Tunis.²⁰ The government called for a national day of mourning, and a sit-in commenced outside the constituent assembly calling for the fall of the government. At the same time, Nidaa Tounes, a political party comprised of the secular left with several members of the former regime, captured the political momentum. 86-year-old Beji Caid Essebsi, a former minister under Habib Bourgiba, and Taieb Baccouche, a former leader of the UGTT, head the party. Popular opinion suggests that the party enjoys widespread support in the UGTT. Through

²⁰ Activist interviews with the author on the day of the assassination.

defections, mergers, and declared alliances, it now enjoys the second largest block in the constituent assembly. The UGTT, together with the national employers association, the bar association, and the association for human rights, has drafted a “road map” out of the ongoing political impasse that includes a new government and new elections.²¹ Ennahda has reluctantly agreed to the road map to move the work of the constituent assembly forward.

UGTT and ETUF in Context

What accounts for the differing fates of constitutional politics of the UGTT and the trade union movement in Egypt following the revolutions in Tunisia? Both entered the post-revolutionary period in similar positions. While the Egyptian trade union movement was divided into three federations (CTUWS-affiliated, ETUF, and EFITU) all shared common goals and common enemies. At the same time, the UGTT had internal divisions between regime remnants and rank-and-file members. Unionists in both countries lacked strong ties to any specific political party, and political agendas at odds with the ascendant Islamist movements. Yet, in Egypt, workers issues have been largely sidelined, and worker activism has been prey to opportunistic manipulation by stronger societal forces. In Tunisia, the UGTT has emerged intact, with powerful political allies, and sits above the political fray, hosting a national dialogue that has at times enjoyed the power to dictate terms to both the government and the constituent assembly.

A few differences seem most readily salient: the nature of the constitutional process, the relationship to Islamists, and the absence of an outside veto player. Each one of these processes may be usefully explored with an eye towards new theory formation on the role of unions as representatives of workers interests in transitional processes

²¹ “Facts on Tunisia Roadmap to End Crisis,” *News24*, <http://www.news24.com/Africa/News/Facts-on-Tunisia-roadmap-to-end-crisis-20131005>.

Process

The nature of the constitutional process varied greatly in Egypt and Tunisia. In Egypt, the assumption was that a constitutional committee would be made up of “notables” from a variety of pre-ordained bodies of civil society. These included youth, revolutionaries, unions, farmers, religious groups, and minorities. The constriction of these identities, the legitimacy of their ties to the institutions that purported to speak for them and their flexibility are all topics that could fill articles in their own right. In the case of unions, it is evident that there was a lingering assumption that a pre-revolutionary institution, the ETUF, would continue to represent effectively their constituents. This of course suggests that there was a perception of some kind of legitimacy in the ETUF, along with the Coptic Church, the various groups of revolutionary groups, or any of the other semi-corporate bodies from which the constituent assembly was drawn. The very idea that parliamentarians would take up half of the assembly was seen as tawdry in some way, the incorporation of corrupt politicians into a process that was to be better than politics. Some of this may be a legacy aversion to parliamentary politics that predates Mubarak, and reaches back to Egypt’s royal era. Constituent assemblies, most notably those that formed the 1923 and 1971 Constitutions were also insulated from politics, answering to a King in the first instance, and a nearly all-powerful President in the second. This tradition appears to have carried over to the current era of constitution writing. The constituent assemblies in Egypt have had no role in actually governing the country in any regard, their task has exclusively been to work on the document at hand, leaving day-to-day operations of the state to the military or the elected politicians, depending on the time period.

In almost every way, the constitutional project in Tunisia has differed. To begin with, the constituent assembly was drawn directly from a popular election, and while the election was held

soon after the revolution, it reflected a real diversity in opinion. Seats are held by a variety of political factions, representing the right, center, and left with both secular and Islamist elements. No representative was drawn from any pre-ordered corporate body, and instead all relied on electoral legitimacy. While both countries had fights over the role of Islamists in the constituent assembly, Tunisia had less minute fighting over quotas and percentages to each national subgroup, benefiting perhaps from a higher degree of religious homogeneity. With no role for organized institutions, the question for the UGTT became whether to form a political party. In retrospect, it seems wise to have not. With no official representatives in the assembly, the union was able to project itself as above and outside the political fray. The constituent assembly also had real constituent power, setting the terms for the government, and dividing governmental positions according to electoral realities.

Islamists

Egypt and Tunisian unions also differed in their relationship to Islamist movements. In both countries, Islamist movements had long-standing tense relationships with the state. Both had created networks of educational institutions and social charities. In Egypt, the Muslim Brotherhood was an established part of the opposition, running candidates as independents throughout the government. In Tunisia, the Ennahda movement was more fully run to ground, or in exile. Because of this, the relationship between the groups was different in each country. In Tunisia, trade unionists had little to do with Islamist groups. The trade union ran its own social welfare programs, making it less likely that members would also be involved in Islamist groups. Furthermore, the union itself had a pronounced leftist political orientation, historically at odds with the Islamist program and favoring secularism. In Egypt, independent trade unionists enjoyed cordial relations with the Muslim Brotherhood prior to the revolution, hosting joint events and maintaining lines of

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communication. Islamist social services were broader in Egypt, and the role of the trade unions was more confined to the workplace, meaning more trade unionists were directly connected to Islamist politics. Several proto-unions in Egypt were actually directed by Muslim Brothers, and Muslim Brotherhood candidates had made great strides in both student unions and professional unions that were outside the ETUF structure. As such, the Brotherhood felt it had a claim to worker politics from the inside out and actually sought to come to some *modus vivendi* with the ETUF, placing its own members inside the leadership, and working to moderate independent unionists' calls for its dissolution.

Ennahda, on the other hand was exclusively antagonistic to the UGTT, and enjoyed limited connections within the movement. In this way, the UGTT was seen as the “natural” counterweight to Islamist power. Despite the successful signing of a social pact (an accomplishment that the ETUF would welcome) the conflict between the UGTT and Ennahda has been in the defining political dynamic in the country since the seating of the new government. Because of the lack of overlapping constituencies, the two groups were forced to meet one another in more formal channels, either in the government or in the “national dialogue.” The latter forum was designed by the UGTT to extract concessions from their opponents, leaving Ennahda at a disadvantage never faced by the Muslim Brotherhood.

Veto Player

Tripartite politics classically plays out between governments, employers groups, and unions. In Tunisia, despite the waxing and waning fortunes of these three parties, this remains the case. The business association, Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat (UTICA) is well institutionalized and able to serve as an interlocutor with the government and the UGTT. These three parties successfully signed a social pact in 2013, but recent reports suggest that UTICA

leadership has grown uneasy with the Islamist government in recent months. This has created yet another strange-bedfellows situation in the country, where the interests of organized capital and organized labor are lining up against those of the Islamist movement.

Interestingly, Egypt lacks an organized employer's organization. Negotiations between labor and capitalists are carried out at the shop-floor level, with most complaints being aggregated to the government, as opposed to solved effectively with cooperation from all three institutions. Instead, capitalist interests were reflected in the government itself prior to the revolution. Gamal Mubarak's clique, seen as the driving force in his father's regime for its final 10 years, was made up largely of business leaders. Capitalist interests are also reflected in the Muslim Brotherhood. While its economic philosophy includes components of Islamic finance and charity, its fundamental orientation is free-market, and many of its leaders hold extensive commercial interest. Finally, the Egyptian military is a major economic actor in the country, with reports suggesting it owns anywhere from 15% to 40% of the country.²² While the latter figures are most likely exaggerated, direct military holdings and those of ex-military officers are a substantial portion of industrial production and land ownership. Here, despite the conflicts between them, on the dimension of economic organization both the Muslim Brotherhood and the military had interests in labor quiescence. This dynamic has made the army a veto player in any new economic strategy in the country; at times taking steps in favor of workers (appointing their representatives) and at other times against them (banning strikes). In Egypt, the only supra-constitutional process takes place at the level of the military, where trade unions have limited influence.

²² Dalia Kholaf, "The Egyptian Army's Economic Juggernaut," *www.aljazeera.com*, http://live.aljazeera.com/Event/Egypt_Live_Blog_2.

Expanding the Analysis

What can the cases of Tunisia and Egypt tell us about the role of unions in post-transition constitution making? First, these countries are not unique in having a major role for trade unions in political transitions. The so-called “third wave of democratization” saw strong labor movements in South Africa, Taiwan, South Korea, and Poland. While none of these countries saw the rise of Islamist movements, each had entrenched, oppressed institutional actors with which labor needed to reconcile. Constitutional reform included multi-year process like the one in Poland, which saw political debate for almost eight years, and rather speedy adjustments to existing documents in places like South Korea. Veto players included constitutional courts in South Africa, and the People’s Republic of China and the United States for Taiwan.

The representation of the working class is vital to democratic politics. The way in which workers’ representatives are integrated into a constitutional design process clearly influences outcomes for those organizations. Continued research on the necessary conditions for the successful integration of worker organizations into constitution drafting, especially on those dimensions described in the case of Tunisia and Egypt will yield a better understanding of the durability of democracy and the success of constitutionalism in transitioning countries.

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