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The 25 July 2022 Scenarios in Tunisia: Uncertainty after the Referendum

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Supporters of Free Constitutional Party gather to stage a protest against the constitutional referendum, which will be held on July 25, in Tunis, Tunisia on June 19, 2022. © AA/Yassine Gaidi

Table of Contents

Abstract	2
The Symbolism of 25 July and the Overall Context	3
Plausible Scenarios for 25 July	4
The “Yes-Vote” Scenarios: High Probability of Ushering “Democratic De-transition” in Tunisia	5
High Turnout / Strong “Yes”: The Ideal Scenario for the President	5
Strong “Yes” / Low Turnout: A Very Probable but Mixed Outcome	7
Low “Yes” / High Turnout: An Unlikely but Possible Scenario	8
Weak “Yes” / Low Turnout: A Very Likely Outcome with Serious Consequences for the Country	8
The “No-Vote” Scenarios: The Unlikely Rejection of Both the Referendum and Kais Saied	9
“Yes” or “No”: What about Fraud and Violations?	10
What if the Referendum Simply Does Not Happen?	11
Tensions, Anticipation, and Painful Stakes	12

Abstract

The Twenty-fifth of July 2022 will mark yet another important date in Tunisia's history. Several months ago, President Kais Saied announced the holding of a referendum on the new draft constitution that was shared publicly only on 30 June 2022, less than one month before the vote. This drastic change of course throws the whole country into uncertainty and deepens divisions within society between the president's supporters, who see the referendum as ushering a new era, his critics, who announce the end of the democratic transition launched in 2011, and the rest of the population, who have grown tired of political tensions and have borne the brunt of the economic crisis.

The uncertainty of the Tunisian political life opens the door to numerous scenarios, whose aftermath is unfortunately detrimental to the country and heralds future divisions and even deeper crises. This paper seeks to examine these different scenarios, analyze their consequences, study their stakeholders, and determine their likelihood.

The Symbolism of 25 July and the Overall Context

The date of the upcoming constitutional referendum seems to be further embedded in modern Tunisian history. First celebrated in commemoration of the Day of the Republic on 25 July 1957 following the ousting of the Bey of Tunis, this date regained traction in 2019 when it marked the death of President Beji Caid Essebsi, the country's first democratically elected president who died a few months before the end of his presidential term. His death prompted early presidential elections, which saw Kais Saied elected president and taking office on 23 October 2019.

The same president Saied would use again from the date of 25 July 2021 to sack the government he had himself formed more than a year earlier, dissolve Parliament, and take over as head of Public Prosecution. In the wake of a critical political, economic, and health situation, these decisions halted the political and civil dynamics adopted since 2011 and neutralized almost all political and civil actors. The 25 July 2021 triggered a series of decisions and measures seeking to seize power, muzzle all opposition voices, and bolster key institutions in the aftermath of the coup.

In December 2021, the president announced that a constitutional referendum will be held on 25 July 2022 - the first anniversary of his coup - with legislative elections scheduled for December 2022. He also announced online national consultations regarding the priorities and perceptions of Tunisians. The effort was hailed by the presidential team in March 2022 as a success for its inclusivity, although only 520,000 citizens participated; less than the voters who elected Kais Saied in the first round of the 2019 presidential elections (about 620,000 voters), that is, less than 10% of the country's electoral mass.

Since the beginning of 2022, the president had been increasingly undermining any institution that could represent a counter-power: the Supreme Judicial Council was dissolved in February; a repressive draft amending the law on freedom of association was submitted; former members of the Assembly of People's Representatives (ARP), Tunisia's parliament, were prosecuted, placed under house arrest, or banned from leaving the country; police crackdown on activists and social movements culminated to intense levels not seen in the last 11 years of democratic transition; and over 50 judges, most of them unwilling to bend to the authority of the executive, were dismissed.

On 30 June 2022, the office of the president published a draft constitution triggering [major criticism](#): enshrining Islam as the religion of the State, unreasonable and disproportionate

restrictions on fundamental rights and freedoms, flagrant power imbalances with the parliament's inability to hold the president accountable, a parliament transformed into a registry office, a judiciary reduced to a simple "function", the abolition of decentralization and transitional justice which constituted two fundamental pillars of the transition, etc. Through this text, President Saied seeks a democratic de-transition that he intends to enact on 25 July 2022 by popular vote. A second version of the draft was published on 8 July with numerous modifications justified by the president as "spelling and numbering errors"; a "type of error" he described as "usual and common in the drafting of all legal texts and judicial decisions." However, the bulk of the risks remains while the campaign for the referendum had already begun.

Therefore, President Saied has chosen the new draft constitution to oppose not only the content but also the process launched by the National Constituent Assembly (NAC) in 2011. Against this elected NAC, open to civil society, citizens, debates, votes broadcasted on national television, seminars, conferences, consultations, hearings, and field visits, the president has chosen a new text adopted by a committee of experts that he handpicked and that ended up repudiating him.

Be it a matter of substance or approach, for several months, Kais Saied has built up, both deliberately and involuntarily, the idea that this referendum would be more of a popular vote on his person and his mandate than an actual question of approving or rejecting a new Constitution.

The last stroke to complete the picture, on 9 May 2022, the president appointed new members to the council of the Independent High Authority for Elections (ISIE). This authority, in charge of organizing the referendum, reports directly to the President. In June, it registered over two million new voters who had not previously registered and then urged the political and civil stakeholders wishing to run campaigns to register beforehand. Further, the ISIE published a list of natural and legal persons eligible for campaigning, especially those who are in favor of the new Constitution.

Plausible Scenarios for 25 July

The impending political uncertainty plaguing the country for months makes it difficult to give projections, whether in terms of the results or aftermath of the referendum. Therefore, the following scenarios are identified as possible outcomes but do not share the same likelihood of actually happening.

First, two main variables must be considered: participation and vote results. With an electoral body now consisting of more than nine million voters, the referendum will take on a completely different indication based on whether a minority or a majority of voters turned out to vote. The level of participation will either validate or invalidate the months-long presidential rhetoric on the “popular support” for the president and the “will of the people” that Kais Saied reiterates in every speech. Given the empty streets abandoned by supporters and opponents of Saied across the country and the low participation in the online national consultation, this referendum is a major test for the president.

Moreover, whether the “yes” or “no” wins, the value of this answer will have a significant difference for society as well as national and international observers. For instance, there is a big difference between a “yes” winning with 51% of voters, a “yes” with around 75% and a “yes” with 99%. Ultimately, it will be a question of considering the still existing possibilities of the referendum being postponed or simply canceled.

The “Yes-Vote” Scenarios: High Probability of Ushering “Democratic De-transition” in Tunisia

In light of the president's statements on social media and media outlets between May and July, it seems that the Saied team has very little doubt about the “yes-vote” winning the referendum. The president maintains the populist rhetoric of the importance of constitutional change even while the polls (conducted by Sigma March 2022 and by Elka April 2022) indicate that these issues lie at the very bottom of the priorities and concerns of Tunisians, far behind the issues of economy, purchasing power, public debt, and inflation.

Any “yes-vote” victory, regardless of its conditions, would de facto lead the country into a third republic, after those established in 1959 (post-independence) and 2011 (post-revolution). The newly promulgated Constitution would abolish the 2014 version adopted by a Constituent Assembly that was democratically elected 11 years ago by more than four million voters.

The new Constitution would reshape the executive, legislative and judicial institutions while creating a new (im)balance among them. De facto as well as de jure, the referendum would pave the way for the President to carry out the rest of his roadmap consisting essentially of two pillars: the revision of the electoral law (most likely around the beginning of the academic year in September) and the general elections at the end of the year.

High Turnout / Strong “Yes”: The Ideal Scenario for the President

This first scenario is based on a high turnout and a landslide victory of “yes” to the new Constitution during a poll which would mark a large part of the population turning out to vote on 25 July. This scenario would significantly bolster the president’s credibility by providing hard evidence to back the claims that he has been unable to prove since (at least) 25 July 2021:

that the people would undeniably stand by him. It is possible to imagine that the “yes-vote” would garner at least two-thirds of the votes and could go as far as recording the symbolic figures of the polls organized in Tunisia under Ben Ali.¹

On the one hand, such a possibility would mark the end of the system established in 2011. It would represent a certainly irrecoverable rejection of the political and institutional dynamics in force since the rise of Ennahdha as a prominent actor on the public scene in Tunisia. On the other hand, the president would back his next action with a double symbolism of legality (which would silence his critics denouncing the unlawfulness of his decisions since the summer of 2021) and legitimacy (backed by popular support henceforth explicit.)

Tunisia's international partners would eventually end up with a single counterpart representing the country, without any actual counter-powers, active civil society, reliable political opposition, or sufficiently involved social actors.

This scenario seems unlikely, not that the result of the “yes-vote” can be questioned, but rather a very high turnout seems to be an unsubstantiated hypothesis. The recent polls in Tunisia had less than 50% voter turnout (except for the second round of presidential elections during which Kais Saied was elected president). Furthermore, the national consultation - symbol of support and interests of the population in the president's decisions - failed to gather more than 520,000 citizens. This number cannot even be linked to the electoral body because the consultation was also accessible to young people aged between 16 and 18 who are not old enough yet to vote, according to the Tunisian electoral law.²

Table 1: Turnout rate per poll organized in Tunisia since 2011

Polls	Constituent Assembly 2011	Assembly of People's Representatives 2014	President of the Republic 2014	Municipalities 2018	Assembly of People's Representatives 2019	President of the Republic 2019
Turnout Rate	51,97 %	68,36 %	62,91 % (First round)	35,65 %	41,70 %	48,98 % (First round)
			60,09 % (Second round)			56,80 % (Second round)

¹ In 2004, President Ben Ali was elected in the first round of presidential elections with officially 94.49% of votes and a turnout rate set, still officially, at 91.52% of the electoral body.

² The legal voting age in Tunisia is 18.

Envisioning a high turnout would mean ignoring the significant lack of interest of Tunisians in political life, even when the polls are critical for the country. Furthermore, it is necessary to note that the referendum will be held in July, amidst a vacation period and major holidays during which voters often travel within the country and abroad and therefore are far from the polling stations where they are registered. Despite a campaign to re-register and change polling stations, the ISIE is unlikely to record a spike in turnout. The latter will also be impacted by the resurgence of COVID-19 in the country, which would certainly prompt the elderly to stay at home.

It seems that the president's team has well understood this issue: national audiovisual media, security agencies, youth centers, and cultural centers are all good instruments to urge voters to vote. The ISIE has thus extended the opening hours of polling stations from 6 p.m. to 10 p.m. We will have to wait and see whether these efforts will lead to electoral fraud that may significantly influence the results.

Strong “Yes” / Low Turnout: A Very Probable but Mixed Outcome

This scenario seems the most likely to happen. The “yes” vote would win with the same consequences for the country's institutional future (a third republic, repeal of the 2014 Constitution, legislative election in December, etc.) but would paradoxically highlight a certain loss of legitimacy for President Saïed. His populist rhetoric would lose all credibility because “the people” the president speaks of would have at best remained silent or at worst ignored his call. Indeed, they may have even answered the calls of his opponents.

Even if the referendum were to pave the way for legal reforms, it would be difficult for the president to implement a constitution approved by even 30% of the population. The new parliament to be elected will stem from a constituent power (the President) whose undermined legitimacy would certainly have consequences on the general discretion of the legislative work. Judicial reforms, including the establishment of a constitutional court, as well as independent bodies, will have difficulty establishing themselves based both on a referendum shunned by Tunisians and in light of the objection of the judiciary, which has been on general strike since early June 2022.

If the president guarantees the implementation of the rest of his roadmap, political and institutional stability would not be assured. In fact, the opposition would likely be strengthened whether it campaigned for the “no” vote or simply boycotted the referendum. Since there are “multiple oppositions” rather than one single front, it would be necessary to show unity and coordination to prompt a confrontation about legality and legitimacy both inside and outside the country.

herein this case, we should also focus on the rhetoric already adopted by the president as he insists that invisible actors are trying to stir turmoil within the Tunisian electorate through conspiracies, accusations of treason, and overt threats, which may explain the low turnout. This turmoil could explain the low turnout.

Low “Yes” / High Turnout: An Unlikely but Possible Scenario

A third variation of the “yes” vote victory would be a win by a small majority of voters (slightly above 50%) in a poll with large voter participation. While this scenario remains unlikely for the same aforementioned reasons, it is still possible.

Indeed, the Tunisian electorate has consistently demonstrated a capacity to surprise during elections. Kais Saied is a recent example as an independent candidate who had no prior political experience and campaigned with little national media coverage, though he is not the only example. In 2011, the Constituent Assembly saw Hechmi Hamdi's "Popular Petition" grow to be the third largest parliamentary bloc. They had 26 seats within the NCA and over 273,000 votes, with a leader who lived in London and was considered to not make any sense. In 2014, the election of the very first Assembly of People's Representatives had a surprising turnout rate - close to 70% - and a "winner", Nidaa Tounes, which Béji Caied Essebsi had founded only a few months earlier. In doing so, they bypassed Ennahdha and ousted its two allies: the Congress for the Republic (CPR) and the Democratic Forum for Labor and Liberties (Ettakatol).

As such, this particular scenario should not be discounted too soon. It would certainly represent a muted victory for the president, but it would be easier for him to defend as people would have turned out and voted in majority in favor of "yes;" his legitimacy would be strengthened, and the new regime could be implemented. On the other hand, the fragmented opposition would be further divided, as those who called for a boycott would be discredited by the results, while those who campaigned for the "no-vote" would have simply lost a decisive but not final battle.

Weak “Yes” / Low Turnout: A Very Likely Outcome with Serious Consequences for the Country

This scenario is often mentioned by close observers of the Tunisian political scene as the most likely outcome of the referendum. The "yes" vote would win by a narrow majority (slightly over 50%) with little turnout on 25 July.

This situation may seem unacceptable for the president because, as already noted, his populist rhetoric would lose all meaning without a massive voter turnout. Additionally, he would have barely succeeded in convincing the few active voters to vote.

If there is indeed a transition to a third republic, its institutions would be greatly undermined and economic reforms (probably painful for the population) would be difficult to implement and justify. Of all the successful “yes” vote scenarios, this one would constitute a win for the boycott and all parties against the referendum. It would be possible for them to question not only the president’s legitimacy but also that of the whole process. The consequences for the country could be detrimental in this case and it would be natural to question the holding of a legislative election at the end of the year.

The “No-Vote” Scenarios: The Unlikely Rejection of Both the Referendum and Kais Saied

The “No” vote winning scenarios are as numerous as those for the “yes” vote. They are based on the same parameters as the “no” vs. “yes” and the turnout rate.

It is however logical to rule out any scenarios of a strong “No-vote” victory. Indeed, the political opposition is divided between calling for the “No” vote and boycotting the referendum. The lack of a unified stance is based, , on the perception of a legitimate process but the need to reject a draft Constitution (call for a "no-vote") on the one hand and on a pure and simple rejection of the process and the whole political path essentially imposed by Kais Saied (call for a boycott) on the other.

The main party calling for the boycott is the National Salvation Front; an alliance of convenience between Ennahdha movement, which has been undermined for a year following a wave of resignations of prominent party officials, and other conservative parties formerly allied with Ennahdha such as "Amal", "Al Irada", "Al Karama", and "Qalb Tounès." It also activist movements founded specifically for the alliance such as "Citizens Against the Coup" and public figures such as Ahmed Nejib Chebbi and Slaheddine Jurchi.

On the other hand, the “no” vote campaign has rarely taken off. Among the few registered parties (five in total) who decided to campaign for the “no” vote, only “Afek Tounes” had been previously represented within the Assembly of People's Representatives and the government. Some associations, association networks, and individuals have also registered but remain muted on the public scene and in the media. However, it should be noted that the representatives of Afek Tounes have denounced the fact that they were prevented from organizing a rally for the “no” vote in Sidi Bouzid last year on 3 July. It seems that pro-Kais Saied protesters violently chased them from meeting locations and prevented sympathizers or interested people from gathering.

At this point, it is very difficult to gauge the influence wielded by the boycott camp. All actors are holding their breath ahead of the results of 25 July. A “no-vote” victory could reinvigorate an opposition that has been battered since the summer of 2021. It would pave the way for a

national dialogue with or without Kais Saied. the Tunisian General Labor Union (UGTT) should also be taken into account, as their persistent silence in recent weeks could be broken in this case. This would allow it once again to have a further pivotal role in the confrontation with the president.

If only one of these "no" vote victory scenarios were possible, it would be the scenario of a weak "no" vote (slightly above 50%) with a very high turnout, as this is the only scenario that could explain the rejection of the text by the population. It would have many unknown outcomes because the parties and movements calling for a boycott would also be rejected by voters.

In the event of a victory of the "no" vote, it would be possible to imagine the president having to accept to work under the 2014 constitution and nevertheless carry out the reforms he wishes to undertake. He could also hold a new referendum on a fit-for-purpose revised text.

In all cases, Kais Saied would be in an unenviable situation: having lost all legitimacy, trapped by his populist rhetoric, and prevented from proceeding with his abolition of the achievements of 2011 and 2014, he would have lost his political capital. He could remain in power until the end of his term in 2024 or choose to resign since his roadmap would have been obstructed. Two questions could be raised in this case, however: to whom would he submit his resignation now that he has dissolved all the other powers and what would happen to the country's institutions in the coming months? These are certainly questions to consider in light of the often unpredictable, even irrational approach of the president.

Finally, this scenario could lead to major social unrest across the country. The president, as well as the government, would certainly lose the support of all international partners.

“Yes” or “No”: What about Fraud and Violations?

Another scenario seems possible in the Tunisian context: it involves massive electoral fraud and violations that would render the result of the referendum nonactionable. The aforementioned scenarios postulate that the referendum is held in an honest and fair electoral atmosphere.

Since 2011, Tunisia has held elections that have been deemed generally fair, democratic, and honest, both by national and international observers. Despite some cases of fraud in 2011, 2014, and 2019 such as ballot-box stuffing, invalidating ballots, or preventing certain voters from voting, these violations did not have direct consequences on the outcome of the vote.

Referendum fraud does not exclusively take place on the day of the elections but can also span the campaign period. For instance, some rumors are already reporting that police officers have distributed leaflets in favor of the "yes" vote in the cities of Sousse and Monastir. Other observations report the hanging of posters beyond the areas provided for this purpose by the ISIE. On the one hand, these violations and their extent will have to be carefully observed and, on the other, we must ensure that the ISIE adopts the necessary and adequate measures and sanctions promptly.

It is also noteworthy that the violations may also be found in the media: the president has direct access to the national television and radio and, under the pretext of media coverage of public institutions, these media outlets contribute to shaping the outcome of the referendum. Finally, social media also constitutes a major breeding ground for violations such as hate messages, violent speeches, and uncontrolled campaigning.

Kais Saied certainly does not wish for these scenarios of fraud and violations, but the long history of the enforcement authorities and certain administrative employees could bring back practices dating from the Ben Ali era. The virtual dismantling of the judiciary (in particular the Administrative Tribunal and the Court of Auditors, both responsible for settling disputes relating to possible violations and fraud), as well as the president's appropriation of the ISIE, are a source of concern for observers.

This scenario would also prompt the international community to withdraw all political and economic aid for Tunisia and may even subject the country to unprecedented sanctions. With the process being rigged, the values of "yes", "no", and the turnout would become insignificant.

Similarly, the credibility of the ISIE as an electoral arbiter is currently questioned by all parties. The opponents consider the body controlled by the president, meaning that its judgment on possible fraud would already be compromised. It is also perceived by the president's supporters as incapable of addressing attempts to sabotage the process by the president's opponents.

What if the Referendum Simply Does Not Happen?

A final set of scenarios relates to the not-so-far-fetched hypothesis that the referendum might not take place, either because it will have been postponed to a later date or simply cancelled.

The main cause would be that the presidential camp could decide to postpone or cancel at the last minute if the outcome were to become very uncertain, assuming that the opposition succeeds in creating divisions in the certainties of the president and his camp. In early July, only a few hours after the publication of the first draft constitution, the first blow was dealt by the media campaign of Sadok Belaïd and Amine Mahfoudh, members of the national commission assigned by the president to draft the text of the Constitution. Both men, though deemed close to the president, rejected the entire draft published on June 30, claiming that it greatly differs from the version they had delivered and is marred by major shortcomings. The impact of these revelations on Tunisian voters cannot be measured, though they are certainly present.

Several excuses could be presented if the referendum were to be postponed, such as the resurgence of the COVID-19 pandemic (several thousand infections and dozens of deaths in mid-July alone), security risks (regularly mentioned by the president and the Minister of the Interior in their public speeches), or social unrest.

While postponing would mean setting a later date (possibly September 2022), canceling would mean dismissing the idea of holding a referendum and possibly maintaining the constitutional order of 2014. In both cases, the president would be forced into a situation of unlawfulness and plummeting legitimacy. International partners would face the inadmissibility of Kais Saïed at a time when major financial commitments are ahead of Tunisia, including the payment for its debt to the IMF in 2022.

National political and civil actors could also seize this opportunity to tighten their file and unify their front against the dictatorial ambitions of the president proclaimed in the name of a people that has so far remained silent.

Tensions, Anticipation, and Painful Stakes

As detailed above, not all these scenarios have the same likelihood of occurring. The two scenarios that should logically be highlighted are a strong win of the "yes" vote with a low turnout and a weak win of the "yes" vote with a low turnout. On the other hand, successful "no" vote scenarios are all unlikely to happen, whereas those predicting the use of fraud, or a postponement of the referendum should be kept in consideration.

The different possible outcomes will ultimately not change much in the state of division of Tunisian society and the ongoing disintegration of institutions. With all the counter-powers he has dismantled, Kais Saïed has created a desolate Tunisian scene with little democratic space, undermined political parties, dismantled institutions due to the transition, censored media,

and so on. In the space of a few months, he will have destroyed the ground gained by the revolution and hindered the democratic transition of the only Arab country that was still on that path.

The president, who was very close to the "people" and willing to listen to Tunisians during his campaign, has succeeded in a short time to burn all communication channels that could have amplified the voices of national associations, researchers, journalists, lawyers, local actors, international partners, or even his own circle of faithful followers. He has only kept around him the security channels, whose footprint on presidential speeches, drafted out of paranoia and rash decisions, is quite evident.

While the country is on the brink of an economic collapse with external debt at its highest level (100% of Gross Domestic Product in 2021) since 2011 (40% of GDP), rampant inflation (above 9% in 2022), a flagrant deterioration in purchasing power, an ever-present health crisis, and the State's inability to face all the arising challenges (food sovereignty during the war in Ukraine, social problems across the country, environmental crises, etc.), the future of Tunisia seems more complicated than ever. In contrast, Kais Saied continues to establish a populist dictatorial apparatus which will ironically be so well anchored that it will difficult to peacefully remove.