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The Double Edge: Contradictory Functions of Civil Society Organizations in the Tunisian Democratic Process

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The Double Edge: Contradictory Functions of Civil Society
Organizations in the Tunisian Democratic Process

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Abstract

"Democratic transition," the act of becoming democratic, and "democratic consolidation," the subsequent actions that solidify the achievement of becoming democratic, are two separate processes that go hand in hand. While several Arab Spring nations overthrew their dictators, fewer underwent a democratic transition, and only one – Tunisia – achieved democratic consolidation (Bouchlaghem and Thepaut, 2019; Sadiki, 2019; Gianni, 2019). Tunisia constitutes the sole Arab Spring country to have: 1) created and adopted a new constitution; 2) formed and institutionalized political parties that peacefully share power; and 3) achieved multiple rounds of free and fair elections (Al-Anani, 2014; Yerkes, 2019). Scholarly consensus credits Tunisia's civil society, a presence which predates the Arab Spring, with the nation's successful democratization (Boose, 2013; Yerkes, 2019; Giani, 2019).

Despite the clear benefits of its vibrant civil society, Tunisia's democratic transition and subsequent democratic consolidation were not without challenges. Some of these challenges have been resolved, while others represent serious ongoing factors that must continue to be managed (Chabkoun, 2015). Thus, an examination into Tunisia's transition to democracy suggests that the scholarly consensus that a vibrant civil society has a uniformly positive influence on democratization lacks nuance, and if ignored in Tunisia's future policymaking, threatens to derail Tunisia's democratic gains.

In order to understand the full impact of civil society organizations have on the Tunisian democratic process, I chose to delineate my research project into three distinct units – each unit becoming its own chapter in my dissertation. The first article provides an extensive scholarly overview of the role of civil society in Tunisia, grappling with the oftentimes self-contradictory nature of civil society activity in Tunisia. The second article is a qualitative analysis of the

collected data that contributed to my development of the central research question. The third

article contains contextualizes these paradoxical tendencies of Tunisian civil society, and their

associated contradictory results, employing Advocacy Coalition Framework as a lens through

which to view Tunisia's current public policy environment. Overall, the empirical and theoretical

contribution of this dissertation will address a critical gap in the scholarly literature about the

impact of civil society organizations in post-revolution Tunisia. My research will also advance

the use of Advocacy Coalition Framework in future scholarship by delivering a comprehensive

study of Tunisia, which future scholars may use as a basis for new comparative case study work

and providing a model for the application of Advocacy Coalition Framework to other newly

formed democracies.

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I am also grateful to my late father, Najib Ben Ali, who always insisted on academic success, and my late friend, Walid Hussein, whose constant advise and motivation played a major role in my life.

Last but not least, the process of writing a dissertation could never be accomplished without the presence of a supporting family, and for that I am grateful to the four women that never ceased to support and inspire me: my wife, Kathleen, my mom, Aziza, my mother-in-law, Dian, and my daughter, Maya. Their encouragement, patience, and unconditional love directly contributed to every accomplishment, and for that, I am forever grateful.

Dedication

"And the writing is still: to you, with you, about you, because of you, and for you"

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Abbreviations

ACF: Advocacy Coalition Framework

ATDF: Tunisian Association of Democratic Women, *Association Tunisienne des Femmes*

Démocrates

CIVICUS: World Alliance for Citizen Participation

CSO: Civil Society Organization

EU: European Union

FATA: Financial Action Task Force

FTF: Foreign Tunisian Fighters

IFEDA: Information, Training, Studies and Documentation Centre on Associations, *Centre*

d'Information de Formation d'Etudes et de Documentation sur les Associations

ISIS: Islamic States for Iraq and Syria

LTDH: Tunisian Human Rights League, *Ligue Tunisienne des Droits de L'homme*

MENA: Middle East and North Africa

NGO: Non-Governmental Organization

ODA: Official Development Assistant

ONAT: Tunisian Order of Lawyers, *Ordre Nationale des Avocats de Tunisie*

UGTT: General Union of Tunisian Workers, *Union Générale Tunisienne du Travail*

UTICA: Tunisian Confederation of Industry, Trade, and Handicrafts, *Union Tunisienne de*

l'Industrie, du Commerce et de L'artisanat

UAE: United Arab Emirates

UNDP: United Nations Development Programme

CHAPTER 1: Introduction

Research Overview

The Arab Spring revolutions that swept the Middle East and North Africa in 2011 began in Tunisia. Studying the regional aftermath of the Arab Spring reveals that Tunisia was not only instigator of this regional wave of social movements, but also the first to overthrow its dictator. It was also the only Arab Spring nation to successfully realize democratic consolidation. Following the ouster of President Zine El Abidine Ben Ali in 2011, civil society organizations (CSOs) in Tunisia played a critical role in consolidating the transition to democracy. This central role of CSOs gained international attention with the awarding of the 2015 Nobel Peace Prize to the Tunisian National Dialogue Quartet, a group of four CSOs that represent various interests in Tunisian society.

The process of forming strong civil society organizations did not occur at random; Tunisia established the Higher Authority for Realization of the Objectives of the Revolution, Political Reform and Democratic Transition in March, 2011. It was tasked with leading the nation and making necessary policy to further the democratic project until the first government could be elected. The interim institution created a number of new decrees to promote democracy, which were later passed into law by a majority vote in the Constituent Assembly once it was seated (Mir, 2012). One of the decrees passed by the Higher Authority for Realization of the Objectives of the Revolution, Political Reform and Democratic Transition on September 24th, 2011 relates to civil society: *Decree Number 88*, which includes multiple provisions for the regulation of civil society organizations. Because members of the interim government were aware of the importance of civil society in consolidating the democratic process, they prioritized writing legislation to govern CSOs, including a number of modifications to existing CSO policy

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(Ben Hassine, 2018). Among the new policies established by *Decree Number 88*, important changes include switching the regulation of CSOs from the Ministry of Interior to the General Secretariat of the Prime Ministry, establishing rules for financial reporting, and allowing more flexibility for groups seeking to start new organizations in order to encourage civil society activity (Ben Ltaif, 2012).

Decree Number 88 also impacted the way that civil society organizations receive authorization to operate. In the previous version, *Law Number 154 of 1959,* new organizations would have to apply with the government for an authorization to operate. Upon receipt of this request, the Ministry of Interior would review the application and decide whether to grant authorization. Under *Decree Number 88*, there is no longer a requirement to obtain prior authorization. Instead, the application process now merely serves as a reporting mechanism to declare the CSO's existence and intent to operate. This change is significant because it removed one of the main tools of government monitoring and control.

Several issues were tied to the new legislation from the outset, beginning with a lack of an institutional structure capable of handling the implementation process. Possible regulatory components of *Decree Number 88* were kept off of the National Constituent Assembly's agenda for various reasons. First, the topic of CSO regulation was politically sensitive because it was linked to civil liberties. Many CSOs were formed to promote liberal democratic ideals with missions that include advocating for freedom of speech, freedom of the press, various human rights issues, and monitoring the work of political parties. When the decree was up for a vote of approval in the National Constituent Assembly, most assembly members were planning to run for office again in the next round of parliamentary elections (Deane, 2013). Any revision to *Decree Number 88* that might suggest an attempt to stifle CSO activity could appear to be a

political power grab, or at the very least, appear to be undemocratic. Therefore, assembly members who proposed changes to the revolutionary law, even for the purpose of preventing corruption or misuse of CSOs, could harm their own political ambitions (Marks, 2014). Second, the remaining elite structure from the old regime benefitted from this law; it gave them the flexibility to form new organizations, use them for political gain, as well giving them the ability to reconstruct and organize their old contacts. Third, the major political parties began relying on CSOs to act as intermediaries in order to receive donations from foreign sources, since direct foreign funding of political parties and campaigns is illegal (Lotita and Magnus, 2014). Finally, several national and international factors consider a successful democratic system a great threat, and those who seek to undermine democracy have found that they can use CSOs toward this end by starting fanatical groups that are easily manipulated to threaten the democratic process (Marks, 2014).

To be able to examine the contradictory impact of civil society organizations on the Tunisian democratic process, I conduct an extensive research examining the impact of civil society organizations in post-revolution countries. The deep understanding of the positive *and* negative consequences of CSO activity will fill a gap in academia's current understanding of civil society organizations. Parallel to this, I also examine the counterintuitive stasis of the existing Tunisian legislation that regulates and oversees CSO activity, applying Advocacy Coalition Framework to frame the phenomena of policy change, learning, and coalitions that have the potential to bring about reform. Being the first research to be done on Tunisia using ACF, the findings of this dissertation will contribute to the development of the theory as well as provide broader understanding of common policy-related themes.[1]

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[1] Exchange of emails with Dr. Christopher Weible on 11 February 2020.

I use the World Bank's definition of civil society organizations as "the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil society organizations therefore refer to a wide of array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations" (World Bank, 2013).

Introducing the Articles

Article 1: Civil Society Organizations and Democratic Transition in Tunisia. In the post-authoritarian era, the new Tunisian policy makers intentionally looked to established democracies such as the United States and western European nations as models for their new political system (Zoubir, 2015). This led to ideas on how to frame the new constitution and organize the country's new governing bodies It also led to a recognition of the importance of a strong role for civil society organizations (CSOs) in bolstering democracy (Deane, 2018). At the same time, however, this reliance on European and American laws overlooked the fact that progressive western law is the result of years of incrementalism in public policymaking, as well as years of public discourse and cultural acclimatization to the liberal order of these policies.

One of the specific policy areas that the new government prioritized was to promote the role of civil society in Tunisian democracy (Boose, 2013). Modeling new policy regulating civil society on western examples, with the accompanying benefits and drawbacks of doing so, Tunisian policymakers sought to foster civil society as a means of promoting democracy. *Decree Number 88 of 2011* emerged as the comprehensive law that enumerated many privileges and

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limitations for civil society organizations. While the decree did set rules to track and regulate the financing of CSOs, it placed emphasis on creating CSOs by establishing low barriers to entry for new CSOs. Since the establishment of *Decree Number 88,* an average of 1,600 new organizations have been formed each year, resulting in the creation of more than 13,000 new CSOs since 2011 (IFEDA, 2020).

This research will be useful to Tunisian policymakers, CSO stakeholders, and international partners that seek to understand the role of CSOs in any democratizing society. Scholars of democratization will be interested in this research because it will address gaps that exist in the body of literature that deals with civil society. In particular, this research provides a more robust analysis of both the positive *and* negative effects of civil society, as well as the impact of how civil society is regulated. Ultimately, this article will provide recommendations to policy makers.

Article 2: Qualitative Data Analysis. The initial data collection stage started in 2016 and continued to 2020. Within this period, I conducted 15 personal interviews and collected relevant public statements made by policy makers in reference to civil society organizations. From the outset, I designed my specific list of questions around a consolidated list of relevant themes including the relationship between CSOs and democracy, *Decree Number 88* itself, and the reasons behind CSOs' compliance (or non-compliance) with existing laws and regulations. The logic behind my thematic approach to qualitative design is to access an understanding of participants' views on the specific topics and to assess their general sentiments regarding CSOs, as well as how connected they are to maintaining an environment in which CSOs can thrive.

This methodological design is compatible with the use of grounded analysis, which is generally defined by its technique of categorizing the data into common themes, followed by

establishing correlations between those themes and their ancillary motifs – both referred to as "codes" – then narrowing the coded themes into to itemized categories, and finally, selecting the core category that will form the research question. This multi-level process resulted in the development of the main hypotheses and laid the groundwork for the rest of the research.

The results should be useful to Tunisian policymakers, CSO stakeholders, and international governments that seek to understand the role of CSOs in democratizing societies. Scholars of democratization will be interested in this research because it will address gaps that exist in the body of literature that deals with civil society, and theoretical methodologists can learn from this new application of Advocacy Coalition Framework. Finally, this research presents findings that are useful beyond academia, providing a model for how to marshal political and civic support to move CSO regulation in Tunisia beyond stasis, thus improving the positive–negative balance of civil society's effects – or possibly eradicating the negative externalities associated with CSO activity altogether.

Article 3: Theoretical Framework. The Higher Authority for Realization of the Objectives of the Revolution, Political Reform and Democratic Transition passed several transitional decree laws to strengthen the democratic process. Many of these laws were modeled after established democracies and provided a new range of freedoms that did not exist before; *Decree Number 88*, the new legislation regulating civil society organizations, is a primary example. Even though the new law was highly progressive and provided the flexibility to establish thousands of new organizations, many problems were associated with it. While conducting an extensive analysis on the role of CSOs in Tunisia, *Decree Number 88* was the common denominator between the positive and the negative impact CSOs have on the Tunisian democratic transition. Using Advocacy Coalition Framework, I conduct a policy analysis of this decree to explain both policy

stasis and policy change. ACF proves to be a fruitful analytic tool when applied to the case of Tunisia's post-democratization legislation of *Decree Number 88*. The analysis of *Decree Number 88* as a piece of transitional legislation reveals that Tunisian policymakers hold strong positive beliefs about civil society broadly. Furthermore, the free, unfettered operation of CSOs is extolled by many as being necessary for healthy civil society and, by extension, healthy democracy. Since support for *Decree Number 88* is considered to be a reflection of a "deep core belief," recommending any change to policy makers will be highly challenging from the start.

Viewed through the lens of ACF, and supported by qualitative data gleaned from this study, any changes to *Decree Number 88* aimed at remedying the negative effects of CSOs should focus primarily on the implementation of the decree. Understanding the prevalent view of equating CSO operation with democratic success to be a deep core belief should inform any strategy to bring reform to civil society activities. Therefore, when policymakers establish coalitions with CSO leaders who hold the same or similar ideologies, they can leverage the shared ground to translate these immutable belief systems into viable policy initiatives. The proposed policies should complement existing sections of *Decree Number 88* and provide clear implementation mechanisms that can solve the existing institutional conflict.

Structural Rationale

The three articles that follow each address the impact of civil society organizations on Tunisia's democratization, but are tied by the common thread of *Decree Number 88*'s impact as regulatory public policy that applies to the domain of civil society organizations in Tunisia. In sum, this dissertation project evaluates the effectiveness of *Decree Number 88* as well as other de facto attempts to promote and/or control civil society.

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Like tesserae, the miniature stones that make up a grand mosaic, the components of Tunisia's relationship between civil society and democratic consolidation presented in the three articles are sufficiently distinct as to warrant a stand-alone article for each – yet collectively, Articles 1, 2, and 3 comprise a cohesive depiction that cannot be realized alone. The *Virgil Mosaic*, from Phoenician Carthage in what is the heart of modern Tunis, depicts a portrait of Virgil, holding lines from his *Aeneid*, flanked by Clio and Melpomene, the Roman muses of history and tragedy, respectively.

Figure 1.1: *Virgil Mosaic*, **Bardo National Museum, Tunis, Tunisia.**

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CHAPTER 2: The Contradictory Impact of Civil Society Organizations

Introduction

The present chapter examines the existing literature published by academics, researchers, national and international organizations, the United Nations and other development agencies, reports, and books related to the civil society in Tunisia. The first section of this chapter will discuss civil society organizations and their impact on the Tunisian democratic process, following a logical progression of three parts. First, I introduce the concept of civil society and track the correlation between civil society organizations and democratization from a comparative politics perspective; this part includes a review of civil society literature that focuses on the theory of democratic consolidation in post-Arab Spring Countries.

In the second part of this chapter, I lay a foundation for the Tunisian case by analyzing the dynamics of civil society that are particular to the case of Tunisia. Then I proceed to an assessment of *Decree Number 88*'s impact on the regulation of civil society organizations in Tunisia. I include an examination of the existing decree and an analysis of the regulations associated with it, to explain the limits of the decree and the implications of the lack of effective implementation.

Third, I explain the positive and negative impacts of CSOs on democratization in Tunisia and analyze its progress since 2011. Within this section, I examine previous public policy and political science studies that discussed the contradictory role of civil society organizations. I also discuss the positive role CSOs has been playing in consolidating the Tunisian democratic process, present its negative sides and the challenges it brought to Tunisian policy makers, and present my conclusion and provide a list of recommendations.

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Hypothesis

The central hypothesis presented in this article is that civil society organizations are playing a contradictory role in the Tunisian democratic process. On the one hand, CSOs provide social structure and institutional stability that is beneficial for democratic governance, and these positive effects on democracy are well documented. (Putnam, 2002; Beshara, 2002). On the other hand, when civil society organizations are allowed free range to operate without regulatory oversight, a "wild west" of CSOs can result – leading to a situation where the organizational power and ability to funnel money into virtually any cause creates an opening for exploitation for ill use, from the funding of terrorism to the illicit funding of political campaigns (Alzubairi, 2019). To test this hypothesis, I examine previous literature that deals with the positive impact CSOs played in consolidating the Tunisian democratic process, and then add to these earlier findings by applying recent research on Tunisia, as well as recent news articles produced in Arabic, French, and English. I also conduct personal interviews and ethnographic observations. Although there is a dearth of literature representing the opposing argument, I also present the extant literature that deals with the negative implications of civil society organizations and apply these findings to the Tunisian case.

In my view, this full understanding of CSO's impacts – acknowledgement of both their positive as well as their negative aspects – will serve the important role of filling a gap in our current understanding of civil society organizations.

The Relationship Between CSOs and Democratization

Since 2011, the political situation in Tunisia has been in flux, but has generally moved toward greater political stability and democratic consolidation. After the fall of the Ben Ali

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regime, the Tunisian government as well as the international community understood that this novice democracy risked suffering from democratic backsliding, and that local and international support is much needed to consolidate the process. Where many political parties, local organizations, and government institutions needed capacity building, many international organizations were ready to fill the gaps. *Decree Number 88* came as an emergency decree to open the door for the local *and* international communities to freely operate and overcome the restrictions imposed by the previous regime. As a result, thousands of new organizations were established after passage of *Decree Number 88*, many of them playing a direct role in monitoring the democratic transition.

The country successfully underwent six rounds of democratic elections and the seating of eleven different governments between October 2011 and December 2019. Throughout all of these transitions, CSOs played a critical role in maintaining national stability and in promoting democratic consolidation during the political transformation. An examination of the historical background is needed in order to understand the swift adaptation Tunisian CSOs had to the democratic transition.

Historical Background

An analysis of the historical development of civil society organizations is needed to understand the role CSOs have been playing in the Tunisian democratic transition. Under the jurisdiction of the Ottoman Empire, Tunisia was the first country in the region to abolish slavery (1846), adopt a Bill of Rights (1857), and adopt a written constitution (1861) (Boubakri, 2014). Over time these moves, all progressive for the era in which they occurred, resulted in the creation of an educated elite that would continue to play a major role in Tunisian politics until today.

Under the French Colonialism, civic activism improved via "the importation of liberal French values, and increase of political activism, through movements against occupation" (Baker, 2015, p.26).

The struggle against French colonialism resulted in the birth of the strongest labor union in Tunisia, the General Union of Tunisian Workers (UGTT), which is still playing an important role in consolidating the Tunisian democratic process. The General Union of Tunisian Workers leaders fought hand in hand with Tunisia's first president Habib Bourguiba, and successfully pushed the French out of the country in 1956. The Union continued to fight for a liberal order, even standing against Bourguiba's and then, later on, Ben Ali's autocratic regimes. The General Union of Tunisian Workers organized general strikes in 1978, 1984, 2008, and 2010 and frequently succeeded in pushing the government to accept some of its demands (Deane, 2013). After the coup of 1987, Ben Ali saw in civil society a great threat and worked on weakening the influence of CSOs. However, the approach he adopted to strengthen the economic development of the country obliged him to embrace certain international norms – namely, the Washington Consensus's economic liberalism and attached requirements to conform to western notions of human, political, and civil rights. The Barcelona Process, which began as talks between European, Middle Eastern and North African countries in 1995, is emblematic of this. The resulting agreement from the Barcelona Process, called the Euro-Mediterranean Partnership, pushed Ben Ali to commit to several political, security, economic, social and cultural reforms (Deane, 2013).

Even though Ben Ali agreed in theory to these developments, he was cautious when setting up a this more liberal order. For instance, he maintained watch and even the ability to exercise control over civil society activity and NGOs, while also establishing government-

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controlled organizations to compete with international organizations for internationally funded aid and foreign direct investment. This approach, referred to as "authoritarian resilience," allowed Ben Ali to comply with international requirements for liberal, non-authoritarian practices while simultaneously maintaining significant control of the country (Arts and Cavatorta, 2013).

Regardless of the restrictions on civil society, CSOs, and NGOs imposed by the pre-revolution governments, civil society organizations still managed to play an important role in strengthening Tunisian freedoms. Some milestone achievements ushered in by Tunisia's civil society included the *Personal Status Code* established by Bourguiba in 1956, which was the backbone of gender equality: it abolished polygamy, required personal consent of both spouses before marriage, gave women the right to legally divorce and recognized inheritance rights, legalized abortion, and introduced mandatory education to both genders (Joseph, 2018). This law resulted the creation of several organizations such as the Tunisian Human Rights League (1976) and the Tunisian Association of Democratic Women (1989) which continue to exist to present the day. Even longstanding organizations that once served to sustain the dictatorships of Bourgiba and Ben Ali – such as the Tunisian General Labor Union (established in 1946), the Tunisian Confederation of Industry, Trade, and Handicrafts (established in 1947), the Tunisian Human Rights League (established in 1976), and the Tunisian Order of Lawyers (established in 1958) – played a pivotal role in pro-democratic consensus building in the early stages of democratic transition after Tunisia's Jasmine Revolution. Many credit these particular four organizations, known as the Tunisian Dialogue Quartet, with saving the country from bloodshed and rescuing the Tunisian democratic experiment from imminent failure by establishing a national dialogue. This dialogue led to compromise and a consensus-based governance, replacing

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the Islamic-led government by a technocratic one after the revolution (Martin, 2015). For this, the Dialogue Quartet was awarded the Nobel Peace Prize in 2015.

The Chronological Order of Legislation

Tunisia's history with civil society organization dates back to its gaining independence from France in 1956. Even though the first Tunisian president, Habib Bourgiba, spent most of his political career opposing the French and was imprisoned by them for many years, he was impressed by their legal system and based Tunisian institutions and its founding legislation on the French system, drawing from the constitutions of France's Fourth and Fifth Republics.

The policies and regulations associated with civil society organizations were first introduced with *Law Number 154 of 1959*. Bourguiba valued the concept of "citizenship" and argued that citizens should participate in building the country through volunteerism and civic activism (Mnasri, 2018). Several years after independence, Bourgiba stated that the Tunisian society is not ready for a full democracy yet, paving the way for his future pronouncement proclaiming himself president for life. At the same time of this announcement in 1975, Bourgiba also imposed several restrictions on establishing new organizations. One consequential example of these new restrictions was the creation of eight associational categories that limited the activities of organizations to cultural, educational, youth, development, sport, scientific, women, and citizenship (Fortier, 2019).

The restrictions in 1975 came after Tunisia had agreed to give civil society organizations more flexibility in 1969 by endorsing the *International Covenant on Civil and Political Rights* proposed by the United Nations General Assembly three years earlier, in December 1966. This allowed the establishment of new civil society organizations such as the Tunisian Human Rights

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League. The piece of Tunisian legislation that was created to regulate CSOs was *Law Number 80 of 1993;* this law was created to allow international non-government organizations (NGOs) to operate in Tunisia. (Mnasri, 2018).

Following the 2010-2011 uprising, the interim government established the Higher Authority for Realization of the Objectives of the Revolution, Political Reform, and Democratic Transition. This new institution had the jurisdiction to establish and amend legislation written for the purpose of consolidating the democratic process and strengthening democratic institutions, such as the assurance of free and fair elections. One of the first pieces of legislation introduced during this period was *Decree Number 88 of 2011,* which discarded the restrictions imposed by previous policy, and facilitated the establishment of new organizations. The main changes provided by the new law were to cancel the associational classification system; switch the jurisdictional control of CSOs from the Ministry of Interior to the Secretary General of the Government; and to include international organizations in the law so that they, too, would be subject to executive oversight. Table 1, below, compares the main differences between *Law Number 154 of 1959* and *Decree Number 88 of 2011*. As the table shows, *Decree Number 88* requires the government to approve announce it approval of the CSO's creation in a shorter period of time than was the case under *Law Number 154*. It also removes the requirement that CSOs belong to one of eight specific categories and provides CSOs greater flexibility in terms of their membership.

Table 2.1: A Comparison of the Components of Tunisia's Laws of Association

Policies	*Law Number 154 of 1959*	*Decree Number 88 of 2011*
Source of law's declaration	Declaration of association made to the Ministry of the Interior	Declaration made to the secretary-general of the government
Deadlines for acceptance of CSOs' creation	The Ministry of Interior could reserve up to three months to announce the acceptance of the creation of the association	The prime minister has 30 days to announce the acceptance of the creation of the association.
Associational categories of CSOs	The law provided eight associational categories and applies limits to their field of intervention	There is no classification or limitation for the field of intervention of the association.
CSO membership criteria	The associations falling under the rubric of "general" character were not permitted to refuse any demand for membership; if so, they could be pursued juristically	The association itself is permitted to establish criteria for membership
Age limit for CSOs' members	No age limit for the founders or members of the association	Individuals under the age of 16 cannot establish/found an organization, and members have to be at least the age of 13
Nationality requirements for CSO creation	Implicitly, associations could only be constituted by Tunisians (as the state demands the national identity card to open a new application for associational status	Associations can be created and constituted by Tunisian Nationals or Residents of Tunisia

Source: Adapted from Fortier (2019, p.110)

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Civil Society and Democracy

The influence of Tunisia's civil society organizations corroborates scholarly conventional wisdom on the positive relationship between civil society and democracy, as this argument has been a fixture in the ongoing discussion among democratization scholars (e.g., Huntington, 1998; Abderrahmen, 2004; Zakaria, 2011; also see Berman, 1997 for opposing viewpoint). However, the role of civil society in advancing democracy in the Middle East and North Africa is a relatively recent avenue for this discussion, which only emerged in the last nine years because of the Arab Spring.

Democratization literature flourished right after the end of the Cold War. Many scholars such as Robert Putnam (2002), Larry Diamond (1997), and Francis Fukuyama (2014) argued that that the waves of democratization which occurred after the Cold War were sustained by the presence of a strong civic engagement. Other scholars such as Azmi Bchara (2012) and Shelly Deane (2013) argue that the Arab Spring replicates the post-cold war pattern of democratization with high levels of civic engagement and a strong presence of active civil society.

In *the Third Wave: Democratization in the Late Twentieth Century*, Samuel Huntington (1993) discussed how the wave of democratization in eastern Europe during the late 1980s and 1990s affected the stability of Eastern Europe and why that wave is considered one of the most important in the history of democratization. He argues that this political trend might extend to a number of other countries, which raised the question among other scholars as to why this movement did not reach Arab countries (Huntington, 1993). Before the Arab Spring, many scholars contemplated the reasons behind the lack of democracy in the Arab world; scholars such as Nathan Brown (2010), Nader Hashemi (2013), and Samira Shackle (2014) point to reasons like Islam or argue in favor of economic explanations like rentier state theory, and still others

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tried to link it to the absence of civil society organizations in these countries. The Arab Spring brought many of these theories to question, however, when after nearly a decade, Tunisia stands as the sole example of successful democratic consolidation following the revolutions in the region. This outcome is consistent with the scholarly argument that Tunisia's robust civil society is the main reasons behind the success.

In "Democratization and Civil Society: Libya, Tunisia and the Arab Spring," Jason William Boose (2013) analyzes the importance of civil society in building democracy. He focuses on previous studies that deal with democratization, showing that democracy in the Middle East is dependent upon a strong civil society. At the same time, he illustrates that the Arab Spring is, in fact, part of Huntington's *Third Wave of Democratization*. Boose presents case studies to show how civil society played a major role in supporting the democratic process in Latin American countries, and then relates this to the Middle East and North Africa, arguing that Arab Spring countries are going through the same process (Boose, 2013).

Putnam (2002) argues that countries with a common context have an increase chance of social tolerance. In the case of Tunisia, civic engagement was united behind the revolution, which brought Islamists, seculars, unions, and liberals all together for a common goal. The 2011 revolution created a "social capital" that ignored its ideological differences and united to against the incumbent regime. This unity led to a voluntary civic engagement, which became a training ground for all kind of association during the transition period (Deane, 2013).

Azmi Beshara emphasizes that democracy can only exist with constant collaboration with active civil society organizations. He gives the example of Iraq in 2003, where civil society dramatically collapsed due to the absence of a functioning government (Beshara, 2012). Beshara

states that civil society is considered "out of context if it doesn't take part of the political struggle to achieve democracy" (Beshara, 2012, p.37).

Tunisia's civil society organizations such as the Tunisian General Labor Union (UGTT) and the Tunisian League of Human Rights (LTDH) played crucial roles during the revolution. Both organizations initiated national strikes, supported protests all over the country, and involved social class activists and political elite (Honwana, 2013). Soon after Ben Ali fled the country, transitional authorities created the Higher Authority for the Realization of the Objectives of the Revolution, Political Reform, and Democratic Transition. This institution was composed of several civil society organizations, unions, and experts and served as the interim transitional legislative institution (Lust, 2014).

Tunisia is unique among the Arab Spring nations because it had a vibrant civil society prior to revolution, largely because international aid from the UN agencies, The World Bank, European Union, and even independent nations often came with the requirement that the regime allow civil society organizations to function. The trend of CSO-friendly policies as a prerequisite for foreign investment continued after the revolution, so civil society organizations found national and international support in post-revolution Tunisia where the new government did not have a choice but to accept civil society organizations in order to guarantee the continuation of economic assistance from the West (Kausch, 2012). Another factor that bolstered civil society in Tunisia was the presence of a large educated middle class, which strengthened labor unions and created hundreds of new organizations (Adams and Winthrop, 2011). Third, Tunisia's political elite supported the consolidation of a strong democratic system, which would eventually lead to economic development (Kefi, 2015).

Challenges in Maintaining the Positive Effects of CSOs

Civil society organizations promoted democratic consolidation in Tunisia so effectively that the 2015 Nobel Peace Prize was awarded to the "Quartet" of Tunisian CSOs, The Tunisian General Labour Union, The Tunisian Confederation of Industry, Trade and Handicrafts, The Tunisian Human Rights League, The Tunisian Order of Lawyers, that worked together to make Tunisia's peaceful democratic transition possible (The Norwegian Nobel Prize Committee, 2015). Other organizations such as IWatch and Bawsala continue to monitor the work of the government on daily basis, issuing warnings or statements of condemnation if they see any deviation from democratic principles and practices. IWatch, an organization that focuses on fighting corruption and the local representative of Transparency International in Tunisia, filed several lawsuits against government officials, public institutions, and businessmen. The organization was responsible for exposing the illegal practices of Nabil Karoui, the president of the second largest parliamentary block and the second-place candidate in Tunisia's 2019 presidential elections. IWatch's work uncovered Karoui's tax evasion and corruption, leading to his arrest – and he remained in prison for much of his presidential candidacy (Aliriza, 2017). Speaking in an interview, the President of IWatch Achref Aouadi stated "right after the revolution, there was an absence of legitimate institutions, no elected bodies, only few organizations had the credibility and trust of the people…these organizations vouched for the transitional process and we managed to get to the electoral law, we managed to get the assembly, and civil society organizations had a great help."[2]

Although CSOs have had a demonstrably positive effect, new regulations could ensure that the influence remains positive while eliminating some of the loopholes that allow CSOs to

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[2] Personal interview with Achref Aouadi, president of IWatch Organization, August 2nd, 2016.

operate against the best interest of democracy and Tunisian society in general. However, significant barriers exist that prevent the creation of any new regulatory policy. Some lawmakers fear that changing *Decree Number 88* could negatively impact the democratic process by harming civil society, and do not want to take that risk for the chance of possible improvement. Moreover, any change in *Decree Number 88* would be seen as limiting the freedoms of these organizations, which will not only affect the reelection of policymakers, but also the strength of their political parties. This is because both major parties, and a majority of the minor political parties, are using loopholes in the CSO law to receive donations in the form of grants, in effect, allowing money to be funneled through the CSOs to the parties. The parties are also able to use CSOs to access and receive foreign donations, as well as use charity and religious CSOs to campaign in certain areas (Kefi, 2015).

After having several consultations with national and international organizations, the 2018 government realized that presenting any amendments to *Decree Number 88* would be severely criticized by the public and resisted by lawmakers. The government of 2018 decided to adopt a different approach by using the Anti-Money Laundering and Combating of Terrorism report issued by the intergovernmental Finance Action Task Force (FATF, 2017). In response to this report, the government adopted a new National Registry Law, *Law Number 30 of 2018*. The new legislation was intended only for companies in the private sector, however, policy makers included civil society and required organizations to adhere to the same requirements as public and private enterprises (Shahin, 2018). Adding CSOs under the umbrella of this law was immediately criticized by international organizations, which denounced it as a threat to the democratic process. These NGOs and other domestic opponents argued that a large number of organizations lack the capacity to comply with the new requirements, and that the law was

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inappropriate for CSO regulation because it was crafted for application on the private sector. In an interview with Mouheb Garoui, executive director of IWatch, he stated "authorities cannot expect from non-profit organizations and lucrative companies to adhere to the same requirements; based on the new law, the government is expecting CSOs to submit detailed audit reports, and if they fail, they can get fined and jailed…companies have the resources to hire professional auditors, organizations do not."[3] Local and international organizations worked together with a parliamentary bloc that opposed the new law. Acting together as a coalition of opposition, these stakeholders raised the matter to the Interim Constitutional Court for judicial review.[4] The government immediately issued a statement stating that the law will not have any negative impact on freedom of associations, and it is only intended to fight terrorism. Despite these efforts at positive messaging, Freedom House demoted Tunisia from the "Free" Category to "Partially Free" and cited the crackdown on associations as one of the reasons for its new classification (Freedom House, 2019).

The Tunisian government is facing a catch-22 when dealing with civil society organizations. On one hand, international donors such as the European Union require stronger implementation policies that will help to combat money laundering and terrorism since Tunisia was designated as "a high-risk country with strategic anti-money laundering and counterterrorist financing deficiencies" by the European Commission (Ltif, 2020). On the other, any move to prevent such problems with greater oversight of CSOs is deemed an anti-democratic move to squash civic engagement.

After complying with the Commission's requirements and endorsing *Law Number 30 of 2018*, Tunisia was removed from the EU's list of "high risk" countries, but the actions that

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[3] Phone interview with Mouheb Garoui, Executive Director of IWTACH, June 20th, 2020.
[4] The 2014 parliament failed to elect a Constitutional Court and many cases are still pending its election.

accomplished this important change proved to be enough of a deviation from the democratic process that Tunisia's democracy reputation suffered a hit as Freedom House moved Tunisia from the list of "Free" to the list of "Partially Free" countries. The Tunisian government struggles to find a balance between protecting civil freedoms and imposing regulatory policies, and this struggle will likely continue unless a consensus that includes CSOs is established.

The Negative Impact of CSOs

Since the Tunisian transitional legislative institution was mainly composed of civil society components, the focus on establishing a liberal decree regulating civil society organizations was a priority. *Decree Number 88* was quickly drafted policy, created and passed with a limited consideration of the eventual implementation process. This led to several complications, some of which created negative effects for the democratic process itself.

Scholars such as Maha Abdelrahman (2004) and Sheri Berman (1997) who take a more nuanced view of the role of civil society questioned whether there is necessarily positive relationship between civil society and democracy. Abd Errahman argues that foreign NGOs support their own self-serving agendas in the countries in which they operate. Abd Errahman cites examples in which foreign funding paid to Egyptian CSOs influences the long-term agendas that these organizations support in Egypt (Abdelrahman, 2004). In her work, Berman argues that the emergence of civil society does not necessarily mean democratization is assured. She presents the Weimar Republic as a compelling example of a democracy with a deeply rooted and vibrant civil society that nonetheless fell to fascism (Berman, 2007).

Azmi Beshara, in *Civil Society: A Critical Study* (2012) argues that civil society organizations could also have a negative impact on democracies. Studying the example of Libya,

Beshara shows how CSOs served the negative potential of harming democratic aspirations via 1) prioritizing and implementing the self-serving agendas of foreign influences, at the expense of Libya's own needs, and 2) exploiting tribal divisions to achieve the political gains sought by these outside groups, which served to exacerbate violence and extremism in Libya. Beshara explains that even when it seemed promising at first glance, the actual implementation of civil society failed in many Arab countries because it was imported from foreign countries with different socio-political dynamics. Beshara states that civil society in the Arab word was mainly used by dictators to crack down on opposition.

This was true in pre-revolution Tunisia, where Ben Ali controlled thousands of organizations all over the country that were in charge of monitoring people and reporting to the local or regional party fields (Hudáková, 2019). Azmi Beshara also states that civil society in the Arab world pushed many intellectuals away from any form of social activism. Resulting from this, there was very little opportunity to take part in opposition movements, and most activism in the Arab world was association with the Muslim Brotherhood, an Islamist movement which most secular intellectuals did not identify with, and most declined to support at all. This alienated many of the educated elite class and precluded them from participating at all in the Islamic controlled social activism.

Mohammed Salih Ben Isaa (2014), previous Minister of Justice in Tunisia, in a study conducted in collaboration with Kawakbi Center for Democratic Transitions, discussed the implications of public financing on the newly established civil society organizations in Tunisia. Ben Isaa argues that *Decree Number 88* was a significant first step that broke away from old policies and gave CSOs great flexibility. However, he states that the *Decree* is missing regulatory policies that can hold organizations accountable in cases where there is misuse of

public funds. Ben Isaa starts his research by presenting a comparative study of variations in the legislation endorsed after 2011 and then analyzing the major implications on the increase of financing to organizations. He finds that the legislation passed in 2011 aimed only to address Tunisia's public financing of CSOs and failed to take into consideration the examples of foreign funding to organizations. As a result, Ben Isaa argues, the institution established to deal with CSOs lacks the capacity to monitor the large amount of money funneled into Tunisia via CSOs after the revolution. Ben Isaa ends his study by explaining that the lack of an existing implementation mechanism is threatening the credibility of all civil society organizations in Tunisia and underlining the importance of establishing regulatory policies that can hold non-compliant organizations accountable.

The lack of clear regulations that can hold organizations accountable and produce a clear law enforcement mechanism is becoming a direct threat to civil society organizations as well as to the democratic process. Anwar Mnasri, a judge with Tunisia's Administrative Court, argues in his book titled *The Reality of Civil Society in Tunisia* (2018) that there are several legislative gaps in *Decree Number 88* that threaten the viability of civil society organizations. First, he explains that the *Decree Number 88* did not mention any operational penalties or legal repercussions for missing information and/or documents when an organization sends its application to register. The lack of prescribed penalty places administrative workers who process applications in dilemma when they accept applications, as many organizations submit paperwork that is missing required information that is used for tracking CSO activities, sources of funding, and members. However, all applications were automatically accepted since the Decree did not state otherwise.

Second, the decree did not create any formal appeals process for an organization to initiate in the case that the organization's application is denied. This gap was intentional, mainly designed to prioritize the objective of openness and the goal of *not* rejecting any organization. However, Mnasri mentioned that in the previous years, many applications were rejected based on ideological principles, which, ironically, is a move that *does* contradict the spirit of *Decree Number 88*, as well as the ostensible goal of encouraging all legal civil society activity.

Third, Article 4 of *Decree Number 88* states that "associations are prohibited from… adopting in their bylaws, data, programs, or activities any incitement for violence, hatred, fanaticism or discrimination on religious, racial, or regional grounds." Although this strong language in Article 4 is narrow in focus to only prohibit these extremist philosophies and actions, Mnasri finds that in recent years there are cases in which the General Administration for Associations and Political Parties required organizations to change their bylaws, even though they did not violate Article 4.

Throughout his book, Anwar Mnasri explains that the absence of clear regulatory policies codified in *Decree Number 88* is putting civil society organizations at risk. He explains that with the lack of regulatory policies, many administrative workers are applying old regulations that present a real threat to the freedom of civic activism. Mnasri ended his book with a number of recommendations that focus on the importance of addressing the gaps in *Decree Number 88* and passing regulatory policies to tackle this issue, empower the administrative court and give it the jurisdiction to solve existing issues between the government and civil society organizations, and evaluate all the existing legislations that address civil society organizations.

Foreign Finance and Implications for the Democratic Process

In the case of Tunisia, the lack of government supervision over civil society organizations is causing major problems which are purportedly on the rise in recent years. According to data issued by the Government's Center for Information, Training, Study, and Documentation of Organizations (IFEDA Center) in May 2020, more than 23,000 NGOs operate in Tunisia. A large number of these organizations carry out religious and preaching activities, and under their cultural, social, and religious pretexts, many of them have been accused of recruiting Foreign Tunisian Fighters (FTFs) for ISIS and even facilitating their travel to conflict zones such us Libya, Iraq, and Syria. The previous Minister for Government Relations with Constitutional Bodies, Civil Society, and Human Rights, Kamel Jandoubi, indicated in an official statement that many religious associations have been involved in sending thousands into conflict zones and have direct relationships with terrorist groups (Nadhif, 2017). A personal interview with Kamel Jandoubi confirmed that "to an extent, there is a relationship between some organizations and some extremists or violent circles, we are also monitoring relationships between some organizations and specific political parties."[5]

With this, millions of dollars in foreign funding is channeled into Tunisia through the growing network of CSOs, making it increasingly difficult, if not impossible, for the government to monitor these funds. Monitoring and regulation were virtually impossible during the first years following the revolution. The graph in Figure 2.1 below charts the foreign aid received by the Tunisian government. A notable observation is that the level of foreign aid has dramatically increased since the pre-revolution year of 2008, where in that year alone "Tunisia

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[5] Phone interview with Kamel Jandoubi, on November 11, 2016 in Tunis, Tunisia.

received $314 million in total net official development assistance…[and] by 2012, that figure has nearly tripled, to $935 million" (Klaas, Dirsus, 2018). Civil society organizations benefited significantly from this influx of foreign aid, since a large amount of the money was in the forms of assistance and investment channeled through local and international organizations (Klaas, Dirsus, 2018).

The numbers in the graph only include the transactions that went through the central bank and does not cover any financial activity conducted overseas – such as when capacity building programs were run outside of Tunisian borders or if cash was given to participants to bring with them to Tunisia.
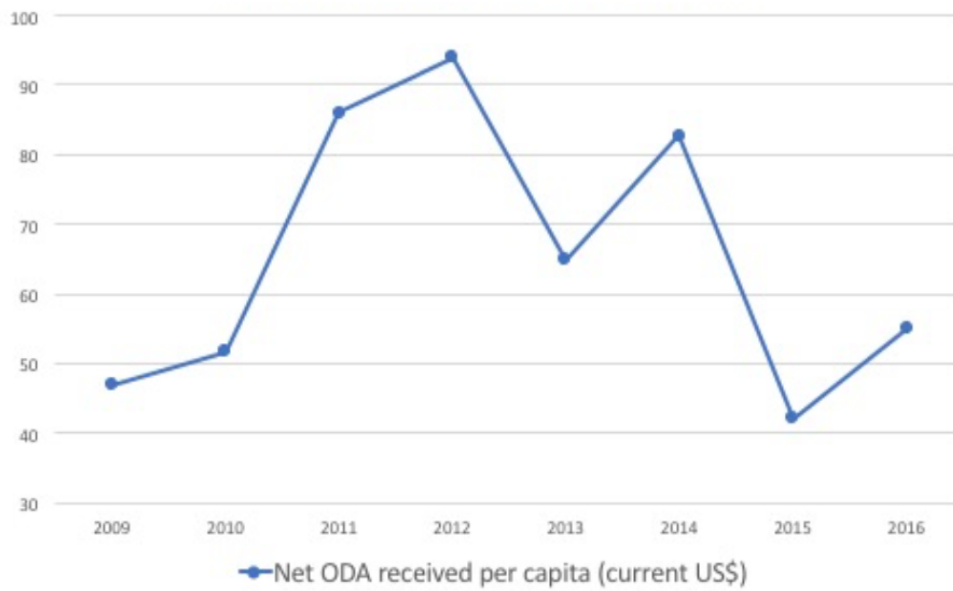
Figure 2.1: Net Official Development Assistance[6] Received Per Capita (current US$)
Source: World Bank (2018)

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[6] Net official development assistance (ODA) consists of disbursements of loans made on concessional terms (net of repayments of principal) and grants by official agencies of the members of the Development Assistance Committee (DAC), by multilateral institutions, and by non-DAC countries to promote economic development and welfare in countries and territories in the DAC list of ODA recipients. (World Bank, 2018)

Decree Number 88 facilitated the financing of association activities by giving CSOs the right to receive public aid, donations, grants, bequests, subscriptions from members, and revenue generated from the association's properties, activities, and projects (Tunisian Government Legislation Office, 2011). *Decree Number 88* was considered a win for civil liberties in Tunisia. It is inspired by European legislation, mainly French laws, and was considered the first step to strengthening the democratic transition. Hundreds of new associations were established based on this law, and consequently, funds were received from all over the world (Chabkoun, 2015). Ala Sultani, a government employee in charge of processing CSOs' applications stated in a personal interview, "the 2011 committee that created *Decree Number 88* was missing an expert in CSO law . . . [and] the legislation was a mosaic of French, British, and Egyptian laws, without taking into consideration the Tunisian context."[7]

Despite the praise the decree received, it soon became clear that the legislation was problematic. The Administrative Court soon began receiving cases against several organizations for money laundering and links to extremist organizations, while the government realized that it should legislate greater restrictions on the transfer of funds within and to organizations. But the first interim government lacked sufficient time and bandwidth to respond to these problems because the focus was on Tunisia's first democratic elections, which were held only one month after *Decree 88* was passed. Furthermore, the National Constituent Assembly was immediately tasked with more pressing issues than CSO regulation, such as drafting the new national constitution and leading the country through the next round of democratic elections (Ben Ltayaf, 2012).

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[7] Personal Interview with Ala Sultani on August 26, 2016 in Tunis, Tunisia.

Major political parties such as Nidaa Tounes and Ennahdha Movement are using CSOs to create a platform through which they can receive foreign funds, as well as maintain activity in rural areas and run campaigns (Chabkoun, 2015). In 2017, Prime Minister Youssef Chahed initiated a war against corruption and gave CSOs a period of one month to declare the sources of their funding as well as the amounts of funding they are receiving. There have been no reported follow-up actions taken against NGOs since then, although significantly, the Prime Minister's political party, Nidaa Tounes, was directly benefiting from the lack of supervision (Nadhif, 2017). In a personal interview with Dr. Khalil Amiri, the Deputy Minister for Scientific Research, he stated "civil society organizations are sometimes really political parties in disguise…I can point to some, in terms of political instrumentalization. I know some civil society organizations are really crucially associated with political parties or in fact the first stage of a political party…I know that some associations are aligned with certain and maybe with foreign ideologies and agendas."[8]

Outside of Tunisia, countries such as the United Arab Emirates and Qatar continue using CSOs to implement specific agendas in Tunisia. The UAE, for example, tacitly demonstrated its opposition to democratic transitions in the Arab World while spending millions of dollars to stop Tunisian Islamists from gaining political power (Davidson, 2015). Underlying this phenomenon is the fact that a proliferation of democracy in the Middle East and North Africa would present a direct threat to monarchies such as the United Arab Emirates, which generates motivation for all of the Gulf monarchies to spend money and resources liberally to prevent that from happening. The UAE's effort to halt democratic transitions in the Middle East and North Africa has been successful in Egypt (Quasimi, 2012), but so far, not in Tunisia. Besides the role of civil society

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[8] Phone Interview with Khalil Amiri, Deputy Minister for Scientific Research, on May 23, 2020.

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discussed above, a contributing factor to Tunisia's success is the fact that the UAE's major adversary, Qatar, is spending even more money to promote the democratic process in Tunisia (Osman, 2016). While Qatar's financial support is helpful for Tunisian democratic consolidation, it nonetheless shows that another country is using money, funneled through NGOs, to interfere in Tunisian politics.

Decree Number 88 was first intended to facilitate the creation of new organizations that will play a major role in consolidating the democratic process. Several resulting new organizations provided networks to advocate for the interests of common citizens, connect these citizens to their governments, and create watchdog groups that can hold the new democratic government accountable (Sahhin, 2018). The flexibly of this law soon turned many organizations from protecting citizens' interest and watching for any deviation in the democratic process to a sphere where political parties, private interests, and regional players can use their own resources to influence the decision-making process.

International organizations, human rights and civic activists, and local organizations consider *Decree Number 88* to be a revolutionary law and have been fighting any proposed changes. Many organizations are using the lack of implementation of the law to serve illegal purposes, and whether done intentionally or unintentionally, this negatively impacts the democratic process. Again, this dynamic underpins the European Commission's decision to classify Tunisia as a "High Risk" country for money laundering and the financing of terrorist enterprise, and is a reason why the EU regularly threatens to cut off foreign aid that the government of Tunisia relies on to support the struggling economy. Without such funding, the continued democratic consolidation would only become more challenging due to added economic hardship.

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Conclusions and Recommendations

Tunisia has emerged from the Arab Spring as the only lasting democratic success story in the wave of revolutions that swept the MENA region. Even with three rounds of free and fair elections (six elections total for president and parliament), each culminating in a turnover of power in which incumbents respect the electoral results, Tunisian democratic consolidation remains a work in progress. The key takeaway for policymakers and Tunisian stakeholders alike is the paradoxical *negative* effects of civil society organizations. While civil society organizations have (and do) play a major role in Tunisia's continued democratic consolidation, a fraction of these organizations are working to undermine Tunisia's nascent democratic institutions – sometimes knowingly and other times not.

While malpractice is clear in the case of CSOs that intentionally fail to obey regulations in order to achieve illegal ends, it can be less clear, but perhaps more insidious, when well-intentioned CSOs undermine the democratic institutions which allow them to thrive by failing to comply with mandatory reporting. Whether the failure is intentional but without illegal intent, or entirely unintentional, there is a double edge to the role played by civil society organizations in the Tunisian political environment – what is definitely positive for Tunisian democracy can easily become an obstacle to the institutions that form a necessary foundation for that democracy to continue to thrive. Understanding the double-edged nature of CSOs impact in Tunisia is both critical and timely.

Policymakers missed an opportunity when they failed to converse with representatives of civil society organizations about changing *Decree Number 88,* and instead acted unilaterally to add CSOs as a regulated category under the *Law Number 30 of 2018*. Additionally, the local and international communities felt betrayed when this action was taken by Tunisian authorities who

consider *Decree Number 88* as the only protection against a complete government crackdown on civil activism. Policy makers will continue to struggle in dealing with problems associated with civil society organizations and the main challenge remains on how to approach this topic. Toward this end, the Tunisian government should work hand in hand with both local and international partners to overcome the challenges of consistent and fair regulatory enforcement, while being careful not to stifle civic engagement, avoiding the potential negative implications for democratic processes discussed above.

The following recommendations, grouped into five specific categories can assist Tunisian policy makers to overcome the challenges accompanying civil society organizations:

1)   The governmental institution in charge of creating and monitoring civil society organizations suffers from lack of personnel, equipment, and adequate training. Without a proper restructure of this institution, any recommended implementation mechanism will be ineffective. Therefore, the government should conduct several meetings with representative of national and international organizations and discuss the restructure of the institution based on their recommendations. Then, the government should present a well-structured capacity building program that includes the recommendations presented by CSO representatives, aiming to digitalize the institution and simplify the communication channels with civil society organizations. This step should create the infrastructure of a monitoring mechanism that can hold non-compliant organizations accountable without being blamed for limiting civic liberties.

2)   The current number of registered organizations is 23,363 (IFEDA, 2020). A large number of these organizations were established before the revolution and many of them are not currently active. The government should follow up with the General Directorate of Associations

and Political Parties, created in 2014, and request that all active organizations register with the directory and clearly explain that the non-compliant ones will be automatically shutdown.

Authorities should make this process both easy and accessible. For instance, registration could be done online by filling a form in the General Directorate of Associations' website, in person by providing the ability for organizations to complete registration in local municipalities, or by completing a form and sending it to the Directorate by mail.

The government should explain that sole purpose of this activity is to obtain an exact count of the currently active organizations. This step will ensure that active, legally-operating CSOs will not be harmed, nor will their activities be curtailed, which should not only ease worries of legitimate CSOs, but should also be beneficial to them, for if the government has a clear understanding of the number of active organizations, this could lead to improved relationships between these CSOs and the government (and potentially better ability to direct money to the active legitimate organizations).

3) A coalition of policymakers that does favor changing *Decree Number 88* should recognize that it would be highly unlikely that they would ever gain significant parliamentary support. With a realistic view of this, they can make the strategically optimal decision that any proposed legal amendment should only address the regulatory part of the Decree. The government should build on existing policies such as Articles 3 and 4 of *Decree Number 88* and the *Law Number 26 of 2015*. Article 4 of *Decree 88* presents some restrictions on CSOs, such as supporting political parties, stating that "associations are prohibited from the following: Collection of money to support political parties or candidates for national, regional or local elections" (Decree Number 88, 2011). The Decree fails to mention other illegal activities that could be conducted by CSOs and a clear punishment process. *Law Number 26 of 2015* added

money laundering and supporting terrorism to complement Article 4 of *Decree Number 88* and created a clear punishment process under the authority of the Judiciary system (Alzubairi, 2019).

Here again, instead of creating scattering policies that could be easily challenged, the government should engage with civil society organizations to create clear policies that can hold non-compliant organizations accountable. This should also be accompanied with capacity building programs to be conducted by local and international organizations designed to communicate to the CSOs exactly how they can comply with the new regulations.

4)   Currently, the political parties and CSOs that benefit from the lack of government supervision are the strongest voices advocating against any policy changes; these organizations are currently dominating the narrative that presents government intervention as a step backwards in the democratic process. In reality, many of the legitimate organizations would benefit from being counted, and from the closure of non-legitimate organizations – this is a shared goal that would also be beneficial to the government and (more abstractly) Tunisia's continued democratic consolidation. This is a natural coalition of stakeholders.

Once this coalition of advocates is brought together around the issue, the government should empower the independent media and bring to their attention the contradictory role of civil society and the challenges the government facing to establish new regulations. This step will help bring the issues associated with civil society and its implications to the forefront of the public's attention. Such a move will further strengthen the democratic process by bringing transparency to the decisions, help the public understand the importance of CSO registration, and these public support initiatives will have the ancillary effect of giving legislators in parliament the cover they need to support the policy changes without fear of public retribution (in the form of losing their seats in the next elections).

Making this media outreach easier, there are several TV programs that will gladly adopt such investigation and invite government officials and representatives of civil society organizations to discuss the issue. Once the contradictory roles of civil society organizations become a public opinion issue, policy makers will compete to advocate for new regulations.

5)   The Ministry of Finance has maintained absolute control regarding the monitoring of money laundering and countering terrorism. This power has had repercussions for several organizations as many of the Ministry's administrative workers have issued decisions that contradict current legislation, yet the Ministry's decisions have stood. This type of contradictory exercise of government power only serves to solidify the perception that the government is unfair and corrupt, both notions that have been harmfully intransigent in Tunisia's developing democratic consolidation. The Prime Ministry can combat this problem by limiting the jurisdiction of the Finance Ministry and coordinating between different government institutions regarding regulating the activities of civil society organizations. If done effectively, this action would solve the problem of the Finance Ministry's overreach, while also strengthening public support for reform to *Decree Number 88*, and ultimately, help accomplish the goal of bringing the advocacy coalition to the metaphorical "open window" for change.

These actions would also be helped by the establishment of a national database (as recommended above) that includes all available information regarding active organizations and establishing a coordination mechanism between governmental institutions that are tracking the work of CSOs. This step will enable establishing a more transparent process based on the expertise of each institutions and avoid the existing conflict. In short, not only are the five steps presented here independently helpful, but taken in concert, they would build on one another,

providing a mutually supportive foundation for bringing together a coalition of actors

empowered by public support to bring change to the CSO oversight system.

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CHAPTER 3: The Impact of Civil Society Organizations on the Tunisian Democratic Transition: A Qualitative Study

Introduction

Since the 2011 uprising, Tunisian society witnessed a major transformation: political and social activism became common practice, and the average citizen began engaging in the ongoing democratic consolidation (Mansouri, 2020). During this last decade, Tunisia's political scene became very dynamic, which is to say that many new political parties appeared, while other standard bearers ceased to exist. Tunisia now has 226 registered political parties, but of these, very few are original major parties that existed prior to 2011 (Yerkes, 2019). For instance, Ennahdha Movement, being one of the few parties to preserve its existence over the first decade of Tunisia's nascent democracy, is now a diminished presence in comparison to its original showing in electoral politics (Ben Yahmed and Yerkes, 2019).

Several political parties and social movements – among them the People's Petition for Freedom [العريضة الشعبية], which won the third largest block in the 2011 elections, and the Congress for the Republic [المؤتمر من اجل الجمهورية], which won the second largest block in the 2011 elections – have disappeared from the political scene altogether (Abouaoun, 2019). In another example, the party Call for Tunisia [نداء تونس], which won the largest parliamentary block in the 2014 elections, lost most of its membership and many of its parliamentary seats in the 2019 election to some of the newly established political parties such as Long Live Tunisia [تحيا تونس] and Heart of Tunisia [قلب تونس] (Reuters, 2020). This fast-changing political dynamic and the desire to take part in consolidating the democratic process pushed the average citizen away from politics and toward other forms of civic activism; by early 2020, the number of organizations had increased from 9000 to 25000 (IFEDA, 2020).

Tunisia has a long-established history of civic activism that predates the Arab Spring. Starting with the dictatorship of Habib Bourgiba, and under the subsequent authoritarian tenure of Ben Ali, civil society organizations flourished. During the post-colonial/pre-revolutionary era, civil society was mainly centered around charitable, educational, sport, and development endeavors (Deane, 2013). Although these first-generation CSOs were largely apolitical, the structure that they provided not only facilitated an organized path to democratic transition, but they also undergirded the newly minted social order of political transparency that proved invaluable for Tunisia's successful democratic consolidation (Martin, 2015). In the post-democratization era, Tunisia's civil society organizations began to enter novel categories such as fighting corruption, monitoring the work of the government, and advocating for personal and minority freedoms (Foundation for the Future, 2016).

With the introduction of *Decree Number 88*, this new category of politically engaged civil society activity was protected for the first time, providing opportunities for Tunisian citizens to found new organizations that take an activist approach to politics or engage in other "government watchdog" functions, all activities which were banned by Ben Ali because of the threat that they posed to the regime (Fortier, 2019). With one important step to making this possible, *Decree Number 88* switched the regulatory jurisdiction over CSOs from the Ministry of Interior to the office of the Prime Minister. Much more than a symbolic gesture, this action embedded in *Decree Number 88* constitutes a substantive policy change because it enables direct executive engagement in the regulation and enforcement of CSOs (Belin, 2013).

From a policy analysis perspective, it is critical not to underestimate the importance of this element of *Decree Number* 88. In the post-Arab Spring era civil society, *Decree Number 88* is considered sacrosanct by Tunisian lawmakers and citizens alike. As such, the move to

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empower the prime minister with authority over CSOs is both a popular policy outcome *and* an indication of current national sentiment. In other words, this case illustrates policy as representing societal values and societal values as being shaped by policy. The tangible outcome of this system is that ordinary Tunisians are now empowered with the opportunity of starting a new generation of organizations – politicized ones that even critique the government – which used to be prohibited before the revolution (Mnasri, 2018).

Since democratization, Tunisian civil society has played a major role in consolidating the ongoing democratic process. In 2011, several organizations participated in the transitional body and guided the country toward the election of the National Constituent Assembly (Msaddak, 2016). Once the Assembly was elected, CSOs also played an important role in drafting the constitution by 1) monitoring the work of an Islamist majority Assembly and assuring the continuation of the existing freedoms, 2) pressuring the assembly to endorse a semi-presidential system that does not give the president absolute power, 3) mitigating the conflict between the Islamist led government and the opposition, after the assassination of two opposition leaders, and 4) negotiating the transition to a technocratic government (Jemail, 2015).

Following the endorsement of the new constitution, the country moved to elect its first parliament and appoint a government based on the winning parties. The election resulted in a fragmented parliament and the appointment of a national unity government that included several political parties (Avery, 2015). Even though picking a national unity government was praised as great decision for Tunisia's novice democracy, precisely because the coalition led to governance by consensus (Feuer, 2016), it resulted in the absence of any real opposition that would effectively monitor the work of the government. The role of opposition systematically landed on

prominent unions such as UGTT and post-revolution organizations such as Bawsala and IWacth, a role that these civil society actors embraced (Ben Hassine, 2018).

When guiding the process of democratic transition, Tunisian policymakers took into consideration the important role civil society organizations are playing, leveraging CSOs' work to strengthen the ongoing transition. One of the initial transitional decrees, passed in 2011, aimed to support the right to free association. The new legislation, *Decree Number 88*, provided activists with the freedom of establishing organizations and removed the major restrictions imposed by the previous regime (Yerkes, 2018). As Figure 3.1 shows, the number of organizations increased from 9969 in 2010 to 14,966 in 2012 (IFEDA data base).
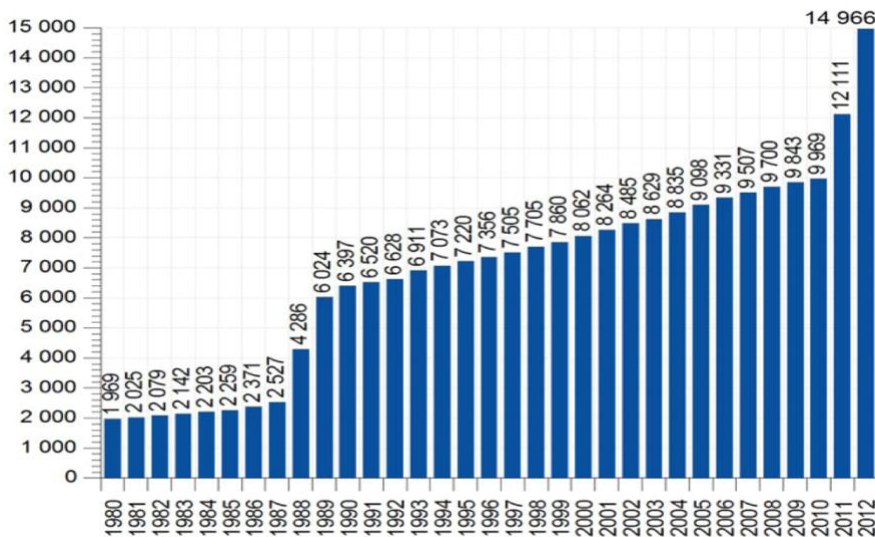
Figure 3.1: Evolution of the Number of CSOs in Tunisia (1980-2012)
Source: Foundation for the Future, (2013, p7).

The Tunisian government was not prepared for this massive surge in the number of CSOs and did not have the infrastructure to monitor this large number of organizations (Jandoubi, 2015). Many CSOs used the lack of government supervision to conduct unlawful activities; this resulted in a government crackdown by dissolving 198 organizations and issuing 947 warning to

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others, which many considered illegal and challenged the government decision in court (Yassine, 2018).

Aim of this Study

The aim of this study is to analyze the role civil organizations are currently playing on the Tunisian democratic process and establish patterns that helped generating the main hypotheses. The initial data analysis recognized the contradictory impact of CSOs, in which CSO activity actually undermines the beneficial effects of civil society, creating a disruptive influence on the Tunisian democratic process. After further analysis, the common denominator that emerged among the positive and negative aspects of CSOs appear to be *Decree Number 88.* Based on this discovery, I introduce two hypotheses:

H1) Civil society organizations are playing a contradictory role in Tunisian politics, leading to both positive and negative results for democratic consolidation.

H2) *Decree Number 88* is considered the shield protecting civil society organizations and any proposed changes should only tackle the regulatory level.

Data, Methods, and Findings

Qualitative data for this dissertation consists of observations, in-depth interviews, and public statements made by policymakers and politicians over a period of nine years. To analyze the collected data, I use grounded analysis; this methodology is a fruitful way to handle the multiple sources of qualitative data, as it allows following the common themes emerging from this mixed body of data, but with a systematic approach that will yield reproducible results (Corbin and Strauss, 2015).

The analytic process begins with data collection and continues with the initial stage of coding. The coding methodology employed here consists of indexing themes from the transcripts

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to enable the identification and analysis of all possible topics that could prove essential to the main subject (Taber, 2016). To organize this process and ensure replicability, NVivo software for qualitative data analysis was used to analyze themes emerging from the collected data and then to link these themes to the central research questions introduced in the previous chapters.

During a three-stage coding process, I first use "Open Coding" which involves carefully sorting through the collected data looking for similar themes, categories, and ideas. The next step consists of giving each theme a "Code Label" (Glaser and Strauss, 1967). Once all data have been categorized, I initiate inquiries, make comparisons, and analyze common themes among the comments. Then I use "Axial Coding" to make connections among the categories and subcategories previously established and focus on the variables that influenced the contradictory role of CSOs on the Tunisian Democratic Process. Finally, I employ "Selective Coding" to identify the core category on which I am basing my research (Vollstedt and Rezat, 2019). I aim to validate its relationship to other classifications and focus on the categories that require more development.

Once all three stages of coding are complete, I apply the "Constant Comparative Method" to compare recently collected data with what I collected previously, assess extant theories, and confirm, enhance, or even discount them (Strauss and Corbin, 1990). This method in which the researcher is compelled to "circle back" to compare results across time is necessary when the subject matter is dynamic, always subject to a subtly shifting political landscape. Rooting out the consistencies submerged within the dynamic sea of the political system is the methodological aim of this research project; doing so will lead to deep understanding of the real impact of CSOs and underpins the methodological logic of this mixed-methods research.

Qualitative Data Analysis

During the data collection phase, I compile two categories of data: A) personal interviews with policy makers and administrative workers, members of compliant civil society organizations, members of non-compliant civil society organizations, and public figures aware of the contradictory role of civil society organizations; B) statements made by public officials regarding policies regulating CSOs. I also collected a list of official documents such as: *Decree Number 88,* court rulings with/against civil society organizations, draft laws issued by government institutions regarding CSOs, official laws issued by government institutions regarding CSOs. Figure 3.2 presents the number of conducted personal interviews. Figure 3.3 presents the chronology of public statements by the ministers. Figure 3.4 presents the interview characteristics.

Interviews	Have an influence on policy making	Don't have influence on policy making	Total
Government official, administrative workers, and members of political parties.	3	3	6
Members of Civil Society Organizations	3	4	7
Public Figures	2	0	2
Total Interviews Conducted			15

Figure 3.2: Personal Interviews

Public Official	Names	Dates	Source
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Kamel Jandoubi	September 2015	Al-Sabah Newspaper
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Kamel Jandoubi	October 2015	Chames FM
Prime minister	Youssef Chahed	September 2016	Al- Sabah Newspaper
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Mehdi Ben Gharbia	November 2016	Al-Arab Newspaper
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Mehdi Ben Gharbia	February 2017	Al-Sabah Newspaper
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Mehdi Ben Gharbia	June 2017	Al-Sabah Newspaper
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Mehdi Ben Gharbia	October 2017	Al-Sabah Newspaper
Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Mehdi Ben Gharbia	November 2017	Al-Sabah Newspaper
Chief of Staff of the Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights	Mondher Bousnina	December 2017	Al-Arab Newspaper
Prime Minister	Youssef Chahed	November 2018	Al-Sabah Newspaper

Figure 3.3: Public official statements

Interview categories	Respondents
Compliant organizations	2
Non-compliant organizations	5
Policy makers associated with political parties	2
Independent Policy makers	3
Public Figures	2
Administrative workers	1

Figure 3.4: Interview characteristics

The goal of collecting this data is to gain a clear understanding of the role of civil society organizations in Tunisia, examine interviewees opinion about *Decree Number 88*, discuss the challenges facing CSOs, understand the importance of *Decree Number 88* in protecting civic freedoms, and generate and test the dissertation hypotheses.

Procedures and Data Collection

The interview protocol was approved by the University of Arkansas Institutional Review Board. An introductory email was sent to the interviewees explaining the purpose of the research, followed by a phone call to confirm their participation. The informed consent form was explained to participants initially, and then the complete version was read to participants over the phone. For in-person interviews, the same consent document was provided to study participants

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when initiating the in-person meeting, for the participants to read and sign on the day of the interview, prior to commencing. Regarding interviews conducted over the phone, the consent form was shared via email. Participant's right to decline to answer specific questions, withdraw from the interview, or refuse to be identified by their real names was also explained. It was emphasized that the recording will be erased after finishing transcribing the interviews.

Data were collected through a rigorous set of structured interviews. 13 out of 15 interviews were recorded and the remaining two participants granted me permission to take notes. I personally conducted all interviews, transcribed them, and translated the ones conducted in the Tunisian dialect of Arabic or French into English. I designed the first round of interviews to provide a clear understanding and background knowledge of civil servants' perceptions of CSOs in Tunisia, *Decree Number 88*, the challenges facing public officials introducing new changes, and the impact of civil society organizations on the Tunisian democratic process. The second round of interviews was designed to reveal any changes that may have occurred and to ensure comparability across the sample.

A second category of collected data was comprised of ten public statements made by government officials that allude to the contradictory role of civil society in general and/or explicitly discuss *Decree Number 88*. All statements were published in local newspapers in Arabic. My purpose for collecting these public statements was to enable to the systematically tracking of public officials' opinions regarding CSOs and to monitor any changes in their statements over time.

Interviews

Within the course of my research, I conducted 15 interviews. 11 interviews were conducted in 2016 and four in 2020. Four of these interviews were conducted in English and 11 were conducted in the Tunisian Dialect.

The first round of interviews conducted in 2016 provide a clear understanding of civil society organizations in Tunisia, *Decree Number 88*, the challenges facing public officials in introducing new changes, and the impact of civil society organizations on the Tunisian democratic process. The first interview was conducted with Kamel Jandoubi, Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights. I picked Mr. Kamel Jandoubi because he was a member of Human Rights organizations before the revolution, was elected as the president of the Higher Authority of Realization of Objectives of the Revolution, Political Reform, and Democratic Transition, took part of drafting transitional Decrees such as *Decree Number 88*, and was appointed as the Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights.

The purpose of this interview was to establish a baseline of common themes for the research project. The common themes that emerged from my interview with minister Jandoubi are:

1) *Decree Number 88* represents a psychological, political, and administrative shift in Tunisia.

2) *Decree 88* moved from a system of authorization to a system of declaration;

3) There is a lack of implementation of the decree.

4) There is a lack of transparency from the CSO side regarding finances;

5) Administration representatives are having difficulties adopting to the new regulations;

6) There is a link between some violent extremist circles and some organizations;

7) There is a link between several political parties and some organizations;

8) *Decree Number 88* was endorsed in special circumstances and needs to be changed to remedy the transparency and supervision problems;

9) Newly established organizations are suffering from problems of sustainability; and

10) CSOs are playing an important role in consolidating the ongoing democratic process.

After establishing the research baseline, I conducted 10 interviews with public officials, representatives of compliant organizations, and representatives of non-compliant organizations. After each interview, I analyzed the main topics and link these to the themes established with the initial baseline interview.

Data Casting	Data Coding	Determination of Themes
• Voice recording were translated and transcribed.	• The Data are coded by establishing a basline, identifying similar themes in the conceptual framework of the research.	• **Categrizing Code:** • Open Coding • Axial Coding, • Selective Coding.
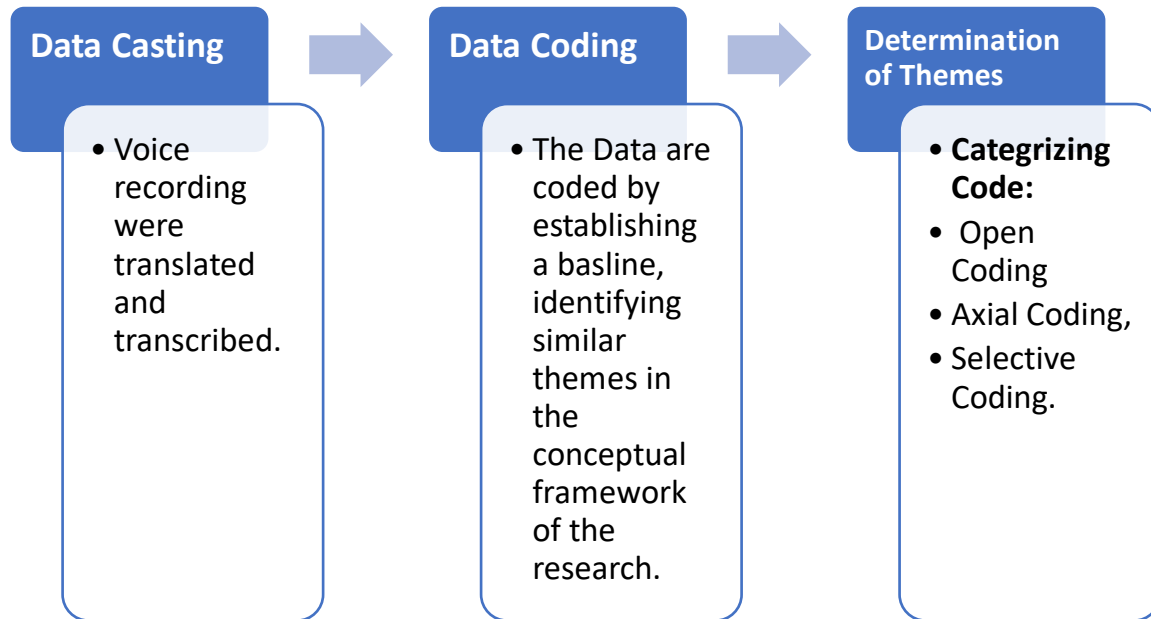
Figure 3.5: Steps of Content Analysis Process

Open Coding

Open coding is considered one of the main methods used in analyzing interview contents; it consists of searching the data for clues to recurring themes, which we identify as codes, to enable further analysis. The recorded interviews were transcribed verbatim and subsequently analyzed in multiple stages to identify common themes. The goal of the first stage of this open coding method is to generate a large number of codes that will help interpret the existing data and generate new themes (Strauss and Corbin 1990). The first stage included transcribing the interviews and highlighting the main topics revealed during the discussion. Figure 3.6 presents the main codes that emerged from the initial coding process.

Institutional Shift	Large number of organizations	watchdog	Progressive policies	Important to Democracy
Decree 88	Institutional Conflict	Political Corruption	Authorization	Funding Problems
Lack of imple-mentation	Civic Engagement	Declaration	Transparency	Challenges Facing CSOs
Links to extremism	Positive Impact	Shield protecting CSO	Negative impact	Associated with Parties

Figure 3.6: Open Codes

The second stage included using NVivo software to enter the initial code set, then run an analysis on each code in this set to detect the most frequent words and distinguish the common themes that emerge from the interviews. NVivo analysis determined the codes "important to democracy," "implementation problems," and "financial" as the most repeated word phrases in the interviews. Other codes such as "institutional shift," "large number of organizations," "after the revolution," "important to democracy," "*Decree Number 88*," "progressive policy," "watchdog," "financial disclosure," "political corruption," and "funding problems" were repeated in most of the interviews; NVivo software provided a replicable analytic tool to spot these phrases and interchangeable variations with accuracy.

The third stage consisted of grouping the coded data under broader categories and comparing these results back to the initial transcripts for consistency and contextual verification (Mey and Mruck, 2011). This step is a critical check on the coding process, providing

redundancy to ensure that the results are logical and analytic output is based on valid input. This step enabled me to summarize the main codes that emerged from the interviews and divide them into three categories:

1) CSOs are playing a positive role on the Tunisian democratic process;

2) There are many/significant negative factors associated with CSOs; and

3) *Decree Number 88* is the common denominator that facilitates both the positive and the negative impacts of CSOs on the Tunisian Democratic process.

Category 1	Category 2	Category 3
Institutional Shift	Associated with Parties	Progressive Policy
Large Number of organizations	Funding problems	Declaration
Watchdog	Institutional conflict	Authorization
Important to democracy	Political corruption	Lack of implementation
Civic Engagement	Links to extremism	Shield Protecting CSOs
Opposition	Transparency	Challenges facing CSOs

Figure 3.7: Code Groupings

Axial Coding: The Main Topics and Themes

Axial coding is one of the essential steps that contributes to developing the research theory. It establishes the correlation between the open codes and categorizes them in specific themes. The process of Axial Coding focuses first on examining the data and providing a clear understanding to the link between concepts and categories (Strauss and Corbin, 1990). Second, it contributes to developing a precise research theory and examining the interactions among major themes. Third, it takes into consideration the general conditions such as political situation,

economic status, history, and individual background before next associating the conditions with the most relevant of existing theories. Finally, it examines the preliminary data and narrows the coding paradigm to specific categories (Strauss, and Corbin, 2015).

The first question in each of the interviews was: "Many scholars consider civil society as necessary for development of the democratic process. Do you think civil society in Tunisia is playing this role?" All participants agreed that CSOs in Tunisia are playing a major role in strengthening the democratic process and many of them stated that post-revolution CSOs operate with a flexibility that did not exist before. For example, the president of

organization and the Deputy Minister of Scientific Research responded:

Civil society vouched for the whole democratic process in Tunisia. Right after the revolution, we had a crisis of legitimacy: no one was legitimate, no elected bodies. When Beji Kaid Essebsi was selected, he empowered a couple of organizations, like Riadh Ben Ashour's institutions. Thanks to certain groups of activists and civil society organizations, we managed to get the electoral laws, we managed to elect an assembly.[9]

Free dynamic and vibrant civil society is very important for a democracy, especially for a young democracy where basically you do not have all the democratic institutions in place to play the role of a working democratic system. At the end of the day, the main goal of democracy is, as one of the founding fathers called it, government from the people for the people by the people.[10]

Even though most responses stated that CSOs are very important to democracy, follow-up questions usually revealed that these positive sentiments toward CSOs (which are at the conscious forefront of people's experiences) were always accompanied with negative commentary that reveals underlying problems associated with CSOs.

On participant stated that "Civil society played a very important political role and civil society played a crucial role in building the Tunisian constitution of 2014… Unfortunately, there

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[9] Personal Interview with Achref Aouadi, president of IWatch Organization, August 2nd, 2016
[10] Skype Interview with Khalil Amiri, Deputy Minister for Scientific Research on May 23, 2020

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is some civil society actors who were biased, or they were driven by ideological factors."[11] Another participant reflected a similar sentiment, saying "Absolutely, CSOs are the key part of democratic process, however, we cannot also ignore the fact that many organizations are not following the law and actually threatening the existing fragile democracy."[12]

My analyses show that this pattern of negative aspects of CSO activity was not random, evidenced by the fact that this critique showed up in a majority of the interviews. Ninety percent of participants who agreed that CSOs are playing a positive impact on the Tunisian democratic process followed with mention of the negative impacts of CSOs. The same pattern showed up also in the statements issued by public officials.

The 2015 Nobel Peace Prize was awarded, in unconventional fashion to Tunisian civil society, as represented by the Tunisian Dialogue Quartet. This was interpreted by many as a great tribute to the positive impact the many organizations played. Despite this honor, a large number of interviewees' and public officials' statements described myriad problems associated with CSOs and encouraged further work in order to improve the efficacy of CSOs. This perspective emerged from the two initial categories of Axial Coding.

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[11] Phone Interview with Mouheb Garoui, executive director of IWatch Organization, July 20th, 2020
[12] Personal Interview with Hatem Boulabyar, Ennahdha Movement, August 3rd, 2016.
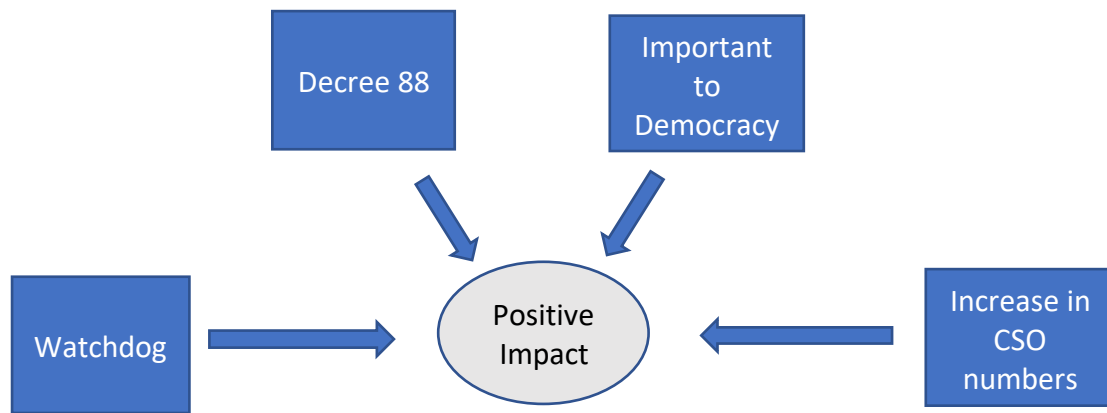
Figure 3.8: Category 1, The Positive Impact of Civil Society Organizations on the Tunisian Democratic Process

This part of the research includes going through the collected data and analyzing the common themes emerging from each question. The purpose of this step is to break down the data and look for patterns in the initial stage of analysis. In most answers, there was a consensus about the beneficial role civil society organizations play in consolidating the democratic process. Nearly all (98%) of the answers involved phrases such as "important to democracy" and "necessary for democracy".

Several participants went into more details and specified how CSOs are contributing to democracy using terminologies such as: "watchdog," "Post-revolution transition body," "Monitoring elections," "mediation role," "Nobel Prize of Peace," "*Decree Number 88,*" and "Progressive policies." This initial analysis provided a common theme within the answers, which helped generate the first category: Civil Society Organizations have a positive impact on the Tunisian democratic process.
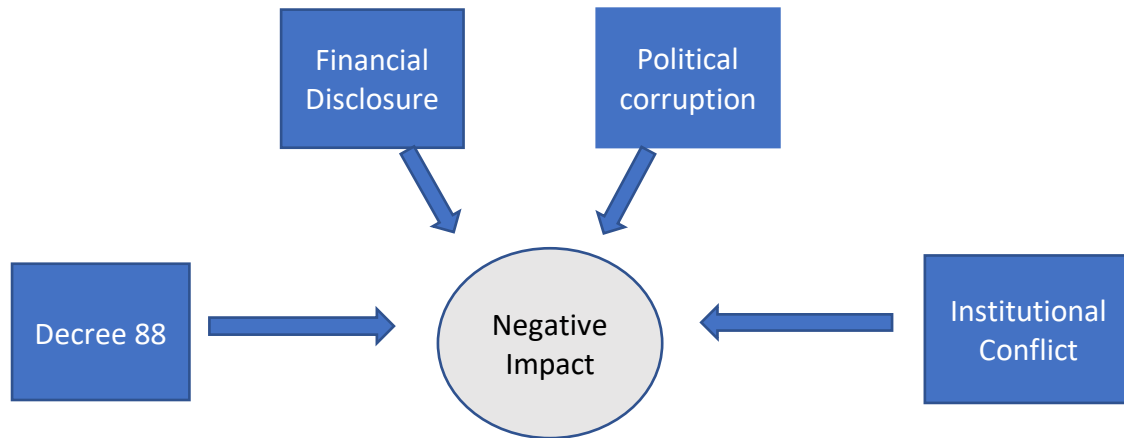
Figure 3.9: Category 2, Negative Impact of Civil Society Organizations on the Tunisian Democratic Process

Even though the initial screening of interviews produced codes such as: "progressive policies," "important to democracy," "increase in CSOs' numbers," and "watchdog," there was also a common theme which appeared within these coded categories of answers. Every positive description given to a CSO was later followed by a negative one (or several negative ones) such as: "financial disclosure," "political corruption," "funding problems," and "institutional conflict." This tendency repeatedly appeared throughout the interviews, as each positive description given to CSOs was followed by at least one negative assessment, which provided a new theme and generated a second category: Civil Society Organizations have a negative impact on the Tunisian democratic process.
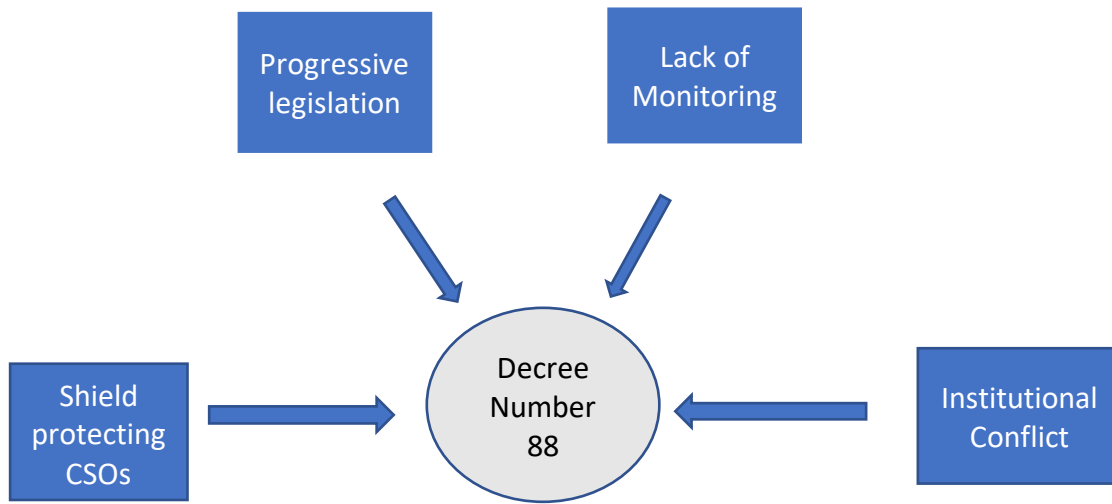
Figure 3.10: Category 3, *Decree Number 88* **and the role its playing in Tunisian Democracy**

The third main category that emerged from extensive data analysis was *Decree Number 88* itself. Interviewees agreed on that fact that the *Decree* is a revolutionary piece of legislation, which changed civic activism in Tunisia. However, as mentioned in the previous section, *Decree 88* emerged as the common denominator between the positive and the negative impact of CSOs on the Tunisian Democratic Process. When asked specifically about *Decree Number 88,* interviewees mainly focused on the changes the legislation brought and codes such as "institutional shift," "institutional conflict," "progressive legislation," and "shield protecting CSOs" emerged. With the initial screening, codes regarding *Decree 88* were conflicting; most participants agree that *Decree Number 88* is the main piece of policy legislation protecting civic activism in Tunisia, however, several participants also stated that there are many problems associated with the policy as it stands. Along these lines, respondents stated:

- "*Decree 88* has all the key elements of freeing civil society from the control of government."[13]

- "*Decree 88* is revolutionary, it enabled the freedom of creation of civil society and civil society, you know, prior to the Tunisian revolution you cannot form an association without having an authorization, so we went from the regime or the system of authorization to the system of declaration."[14]

- "*Decree Number 88* was a revolutionary law for civil society, there was a lot of pressure, censorship, oppression on civil society. After the revolution, one of the things that people wanted to see is a decree law that would limit the interference of the ministry of interior on civil society, and also gives more room for civil society to perform and act, so I would say that the decree law is trying to promote freedoms more than anything else, and that contribute somehow to the creation of a new generation of civil society."[15]

Even though most interviewees believe that *Decree Number 88* is a revolutionary policy because it freed civil society from the previous regimes' restrictions, many of them referenced the decree when discussing the problems associated with civil society in Tunisia. When conversing about *Decree Number 88*, we can sort participants into three categories: 1) those familiar with *Decree Number 88* and the legislation associated with it; 2) those who are somewhat familiar with *Decree Number 88* and with the legislation associated with it; and 3) those who are not familiar with *Decree Number 88*. As shown in Figure 3.11 below, mainly non-compliant organizations are not familiar with *Decree Number 88*.

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[13] Skype Interview with Khalil Amiri, Deputy Minister for Scientific Research on May 23, 2020.
[14] Phone Interview with Mouheb Garoui, executive director of I Watch Organization, July 20, 2020.
[15] Personal Interview with Achref Aouadi, president of I Watch Organization, August 2, 2016.

When asked about how *Decree Number 88* is negatively impacting civil society, the more familiar with the *Decree* participants were, the more precise the answer was. The Minister of Civil Society as an example, explained that the problem is not actually with the Decree itself, it is with the administrative workers implementing it. Stating that "the previous system was based on a prior authorization system, which we got rid of, and we established a simple declaration system, which represent a paradigmatic shift . . . This shift represents a legal, political, psychological, and administrative shift, which allowed a proportional work, if we can use that term, between the law and the goals of the law,"[16] Jandoubi emphasizes that there is a gap between the law and the implementation of the law.

In the second quote, Mouheb Garoui, the executive director of IWatch Organization, also points to a gap. Garoui stated "*Decree 88* it is not probably sufficiently developed in majors of oversighted control... The only gap I see with *Decree 88* is not with the Decree itself, maybe some references to allow the state to build certain capacities of control and oversight exposed that actually ensure certain risky aspects of the work of civil societies."[17] Specifically, he contends that there is a discrepancy between the requirements of the existing law and the capacity of the institutions in charge of implementing the law.

Also building on this point, Achref Aouadi, the president of IWatch organization, states that certain aspects of the existing legislation should be altered or changed to reflect the reality of the institutions in charge of implementation: "After a couple of years, I am seeing all the problems that the decree law created or the lack of implementation of the decree law, you can tell that there are things that we can keep and should keep, and there are things that we need to get

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[16] Phone Interview with Kamel Jandoubi, Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights, on November 11, 2016 in Tunis, Tunisia.

[17] Phone Interview with Mouheb Garoui, executive director of IWatch Organization, July 20th, 2020.

rid of, so I would say, it should not be the final version of a law, there is so many rooms for improvement."[18]

Interview categories	Familiar with Decree 88	Somewhat Familiar with Decree 88	Not Familiar with Decree 88
Compliant organizations	2	0	0
Non-compliant organizations	0	1	4
Policy makers associated with political parties	1	1	
Independent Policy makers	3	0	0
Public Figures	1	1	0
Administrative workers	1	0	0

Figure 3.11: Participants' Familiarity with *Decree Number 88*

Selective Coding

Selective coding is the final step of the coding process. This coding stage focuses on integrating the categories developed in axial coding into a consistent concept (Teppo, 2015). The process includes going through the categories developed at the axial level, reviewing the

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[18] Personal Interview with Achref Aouadi, president of IWatch Organization, August 2nd, 2016.

transcripts and the code structure, identifying the main connections with the data, and picking the core categories that will form the research questions (Vollstedt and Rezat, 2019).

The axial coding provided three main categories: 1) CSOs are playing a positive role on the Tunisian democratic process; 2) There are many negative factors associated with CSOs; 3) *Decree Number 88* is the common denominator between the positive and negative impact of CSOs on the Tunisian Democratic process. Based on this process, a second review to the existing data was conducted to convert the categories developed during the axial coding into one cohesive theory.

A core category is described as "the central phenomenon around which all the other categories are integrated" (Strauss and Corbin, 1990, p. 116). Following this definition, the core category of my data is the contradictory impact that civil society organizations have on the Tunisian democratic process. Once the core category is established, the rest of the research came together. By identifying that Civil Society Organizations are playing a contradictory role on the Tunisian democratic process, I had a clear map of my research.

Conclusion

Since the 2011 uprising, civil society organizations have played a major role in Tunisia's political trajectory, and specifically, civil society activity has made a substantial impact on the Tunisian democratic process. This research started in 2016 with a broad question that focuses on investigating the impact of CSOs on the Tunisian democratic process. The interviews aim to clarify specific issues and challenges associated with CSOs in Tunisia, examine the impact of transitional decree laws on civic liberty, and understand the drivers of the challenges associated with CSOs. After conducting and transcribing the interviews, I used grounded theory methods to analyze the content. The initial coding process provided three main themes: the positive impact

of CSOs on the Tunisian Democratic process, the negative impact of CSOs on the Tunisian democratic process, and *Decree Number 88* and its impact on the Tunisian democracy. The final coding process narrowed down the main themes to a core research category, Tunisian civil society organizations are playing on contradictory role on the ongoing democratic process.

Based on the core theory, I first conduct an extensive analysis of the reasons behind this contradictory impact and examine the relationship between CSOs and democratization from a theoretical perspective; I present the literature that deals with the positive impact CSOs played in consolidating the Tunisian democratic process, I also present the extant literature that deals with the negative implications of civil society organizations and apply these findings to the Tunisian case. In the next chapter, I explain *Decree Number 88* from an Advocacy Coalition Framework perspective. I present the transitional legislation as a Deep Core Belief and conclude that transitional Decrees, especially *Decree Number 88* is the shield protecting CSOs and social activists from government crackdown. Finally, I provide a list of policy recommendations that will assist the Tunisian government in reforming the civil society organizations sector without having any negative impact on existing freedom.

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CHAPTER 4: *Decree Number 88* explained from Advocacy Coalition Framework

Perspective

Introduction

As the only Arab Spring nation to successfully achieve democratization, many scholars and Tunisian leaders alike credit the strength of Tunisia's civil society with its successful Arab Spring outcome (Ben Hassine, 2018; Boose, 2013; Deane, 2013). Notably, one of the early laws enacted by Tunisia's new democratic leadership was *Decree Number 88*, a policy designed to regulate civil society organizations (CSOs) while allowing them to thrive. *Decree Number 88* establishes rules for how CSOs can operate, guidelines for their interactions with other CSOs, and reporting requirements for financial activities (*Decree Number 88*, 2011). While my research recognizes the positive impact of Tunisia's vibrant civil society on its successful democratic transition and ongoing democratic consolidation, my observations of many CSOs' non-compliance with *Decree Number 88* leads me to conclude that continued non-compliance leads to a situation in which the CSOs could be operating in ways that undermine Tunisian democracy – in some cases intentionally, in others, unintentionally. Moving forward, unless *Decree Number 88* is either enforced or altered to prevent it from being circumvented, we will continue to observe more negative impacts of CSO operation.

Applying Advocacy Coalition Framework will provide a better understanding of *Decree Number 88*, and particularly why it has remained unchanged despite growing non-compliance among the CSOs the decree aims to regulate. The Advocacy Coalition Framework's component factors, including "policy subsystems, belief systems, deep core, policy core, and secondary aspects" are particularly applicable to Tunisia's political landscape (Sabatier and Weible, 2007 p.200). Viewed through the lens of Advocacy Coalition Framework, the main obstacle to

changing *Decree Number 88* is overcoming both the conflict and cooperation between government institutions and political parties. Policy change is highly unlikely from the governance side because few ministries would benefit from a change. At the same time, political parties control most ministries in Tunisia, and they have their own incentive structures. While political parties may be motivated to improve the law's enforcement, this goal is simultaneously disincentivized by the drive to avoid any appearance of stifling CSO activity, or civil society more broadly, which could present electoral challenges in future elections.

Since Advocacy Coalition Framework was first developed to deal with intense public policy problems, it is suitable here to explain the lack of change in *Decree 88* (Hoppe and Peterse, 1993). If we examine the stasis of the decree from a policy perspective, we understand that a number of actors such as those involved in government institutions, interest groups, and media, along with social and political activists, are in dispute regarding the law. Individuals in some government institutions insist that the law should remain unchanged because they fear that new restrictions would result in the closure of hundreds of non-compliant organizations. This fear, while a direct result of the belief that operational autonomy of CSOs should always be preserved in order to reap the pro-democracy benefits of civil society, is actually misguided: within *Decree Number 88* is a requirement that non-compliant organizations are issued a warning before any disciplinary action is initiated. This clause shields well-intentioned but non-compliant CSOs from being shut down by the government. Legally, this provides a legal buffer that benefits all CSOs. Conversely, individuals in other government institutions such as the Ministry of Justice and the Ministry of Interior do believe that *Decree 88* is causing problems and should be changed or completely replaced. In 2017, Prime Minister Youssef Chahed issued a strong statement asserting the need to monitor CSO funds (Nadhif, 2017).

Pressing for changes in *Decree 88*, advocacy coalitions try to persuade government institutions to behave "in accordance" with their policy objectives, while government institutions, if following the constitutional structure, would gradually implement more restrictions on CSOs through "guidance instruments" provided by the advocacy coalition (Sabatier and Pelkey, 1987). If the Prime Ministry is serious about seeing a change in *Decree 88*, several steps should be followed. First, a number of government positions, such as the Minister of Government Relations with Civil Society, should be revised. Second, the government should turn to the judiciary as the institution with the power to imbue implementation of the decree with legitimacy. Third, the media as an independent institution could have an impact on policy change by raising the issues associated with *Decree 88*, and in turn, the public awareness generated by media coverage could influence policy makers to act.

Based on Tunisia's current political environment, Advocacy Coalition Framework offers a useful tool for conceptualizing a path to policy change via a coalition of government institutions and other stakeholders that could create the conditions for passage of CSO regulatory policy. Advocacy Coalition Framework provides a clear path for understanding Tunisia's current political environment, for instance, how and why CSOs' activities may be used to undermine the democratic institutional achievements that civil society helped to establish in the first place. Advocacy Coalition Framework also offers a useful tool for conceptualizing a path to policy change via a coalition of government institutions and other stakeholders that could create the conditions for passage of improved CSO regulatory policy.

I begin this chapter by analyzing relevant literature and demonstrating how Advocacy Coalition Framework explains the lack of change in CSOs policies. I then focus here on policy subsystems, from functional and substantive dimensions, and present main policy participants. I

conclude with discussing the drivers of policy stability in Tunisia and its implications on CSOs policies.

Literature Review

Advocacy Coalition Framework (ACF) deems the policy process to be the result of a set of actors who compete to promote beliefs about policy problems and solutions. It supports a system of causality and values in public policy (Sabatier, 1998). According to ACF, policy subsystems constitute the variables responsible for influencing public policy, and these subsystems present "a variety of cognitive biases" that provide assistance in complex situations (Sabatier and Jenkins-Smith, 1993).

A central component of this framework is the idea that "belief systems" are responsible for structuring public problems and identifying how they should be dealt with. These belief systems, held by individuals in the policy subsystem, consist of three main categories: a "deep core," which represents the deeply held, stable, and normative belief sets that provide a broad perspective of policy dynamics, a "policy core," which is typically resistant to change, but provides ideal grounds for forming coalitions, and finally, a "set of secondary aspects," that are empirically based and the most likely to change (Sabatier, Jenkins-Smith, 1999). In the framework, these three types of belief systems are responsible for stasis in public policy (Weible, Sabatier, and McQueen, 2009), and therefore must be overcome to enact policy change.

ACF emphasizes the importance of three principles: first, policy change requires "a time perspective of a decade or more" (Sabatier, 1988). Second, policy subsystems are crucial to achieving policy change. Third, public policies can be "conceptualized" in the same way that "belief systems" are (Sabatier, 1988). ACF conceives of public policy as a dynamic process that relies mainly on variables such as alliances and fights. Viewed through the lens of ACF, the main

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issue to overcome with *Decree Number 88* is the conflict between government institutions. Political parties control most ministries in Tunisia, making a policy change highly unluckily because few of the ministries would benefit from a change. According to ACF, *Decree Number 88* would only be likely to change if government institutions were to reach a consensus. Such a compromise is more likely to happen if the public becomes aware of the issue and pressures representatives to make the change.

Policy change is one the most discussed topics in the field of public policy; questions about the causal link between external events and policy change remains the topic of debate among researchers. Advocacy Coalition Framework is a useful framework for the topic of *Decree Number 88* and Tunisia's challenges to CSO regulatory policy because it is flexible enough to accommodate this problem[19], while parsimonious enough to simplify the complexity of this problem.

Belief systems

A main approach of ACF is to spend a great amount of time studying the belief systems of policy makers and analyzing the conditions that can result in policy-oriented learning (Sabatier, 2007). When studying the Tunisian case, we find that there is consensus among political elites regarding civil society organizations concerning the importance of CSOs' collective role in further consolidating the Tunisian democratic process. These political and economic elites (there is much overlap between these two sets) are generally opposed to changing the law. This opposition works on multiple levels: on the surface, there is a component of self-interest, as the elites are positioned to be the main benefactors of the current system. But more consequential in terms of explaining policy stasis is the fact that these elites regard *Decree*

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[19] Exchange of emails with Dr. Christopher Weible on 11 February 2020.

Number 88 with a reverence that is indicative of their deep core belief around the policy's value as founding principle in Tunisian democracy (Ghali and Mnasri, 2016; Ghali, 2018; Belhassine, 2018). In their eyes, the health of the democracy is derivative of the health of Tunisia's civil society organizations; absence of the latter precludes the former. This is creating a conflict between policy makers – the elected politicians, many of whom are drawn from this "elite" class – and career bureaucrats who favor establishing an implementation mechanism that can hold uncompiled CSOs accountable. Mr. Mahdi Ben Garbia, Minister of Relations with the Constitutional Instances, Civil Society, and Human Rights stated in an interview with the Tunis Afrique Press Agency that "the Tunisian state has no means to monitor the work of the 19,000 associations… and should revise the Decree-Law on associations enacted late September 2011" (TAP, 2016).

The fact that the overriding consensus among Tunisian policy makers has been static since democratization, now approaching a decade, not only indicates that initiating any policy change regarding *Decree Number 88* is difficult, but the continued stasis makes the current law more entrenched. This dynamic in the Tunisian political system is consistent with ACF's underlying tenet that "the beliefs of policy participants are very stable over such a period" (Weible, 2007). Germaine to this case, Weible (2007) emphasizes that achieving change can be even more difficult in developing countries, elaborating that confounding factors such as "instability of [the] political system" and "lack of trained personnel" can work against change in specific policy areas (Weible, 2007, pp.192, 193).

In freshly minted democracies like Tunisia, succession of power often brings a rapid turnover of political players, and this holds true of the Tunisian case. In the three rounds of elections held thus far, parties that gained enough seats, winning the opportunity to form

governments in 2011 and in 2014, had poor showings in the 2019 elections. The major parties from the first two parliamentary results, Ennahdha Movement and Nidaa Tounes, both lost seats and were largely replaced by new parties, of course, featuring new politicians, after the 2019 elections. This continual rotation of political leadership since democratization, and particularly the high turnover of the most recent elections, has resulted in the emergence of a new cohort of policy makers whose policy agendas differ markedly from their predecessors. The result is a situation in which the bureaucrats and researchers who *are* interested in starting negotiations with legislators to establish a viable implementation mechanism for *Decree Number 88* usually find themselves starting over with every election due to the rotation of political power every election cycle. "Traditionally, policymaking has been conducted within a tight circle of senior administration and government officials. Sometimes, it was driven by the special interests associated with the senior political actors in the former regime" says Amiri, Kherigi (2015), who makes the point that the fluctuations inherent in democratic power make it difficult to pass new legislation, in contrast with the "old" way under authoritarian leadership. In short, this is the case for why a working framework, such as ACF, is needed to guide the process efficiently.

Paradoxically, while some policies such as *Decree Number 88* have remained in stasis, the legislature in Tunisia's nascent democracy has proven to be substantially dynamic; each government since the 2011 revolution has been composed of multiple political parties with different ideologies, the most recent made up of five political parties and independent figures (Grewal, 2019). As one would expect, this has forced coalition-building and governance by consensus. While ACF assumes that policy makers usually hold "strong beliefs" and tend to convert those beliefs to policy, the particular political dynamic as it has played out in the Tunisian case has proven to be particularly stagnant. The fundamental diversity of interests

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represented in Tunisian policymakers when they come to power renders it inherently difficult to translate the various core belief sets to the policy agenda. And even when a new policy proposal makes it onto the formal agenda, as a first step, it faces the even greater challenges of being written into law and implemented (Bachrach and Baratz, 1963).

In practice, we observe that even while some candidates run on the promise of finding solutions to the lack of effective regulation of Tunisia's CSOs, this promise does not make it to the parliamentary agenda due to the existence of other priorities such as unemployment and the nation's general economic malaise which has lasted for the duration of Tunisia's democratic project (Szakal, 2018). These observations are consistent with the framework, considering that policymakers' strong belief systems are one of the primary obstacles preventing policy change, and should be overcome before introducing or amending policies (Sabatier and Jenkins-Smith, 1991).

Thus, the Tunisian case is supported by ACF *and* provides new evidence of the framework's efficacy, specifically by the observation that the framework holds in the Tunisian context – as a new democracy and as a representative of Middle East and North African politics. The following subsections break down the Tunisian case into the framework's component categories of belief systems: deep core beliefs, policy core beliefs, and secondary aspects.

Deep Core Beliefs. Deep core beliefs are one of the main tools that explain how human values play out in human behavior. Often the deep core beliefs revolve around strongly rooted basic principles such 'liberty' and 'equality,' for example. Weible argues that deep core beliefs are the product of "childhood socializations" which make them exceedingly difficult to change (Sabatier and Weible, 2007). In a political system, the traditional left versus right political

ideological paradigm operates at the deep core level (Sabatier and Weible, 2007). Whether in a first-past-the-post system with two main parties, or in a parliamentary democracy that has many viable options along a left versus right spectrum, deep core beliefs are the foundational principles that political parties are established on and that politicians compete to translate into actual policies (Sabatier and Weible, 2007).

Following the 2011 uprising, the interim government established the Higher Authority for the Realization of the Revolution's Objectives, Political Reform and the Democratic Transition. It served as an interim parliament in charge of amending the legal framework to lead the country to its first "free, fair, transparent, and pluralistic" election (Nouira, 2011). The interim institution was composed of representatives from political parties and civil society organizations, with members were carefully selected to ensure a swift transition. Yadh Ben Achour, the head of this Higher Authority, stated in an interview with *Swissinfo* "[w]e were in a revolutionary period, and in such periods the law cannot fully govern reality; but neither can it be ignored, even in revolutionary times" (Dhif, 2015). The main goal of Ben Achour was to issue legislation that will break with autocratic practices, consolidate the democratic process, and guide the country to its first free democratic elections. *Decree Number 87,* pertaining to regulate political parties, and *Decree Number 88,* pertaining to regulate civil society organizations, were two of the first outcomes of the Higher Authority for the Realization of the Revolution's Objectives, Political Reform, and Democratic Transition.

In 2011, the Higher Authority for the Realization of the Revolution's Objectives, Political Reform, and Democratic Transition passed 130 decrees in a period of 10 months, 40 of which addressed democracy and human rights issues. *Decree Number 88* was one of the main achievements of the Higher Authority; technical committees including a team of constitutional

experts, representatives of the United Nations Development Program, representative of the International Center for Not-for-Profit law, representatives of local organizations, and representative of the Kawakibi Democratic Transition Center took part in the drafting process (Ghali, 2018).

Because of the fundamental nature of these laws and their strong, widespread, support from people across Tunisia's political spectrum – including by citizens who describe themselves as "non-political" – the decrees are broadly considered by Tunisian citizens to be symbolic of the revolution and so foundational to Tunisia's democracy that they can not be changed (Schäfer, 2015). This is evidenced by the public's swift and negative reaction to any suggestion of changing the laws, such as when the Minister in charge of Relations with Constitutional Institutions and Civil Society, Mehdi Ben Gharbia, spoke publicly of the need to reform *Decree Number 88* and was met with overwhelming criticism that was widely reported (Atwi, 2018).

The deep core belief that civil society is the precursor to – and sustainer of – democracy, public reaction to any suggestion of changing *Decree Number 88* reveals that this core belief is generally conflated with a perception that policies that protect civil society are infallible and immutable in Tunisian public perception. The popular perception that these laws are foundational makes it difficult to reform the laws, even to close loopholes or prevent misuse, which would ultimately be better for democratic consolidation. A survey conducted in 2011 by the International Republican Institute shows that the majority of Tunisian citizens approved of the transitional commission; around 60% of Tunisians were very confident or somewhat confident in the commission's work especially in the field of political reform and Human Rights (IRI, 2011). Because CSO support was a centerpiece of the transitional government's work, this survey provides further indication that the emphasis on CSO viability is an issue that most

Tunisians strongly favored: 77% of respondents believed that independent civil society has improved since the uprising. Surveys such as this one and other news stories reported in the national media explain how pro-CSO policy, such as *Decree Number 88*, is inextricably tied to the validity of Tunisia's new democratic government in the eyes of many people (Aswad, 2017; Abd Ellatif, 2018; Mouna; 2018). From this, we see that any move to inhibit or alter *Decree Number 88* constitutes a challenge to the deep core belief that CSO activity is infallible (Abd Almouli, 2013).

In addition to civilian reactions that reveal the deep core nature of public perception regarding *Decree Number 88*, the World Alliance for Citizen Participation (CIVICUS) in collaboration with a local organization, My Organization [جمعيتي], and the Kawakibi Center for Democratic Transitions conducted a study about civil society organization in Tunisia; in the final report, one of the authors stated "*Decree 8*8 is considered one of the best association laws in the world and certainly one of the best in countries in Transition" (Ghali, 2018).

My research shows that this fundamental belief in the absolute need for *Decree Number 88* is also held by people who work in Tunisia's political sphere, including both politicians and CSO leaders. I conducted 15 interviews. Six of them were with government officials, administrative workers, and members of political parties. I also conducted seven interviews with members of civil society organizations, and two interviews with public figures who have an understanding of *Decree Number 88.* When asked about their opinion regarding *Decree Number 88,* 92% of participants stated that *Decree Number 88* is a revolutionary decree, which plays a primary role in strengthening civil society organization in Tunisia. Of the population sampled, 61% of participants believe that *Decree Number 88* is revolutionary and should not be changed; 31% of participants believe that *Decree Number 88* is revolutionary, but it could be improved or

replaced; 6% didn't have an opinion regarding the Decree. Table 4.1 and Figure 4.1 depict

participant demographics according to career or official position. Figure 4.2 provides a visual

illustration of participant beliefs regarding *Decree Number 88*.

Table 4.1: Participant Responses to *Decree Number 88*

Interviews	Believe that *Decree 88* is revolutionary and shouldn't be changed	Believe that *Decree 88* is revolutionary, but it should be changed or altered	Did not have an opinion
Government Official, administrative workers, and members of political parties	4	2	0
Members of Civil Society Organizations	4	2	1
Public Figures	2	0	2
Total	15	15	15
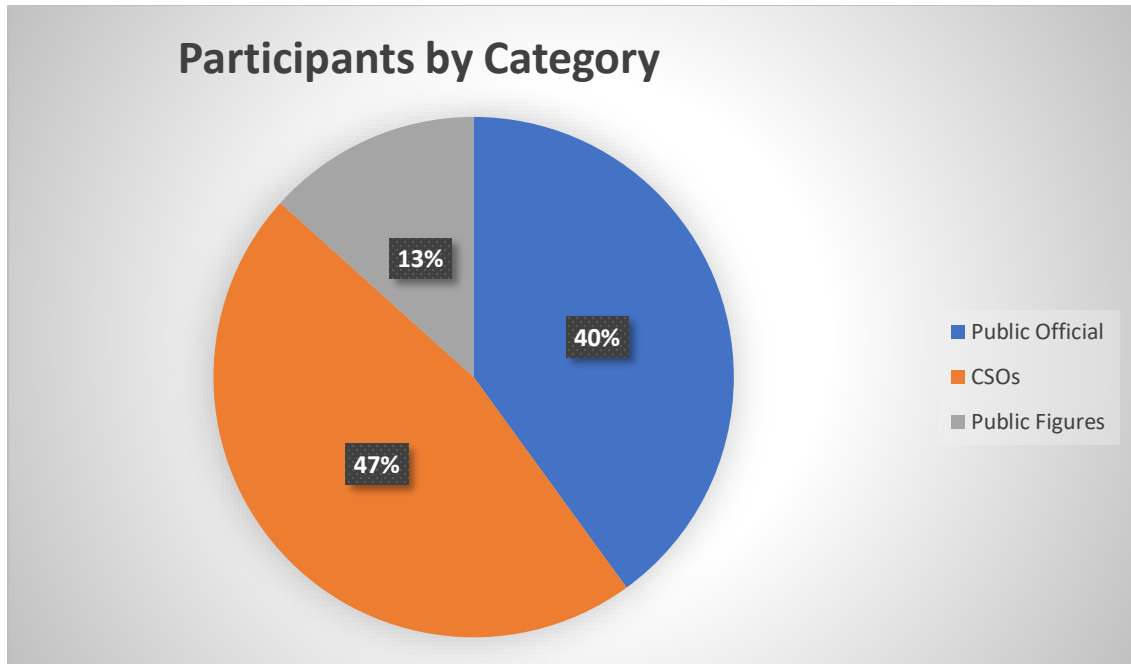
Figure 4.1: Participants by Category

Percentage of Total Participants

8%

31%

61%

■ Prefer Maintaining Decree 88   ■ Prefer Improving/Replacing Decree 88   ■ No Opinion
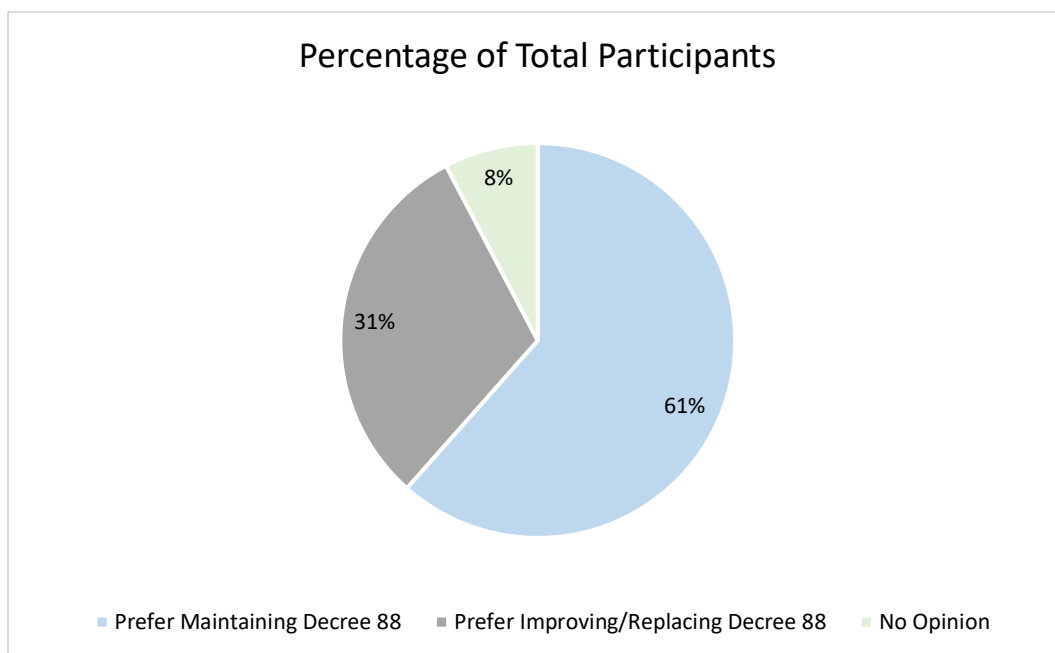
Figure 4.2: Preferences on *Decree Number 88*

In an interview, a representative of the Tunisian Charity Organizations stated "*Decree Number 88* is what protects civil society organizations in Tunisia from old government practices. We have to understand that administrative workers were trained on implementing previous laws, they think that way, the only reason they are not shutting down organizations is *Decree Number 88.* My organization has been shut down by these administrative workers and I used *Article 4 of Decree Number 88* to take them to court and we are winning the case. If it was not for *Decree 88*, there wouldn't be any legal procedure we can do."[20]

In another interview with a member of Ennahdha Movement's Shura Council, the political party's consultative body, Hatem Boulabyar stated "*Decree Number 88* is a great piece of legislation, it came right after the revolution and provided Tunisians with the freedom to

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[20] Personal Interview with a representative of Tunisian Charity Organization, August 8th, 2016.

establish CSOs without any restrictions. It was the first step to ensur[ing] the strengthening of the democratic process. It is one of the initial Decrees that guided Tunisia to Democracy, it is a revolutionary Decree if you compare it with the previous legislations [sic]."[21] The perspectives conveyed by the CSO representative and the political party member both reflect the deep core belief that *Decree Number 88* is "revolutionary," inextricably tied to Tunisia's democratic transition.

Decree Number 88 has become eponymous for a constellation of related deep core beliefs because this single law incorporates support for several related components that were critical for Tunisia's post-revolution success in establishing a democracy, including ideals such as citizen autonomy from government, civil society's ability to hold government accountable, and the admiration for civil society's role in securing Tunisia's democratic transition, particularly during a time when democratic consolidation was not a forgone conclusion. In this regard, the unique awarding of the 2015 Nobel Peace Prize to the Tunisian Dialogue Quartet (discussed in the previous chapter) provided further support for crediting CSOs as being foundational to successful democratization, as did the alternative outcome experienced by other "Arab Spring nations" such as Egypt, where the failure to democratize is often attributed to the absence of strong civil society (Hoyle, 2019). Thus, these ideals are deep core beliefs that people regard to be critical to both founding and continuation of Tunisian democracy.

Finally, the widely held convictions that vibrant civil society is responsible for Tunisia's democratic achievement, that the continued health of Tunisia's civil society organizations is critical for furthering the nation's democratic consolidation, and that nothing should be allowed to interfere with – or even create the *perception* of interference with – the operation of CSOs, are

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[21] Personal Interview with Hatem Boulabyar, Ennahdha Movement, August 3rd, 2016.

all baked into *Decree Number 88*, making the law's name a useful stand-in that policymakers and even private citizens use when describing their own convictions, which ACF would label "deep core beliefs."

Before the revolution, Tunisian policy makers who opposed Zine el Abidine Ben Ali's regime were forced to spend the prime years of their political careers in exile for such political infractions; after the revolution, many of these political dissidents returned to Tunisia to help craft and ultimately guide Tunisia's nascent democracy. The individual experiences of these political operatives within the former authoritarian system, along with their experiences of participation in Tunisia's democratic transition, were highly formative in shaping their deep core beliefs around the underpinnings of a successful democracy (Karrou, 2014). Specifically, the central role that CSOs played in democratic transition and democratic consolidation has led such activists and politicians to believe strongly that CSOs play a critical in democratic consolidation. In the context of these deep core beliefs, it follows that any proposal designed to regulate CSO activity is considered with skepticism at the very least, and most likely will never make it to the official agenda for legislative consideration because it is seen as hampering civil society (Alawi, 2020).

The deep core belief in the incontestable importance of CSO activity to democracy is reflected in additional personal statements made by participants during interviews for this research. To this point, Kamel Jandoubi, the Minister in charge of Relations with Constitutional Institutions and Civil Society, stated "*Decree Number 88* completely changed the methods used by the old regime in dealing with civil society organizations. The previous system was based on a prior authorization system, which we got rid of, and we established a simple declaration system, which represent a paradigmatic shift; it also represents a psychological, political, and

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administrative shift in Tunisia."[22] In another interview with a local newspaper, *Al-Sabah*, he declared "We are committed to maintaining and strengthening the freedom provided by *Decree Number 88* to CSOs after the revolution. This freedom given to associations is as important to democracy as freedom of speech" (Sabah News, 2015).

The Higher Authority for the Realization of the Revolution's Objectives, Political Reform, and Democratic Transition was composed of twelve political parties, twenty associations, prominent national figures, and representative of the Tunisian General Labor Union (UGTT) (UNDP, 2013). The freedom to establish political parties and civil society organizations was one of the first discussion topics; Yadh Ben Achour expressed that he was highly impressed by the civic activism Tunisian citizens showed during the transitional period and wanted to protect this this right. In an interview with UNDP, Souhayr Belhassen, previous president of the International Federation of Human Rights and one of the major opposition voices to Ben Ali, stated "For the first time, civil society was playing an active role in law-making. It was a driving force behind the main texts staking out the path to democracy during this initial period of the transition: historic decree-laws such as the one that created the first Independent High Authority for Elections, the one on the organization of the first free and open elections in Tunisia, those concerning the organization of associations, political parties and freedom of the press, and the one on the media which created the sector's first independent regulatory authority (INRIC)".[23]

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[22] Phone Interview with Kamel Kandoubi, Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights, on November 11, 2016 in Tunis, Tunisia.
[23] United Nations Development Program. 2013. The Civil Society in the Transition: Interview with Souhayr BelHassen.
https://www.undp.org/content/dam/rbas/doc/Compendium%20English/Part%202/19%20BELHASSEN%20EN.pdf (August 3, 2020).

Civil society's role in consolidating the Tunisian democratic process is an example of deep core belief that Tunisian policy makers agree on. Therefore, the challenge when approaching this topic of *Decree Number 88* in Parliament will be to delineate the difference between legislative support for civil society organizations versus regulatory actions that by establishing uniform operating rules will bolster the long-term fidelity of these organizations. Mr. Mehdi Ben Gharbia, the Minister of Relations of Constitutional Bodies, Civil Society, and Human Rights, announced in 2016 that his ministry was working with several local and international organizations "on revising *Decree Number 88* in order to keep the freedom it gave to CSOs and make it compatible with the 2014 constitution…[We] will conduct a broad consultation with CSOs to reach a consensus about the revisions, which will preserve freedom of associations and provide new opportunities for civil society (Al Sabah News, 2016). In 2017, he announced that after a careful evaluation of *Decree Number 88*, his ministry concluded that it lacks a clear implementation mechanism and should be completely replaced. He announced that a new draft law would be introduced in the first quarter of 2018 (Al-Sabah News, 2017). In 2018, Mr. Ben Gharbia stated "The new draft law was supposed to be introduced in the first quarter of 2018; however, it was delayed allowing more consultation with CSOs. . . There is pressure from the international community regarding the draft law we are working on. Many organizations showed concerns about losing the freedoms obtained by *Decree Number 88*, however, we are working in a participatory and consultative manner with all national and international partners to address these concerns" (Abd-Ellatif, 2018).

After the European Commission added Tunisia to its list of "High Risk" countries for money laundering and terror financing in February 2018 (Yerks, 2018), the intergovernmental Financial Action Task Force issued a report "urging authorities to expedite the implementation

of measures related to the development of a commercial register system" (FATA, 2017). Even though the report clearly attributes money laundering to the lax oversight of civil society organizations, the Tunisian government stopped short of introducing any changes to *Decree Number 88* itself. Instead of altering the existing decree in order to comply with FATA's recommendations, Tunisian legislators proposed an entirely new piece of legislation, officially titled *Draft Law 30 of 2018*. This new law requires both public and private companies, including civil society organizations, to register with the National Registration Institution.

This proposed *Draft Law 30* has problems of its own, as many small organizations do not have the expertise to implement the requirements of the new Draft Law, yet failure to do so can result in expensive fines and even jail time. Human Rights Watch immediately declared this step as "a latest sign of authoritarian resurgence" and described the new decree as unconstitutional because it contradicts the 2014 Constitution and the existing *Decree Number 88* (Fassihian, 2018). Other stakeholders, wary that the increased oversight would be used as a means of disempowering their organizations, argued that politicians may employ the report as a pretext to a crackdown on CSOs. To counteract the measures of *Draft Law 30 of 2018*, leaders representing a broad alliance of CSOs recruited politicians to create a coalition in Parliament including all the major political parties for the purpose of lobbying against any form of government restriction of CSO activity as a response to the FATA report.

In a move that surprised many because it ran counter to the popular opposition to *Draft Law 30,* the Minister of Civil Society, Mehdi Ben Gharbia, made a public statement in Parliament arguing *in favor* of including civil society organizations in the proposed law. Ben Gharbia's surprise endorsement of *Draft Law 30* as written led to passage of the law on July 27, 2018 that, in fact, included CSOs (Szakal, 2018). Ben Gharbia's staff claimed this action as a

political victory, stating in a media interview with Middle East Monitor that they consider this a win even though the change did not affect the *Decree Number 88*. Despite the fact that *Decree Number 88* remained unchanged with the passage of *Law Number 30*, Ben Gharbia's statement before Parliament in support of including CSOs within *Law Number 30* led to widespread criticism aimed at the minister himself. Shortly after this, Ben Gharbia submitted his resignation, citing the lack of any tangible reform as the main reason for his decision. (Middle East Monitor, 2018). The chain of events surrounding Ben Gharbia's support for *Draft Law 30* and the anti-CSO optics associated with this backing demonstrates the political hazards of challenging a deep core belief set – without the consensus of an advocacy coalition; in Ben Gharbia's case, accomplishing little on the policy end while leading to his resignation as minister.

Following Ben Gharbia's resignation and the ratification of *Law 30*, thirty MPs along with the support of several civil society organizations argued that including CSOs within the new law is unconstitutional because it conflicts with *Article 65*. This vocal opposition elevated the matter to the Interim Constitutional Court (Szakal, 2018). Interested parties from outside Tunisia also took notice of this law; international organizations including Human rights Watch and Freedom House declared *Law 30 of 2018* a threat to civil liberties and condemned it for having the potential to create a "slow democratic backslide" (Fassihian, 2018).

Policy Core Beliefs. Policy researchers such as Sabatier and Jenkins-Smith define policy core beliefs as the essential choices and "basic attributes" that determine policies. According to the framework, the stability of policy core beliefs is a result of many factors, namely these factors stem from a link to the deeply entrenched nature of the deep core beliefs, discussed above. Sabatier and Jenkins-Smith contend that participants in the policymaking process often

translate their deep beliefs into policy beliefs, which imbues these policies with a fundamental, or essential, nature, making the policy core beliefs difficult to overcome when attempting to change course on a policy issue (Sabatier and Jenkins-Smith, 1999). This leads to a tendency toward status quo when it comes to the policy core beliefs should be taken into consideration when attempting to overcome policy inertia in order to enact legislative change.

Advocacy Coalition Framework suggests that policymakers can take advantage of opportunities such as the presence of similar policy core beliefs among "legislators, agency officials, interest group leaders, judges, researchers, and intellectuals from multiple levels of government" by translating the similarities in belief systems into actual policies that are amenable to all. Another aspect of policy core beliefs emerges when participants in the policymaking process assume that their opponents will take advantage of the same opportunities, a phenomenon which Sabatier and Jenkins-Smith call the "devil shift" (1999). In this type of interaction, stakeholders present (and actually perceive) opponents as being less trustworthy and even "evil," a categorization which, once made, tends to exacerbate conflict among opponents (Sabatier, Hunter, and McLaughlin, 1987; Sabatier and Jenkins-Smith 1999). When Mehdi Ben Gharbia, Minister for Government Relations with Constitutional Bodies, Civil Society, and Human Rights and member of Nidaa Tounes, the largest parliamentary block in 2014, proposed changes to CSOs policies. Other parliamentary blocks opposed his proposal believing it was intended to weaken organizations monitoring the work of government and benefit his party. Ben Gharbia submitted his resignation and blamed the opposition for his failure to introduce any tangible changes (Bouzizi, 2018).

Policy core beliefs strengthen stakeholder relations within coalitions and encourage the stakeholders to coordinate in order to reach shared policy goals. From this point on, the benefit is

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that they will primarily deal with the fundamental policy choices, which makes the subsequent coordination more predictable in terms of coordination. Additionally, once this stage is reached, the newly derived policy is sound, and typically very difficult to change (Weible, 2005).

There is currently a conflict that exists between the Central Bank, Ministry of Justice, Ministry of the Interior, Parliament; and the Ministry of Relations with the Constitutional Instances, Civil Society, and Human Rights; all of whom have a material stake in what happens with *Decree Number 88* and whether it is implemented. Significantly, many of these stakeholders have an even greater stake in the public perception of CSO regulation, whether they – either as entities or as individuals – are perceived to be supporting civil society activity or hindering it. Thus, using policy to answer the question of 'who' has jurisdiction over civil society organizations and can reprimand them for illegal activities is not only important in terms of actual implementation, but also in terms of the optics of implementation. And herein lies the opportunity for all of these Tunisian stakeholders: the possible pitfalls that would likely be borne by many of these stakeholders in the case of policy change could be utilized as a commonality when calling upon the various groups to establish a coalition – distributing the burden among policy makers, bureaucrats, judges, researchers, and politicians in conjunction with a proposal for a clear implementation mechanism.

Secondary Aspects. According to ACF, the third type of belief system that explains change in public policy is the category "secondary beliefs" (Sabatier and Weible, 2007). Secondary beliefs are "narrow in scope" and can easily open negotiation channels among coalitions. Policy makers tend to reach consensus or completely abandon a secondary aspect at the expense of preserving a policy core belief or deep core belief system, so changing secondary

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beliefs is less difficult and requires "fewer agreements" among subsystems (Sabatier and Weible, 2007).

As mentioned in the previous sections, support for *Decree Number 88* is considered a "Deep Core Belief" which makes it very hard to change. However, the sub laws dealing with the implementation mechanism are considered "Secondary Aspects" so it is possible that the threshold for changing them could be reached much more easily. *Decree Number 88* is still considered a revolutionary law in the sense that it was created post-revolution, and it is often viewed as being an important component of Tunisia's successful democratic consolidation, so many politicians will oppose any discussion about changing it. However, if the recommended changes are presented as the solution, and the only clear path to preservation of the law itself, it is plausible that many of these stakeholders will become open to new legislation. An acknowledgement that the most viable way to ensure *Decree Number 88's* longevity is to strengthen the law, it thus could allow these policymakers to conceive of reforms as being compatible with their strongly held deep core beliefs. Based on belief sets that prioritize the preservation and strengthening of *Decree Number* 88, policy makers will reach an agreement and establish an implementation mechanism. Advocacy Coalition Framework provides a particularly effective strategy for navigating a path forward in this case, where core beliefs are also influenced by the need for stakeholders to uphold a certain "appearance" in order to maintain credibility (and re-electability).

The Ministry of Relations with the Constitutional Instances, Civil Society, and Human Rights have been coordinating with civil society organizations, research institutions, and policy makers on the possibility of amending *Decree Number 88* but has thus far failed to achieve meaningful results. What we have observed about *Decree Number 88* in the context ACF, with

acknowledgement of the three categories of belief systems and how stakeholders are beholden to beliefs, is that the Ministry Relations with the Constitutional Instances, Civil Society, and Human Rights fails because it continues to approach its objective of change by targeting the decree head on, rather than using a tactics of appealing to fundamental beliefs and finding the foundation for coalition building therein, as Advocacy Coalition Framework would suggest.

Stakeholder Analysis of *Decree Number 88*

Using Advocacy Coalition Framework to conduct a stakeholder analysis, I find that the policy's stasis is largely attributable to the variables of firm stakeholder belief sets and the moral hazard of personal or institutional interests in which stakeholders benefit from the status quo, while fearing harm if the status quo were to be disrupted. As ACF predicts, these dynamics surrounding interests and beliefs promote policy stasis, while the institutional conflict caused by the lack of implementation presents real risks to Tunisia's ongoing democratic consolidation. The rest of this article will apply the framework to the tasks of evaluating the strategies, coalitions, and circumstances that could lead to policy stability, and will conclude with recommendations that will allow policy change.

When analyzing policy stability and change in post-revolution Tunisia, the political system seems very dynamic. Since 2011, Tunisia's semi-presidential parliamentary system witnessed eleven major government changes, which has led to corresponding swings in public opinion. Notably, the electorate's views have shifted from consensus to political opposition in only few years (Grewal, 2019). Such a rapidly evolving political landscape not only results in change of political leadership. It also produces new priorities for policymakers, pushing articulated policy objectives to the end of the agenda.

The main challenges facing the country of Tunisia since the revolution are corruption, unemployment, regional socioeconomic disparities, and terrorism (Yerkes and Yahmed, 2019). These priorities have been the sole focus of every government, yet there has been little to no tangible change toward any of these legislative objectives. The lack of implementation of *Decree Number 88* falls within two of the challenges: corruption and terrorism. Policy makers such as Youssef Chahed, Prime Minister from 2016 to 2019; Kamel Jandoubi, Minister of Relations with the Constitutional Instances, Civil Society, and Human Rights from 2015 to 2016; and Mahdi Ben Gharbia, Minister of Relations with the Constitutional Instances, Civil Society, and Human Rights from 2016 to 2018 each acknowledged at different points in time that the lack of regulation in CSOs is causing corruption, misuse of funds, and direct links to terrorist organizations – and each has also acknowledged that although problematic, regulatory change to *Decree Number 88* has never made it to the policy agenda for a variety of reasons. (Jandoubi, 2015; Nadhif, 2017; Szakal, 2018)

Figure 4.3 depicts Tunisia's eleven different governments over the corresponding timeline of eight years. Even though four of these governments were reached through elections, the remaining seven were formed through consensus, as politicians recognized the fragile political situation and cooperated to maintain the peaceful democratic process. Kubinec and Grewal (2018) argue that despite the benefits of including cross-cutting partnerships in the coalitions, such as representatives of unions, there has also been a downside to the consensus governance. Namely, the heavy reliance on coalitions has resulted in a weak or even absent political opposition and has eliminated any real policy discussion (Kubinec and Grewal, 2018).

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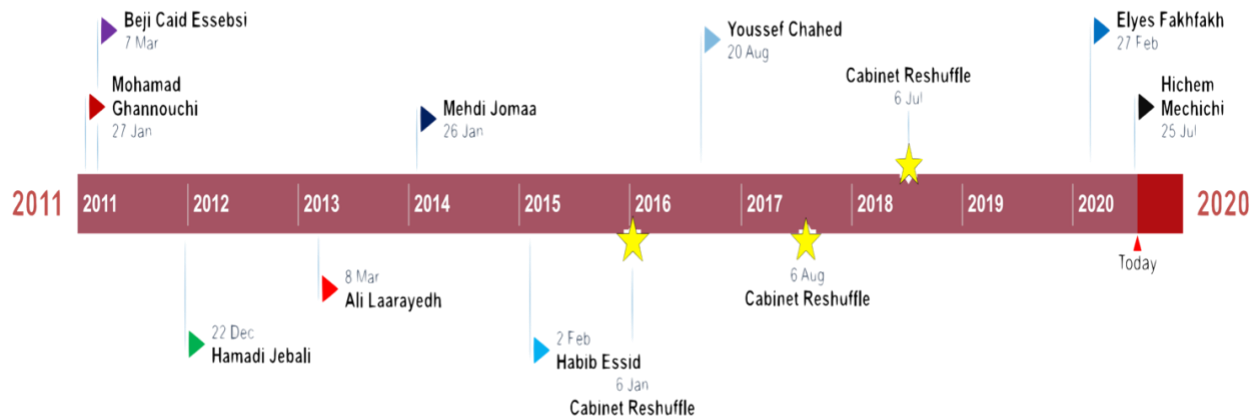
Figure 4.3: Tunisian Governments since 2011

Stakeholders benefiting from *Decree Number 88*

The Tunisian political landscape in the years since the Jasmine Revolution is both complex and constantly evolving. In 2011, several decrees including the *Decree Number 88* were issued without considering the government infrastructure and its ability to implement these decrees successfully. These decrees were soon confirmed into laws in the spirit of the consensus the country was going through, even though they lacked any enforcement mechanism.

Decree Number 88 shifted the authority of establishing new organizations from the purview of the Ministry of Interior to the that of the Prime Ministry. This shift to being in the hands of the executive was designed to signal to the international community that the country had moved away from police state authoritarian practices of the past, in favor of modern democratic delineation of powers and implementation of legislation. However well-intentioned this move was, the members of Parliament did not evaluate the implications of this shift.

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When civil society organizations used to be under the jurisdiction of the Ministry of Interior, the ministry had all the needed manpower and experience to conduct the necessary regulatory functions, including the ability to coordinate with other government institutions in cases of violations to accomplish enforcement actions. When the shift happened, the Prime Ministry established a new office and transferred one employee, Mr. Adel Soltani, formerly of the Ministry of Interior, to head the new department responsible for CSO regulation. Mr. Adel Soltani stated "*Decree Number 88* was established with a concerning urgency accompanied with a major lack of implementation mechanism."[24] He explained that the "Spirit of the Decree" was "to facilitate the establishment of civil society organizations and empower them to play a major role in monitoring the government," [25] again illustrating the deep core nature of this law. Sultani's views of the "spirit of the decree" are consistent with the finding that empowerment of civil society generally, and protection of CSO activity in particular, is considered to be a sacred function of government in Tunisia's new democratic project.

The main stakeholders that hold influence over the Tunisian policymaking process are political parties and elements of civil society. Islamists are represented by several political parties, including Ennahdha Movement as the largest among them, and secular interests are also represented by multiple political parties, with the major parties being Call for Tunisia [نداء تونس], Long Live Tunisia [تحيا تونس], and Heart of Tunisia [قلب تونس]. Civil society organizations, including organizations such as the Tunisian General Labor Union and the Tunisian Confederation of Industry, Trade, and Handicraft, which collectively won the 2015 Nobel Peace Prize for their "decisive contribution to the building of a pluralistic democracy in Tunisia in the

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[24] Personal Interview with Ala Sultani on August 26, 2016 in Tunis, Tunisia.
[25] Personal Interview with Ala Sultani on August 26, 2016 in Tunis, Tunisia.

wake of the Jasmine Revolution of 2011" (Norwegian Nobel Committee, 2015). A final stakeholder faction that exercises substantial authority is the media, including traditional forms such as radio and television media, as well as a new generation of highly influential bloggers and influencers.

Over the decade since democratic transition occurred, Tunisian political parties and several civil society organizations leveraged the absence of the regulatory laws to receive foreign funds with complete impunity. Dr. Khalil Amiri, Deputy Minister for Scientific Research warned that "civil society organizations present a ground for foreign influence…it is illegal for a foreign government to interfere in local political process, however, through civil society, we can see such influence, even within elections."[26] While foreign influence in national elections has been widely documented as a global problem, in the Tunisian case, there is easy access to foreign influence via the unregulated financial flows that funnel into national politics via CSOs. Shoring up this access point would constitute a major step in preventing illegal foreign influence in Tunisian politics.

Political parties such as Ennhadha Movement, The Heart of Tunisia, and others have created organizations that are run directly by supporters of their parties and who receive funds on their behalf. This is considered desirable by the political parties because it gives them the flexibility to avoid the government restriction barring parties from receiving foreign funds while it is also used by the parties to circumvent campaigns donation limits. Dr. Amiri also cautioned that "many civil society organizations are actually political parties in disguise, basically, they are operating as political parties but free of the rules and the framework that political parties should abide with in real democracies."[27] Other political movements such us Live Tunisian and Kahlil

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[26] Skype Interview with Khalil Amiri, Deputy Minister for Scientific Research on May 23, 2020.
[27] Skype Interview with Khalil Amiri, Deputy Minister for Scientific Research on May 23, 2020.

Tounes established themselves first as civil society organizations conducting charity work, but after becoming more politically active, later converted into to political parties. "During the months that proceeded elections, it was impossible to stay away from advertisements run by Live Tunisian or Khalil Tounes…millions of dinars were spent to what turned to be political campaigns" (Yousfi, 2019). Another example of CSO conversion into politics is Olfa Etterass, founder of Live Tunisian [عيش تونسي]" and the wife of a French millionaire, who repatriated to Tunisia in 2018 ostensibly to start charity work through her own registered CSO. Through her organization Eich Tounsi, Etterass legally raised millions of dollars (US) and used her "philanthropic" organization as a platform to freely conduct her campaign outreach all over the country. Six months prior to the fall 2019 elections, Etterass announced that "more than 400,000 Tunisians collected signatures and urged her to run for a political office" (Yousfi, 2019). She then declared the formation of a new political party of the identical name as her charitable organization, "Live Tunisian [عيش تونسي]," and formally announced that she would run for parliamentary election (POMED, 2019).

Another representative example is the candidacy of Nabil Karoui, president of the political party Heart of Tunisia. Karoui first established himself as a national-level political player through the establishment of a charity organization named in honor of his deceased son. "The Khalil Tounes Foundation [was established] in 2017 to fight poverty, the main theme of his campaign" (France 24, 2019). After transitioning from CSO to political party Heart of Tunisia, the party won the second largest parliamentary block in the fall 2019 elections *and* Karoui himself became one of the final round candidates in the 2019 presidential elections. In both the parliamentary and presidential elections, Karoui ran on the platform of his Khalil Tounes Foundation; the de facto merger of the CSO and the political organization provided a financial

advantage over other political parties while also bringing ideological credibility to his own political party and candidacy.

The Institutional Conflict Caused by the Lack of Change

Advocacy Coalition Framework provides the opportunity to study the reasons behind policy stability and change and identify the main stakeholders benefiting from the outcomes. ACF presents the beliefs causing policy stability and explains the conflicts causing the lack of change (Weible, 2007). However, the policy process in Tunisia differs from that of other Western democracies in that policy formulation in Tunisia is usually limited to the Parliament with minimal contribution from outside entities such as NGOs or research institutions. The Tunisian Parliament is composed of several blocks and ideologies as illustrated in Figure 4.4 below:
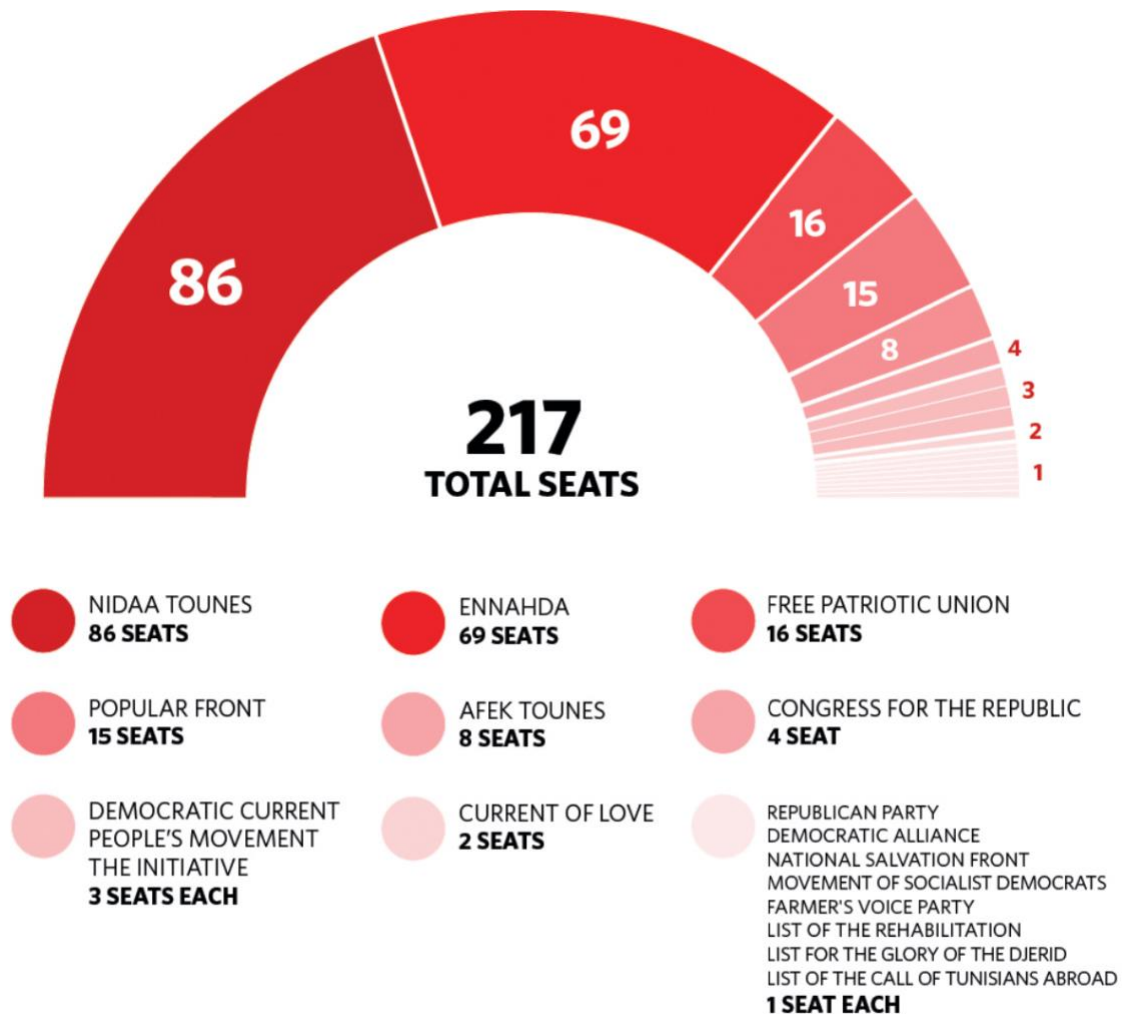
Figure 4.4: Tunisia's 2019 Parliamentary Structure
Source: Carnegie Endowment for International Peace, 2019[28]

Through the lens of ACF, we assess why the pressing issues such as corruption within

civil society organizations and other nationally sensitive topics never make it to the official

parliamentary agenda for many reasons, despite being declared critical issues of high priority by

many members of the National Assembly. First, policy making in Tunisia is mainly a top-down

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[28] Yerkes, Sarah, and Ben Yahmed Zeined. 2019. "Tunisia's Political System: From Stagnation to Competition." *Carnegie Endowment for International Peace.* March 28, 2019. https://carnegieendowment.org/2019/03/28/tunisia-s-political-system-from-stagnation-to-competition-pub-78717, (January 10, 2020)

process, where the government formulates new policies, then passes such legislative initiatives to the Parliament for endorsement. Second, the most important national research institutions in Tunisia, as well as many of the influential think tanks, are governmental funded, for instance: the Center for Research and Social Studies is under the supervision of the Ministry of Social Affairs, the Institute of Competitiveness and Quantitative Studies is under the supervision of the Ministry of Economy and Finance, and the Tunisian Institute for Strategic Studies is part of the Presidency of the Republic (Amiri, Khrigi, 2015). Because of the origin of funding to these institutions, as well as the organizational oversight, these institutions operate at the direction and discretion of the government, which makes it difficult to address topics beyond its scope of work. Third, government institutions such as the judiciary and the Ministry of Finance, which are sometimes in charge of policy implementation, remain in nearly constant conflict with policy makers (Mnasri, 2018).

This institutional tension between policymakers (i.e., members of parliament) and policy-implementers (i.e., an executive function shared between the Prime Minister's office and the Ministry of Finance) was created intentionally to serve as a mechanism of accountability and reflects the deep core belief in support for a vibrant civil society via a system of checks and balances that is modeled off of Western democratic institutions. However, there is a downside to the institutional tension in that it leads to governmental gridlock, thus hindering implementation.

Decree Number 88, Article 39, Part 2 serves a case in point of the institutional tension that inhibits implementation and that is central to the questions of policy impact on CSOs and CSOs' impacts on democracy (i.e. the possibility of negative impact on democracy due to CSO financial instruments being intentionally leveraged for ill-intent, the possibility of negative impact on democracy due to unintentional accounting failures by CSOs, and the possibility of

stifling CSOs and thus oppressing democracy through poor policy) (Ghali and Amiri, 2018).

Decree Number 88, Article 39, Part 2 charges the Ministry of Finance with the task of creating a codified set of accounting practices that can be applied objectively to all CSOs, referred to in this subpart of *Decree Number 88* as the "Accounting Standards for Associations."[29] Article 39 of *Decree Number 88* further stipulates that if any organization fails to comply with the Finance Ministry's published standards, the case of the non-compliant CSO will be turned over to the government's Secretary General; whereupon the Secretary General must initiate actions outlined in *Chapter 8* of *Decree Number 88*, which are: 1) issue a warning to the non-compliant organization, 2) suspend the activity of the organization based on a court order, and 3) send a request for the Court of First Instance to dissolve the organization. Thus, there is an agency tasked with creating standards, a requirement that non-compliant CSOs be reported to another agency that is tasked with assigning warnings or punishments for non-compliance, and even a list of escalating actions that will be initiated in the case of non-compliance.

Despite the clarity of the law, particularly in demarking boundaries for the Ministry of Finance and the Secretary General, the Ministry of Finance has yet to codify the "Accounting Standards for Associations" that the law calls for it to establish (Ghali and Mnasri, 2018). While this is a power play that the Ministry of Finance uses to consolidate its own authority (without set standards, Finance has the ability to leverage power through arbitrary decisions), the end result is that no standard exists for CSO reporting compliance – so reporting, warnings, and even punishments are inconsistent. This dynamic has generated lasting conflict that goes beyond the Ministry of Finance and the Secretary General's office, reaching other government institutions such as the administrative courts, the Parliament, and even non-government actors such as

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[29] Article 39, Decree Number 88 of 2011.

research institutions. Notably, this kind of institutional gridlock is not uncommon in the democratic traditions that served as blueprints for Tunisia's system of governmental checks and balances (Mnasri, 2018).

The Tunisia Charity Organization, to take one example, suffered the consequences of this inconsistent regulation and overall institutional conflict. In 2016, the Ministry for Government Relations with Constitutional Bodies, Civil Society, and Human Rights requested from the Court of the First Instance to dissolve the organization based on its relationship to a terrorist organization. The organization appealed the decision to the Administrative Court and won the case. In a personal interview with a member of Tunisian Charity Organization, he stated "there is a major miscommunication between government institutions. . . [they] requested from the Court of First Instance to dissolve my organization for receiving funds from a Qatari organization. . . they didn't check if we are submitting our financial reports to the office of the Prime Ministry or not, which we do, we have tracking numbers and copies of everything."[30] In another personal interview with Mouheb Garoui, executive president of IWatch organization, he confirmed the existing institutional conflict and explained that this conflict is mainly a result of absence of communication between different institutions and lack of knowledge of the existing legislations "you cannot dissolve an NGO without having to send them a warning to fix the issue, for example, if you find out that there is an NGO who is financing terrorism you cannot just dissolve it or cease their assets without notifying them first, you cannot do this without a court order."[31]

Adding to the structural problems that hinder implementation has been ineffective calls for research on how to reform the system. Some bureaucrats, judges, and even civil society organizations have urged research institutions to conduct studies about civil society

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[30] Personal interview with a member of the Tunisian Charity Organization, July 7th, 2016.
[31] Phone Interview with Mouheb Garoui, executive director of IWatch Organization, July 20th, 2020.

organizations and their connections to political campaigns, but they never empowered those conducting studies with the free range to conduct their research needed to make meaningful recommendations. In 2016, several organizations, including IWatch and Mourakiboun, specifically called for a "census" to be rendered of CSO compliance in which they were hoping that data would be collected not only regarding whether CSOs filed their budgets and registered their organizational documents properly with the government, but they were also promoting the idea that the government should at least audit a sample for long form analysis, to include types of activity, places they operate, how they reach out to citizens for participation, and other useful parameters to help researchers and ultimately government overseers to gain important insight into how funding is used, and seek to be able to understand and predict the conditions for compliance versus non-compliance (Kasmi, 2016). This type of analysis would also enable targeted education and outreach to organizations that are out of compliance. This study never materialized, which is likely due to the deep core belief system discussed above surrounding CSO autonomy. In a personal interview with Achref Aouadi, president of IWatch organization, he stated" reflected assessing their failure to raise such a census: "*Decree Number 88* was a revolutionary law for civil society; there was a lot of pressure, censorship, oppression on civil society. . . it gave a lot of guarantees to civil society and limited the mechanisms of control of the state over civil society. . . After a couple of years, I am seeing all the problems associated with the decree law. . . the lack of implementation, you can tell that there are things that we can keep and should keep, and there are things that we need to get rid of. . . there is room for improvement. . . we tried to discuss with legislators the importance of researching this area, but they don't want to listen, it is a red line for them"[32]

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[32] Personal Interview with Achref Aouadi, president of IWatch Organization, August 2nd, 2016.

Corroborating this particular anecdote of a failed study, Amiri and Khrigi (2015) find that any research that was commissioned was explicitly limited in scope, giving the plausible reasoning that "state policy research institutes continue to feel that they are marginalized from the policymaking process" (Amiri and Khrigi, 2015). Again, when there seems to be any possible threat to the status quo embodied by the deep core belief structure that protects CSO inviolability, the research objectives have been stymied by policymakers and other stakeholders that hold those deep core beliefs.

Besides having limited financial resources and trained personnel, these research institutes are only directed to conduct specific studies related to short-term economic solutions (Amiri and Khrigi, 2015). Overall, the lack of coordination between policy makers, research institutions, and government institutions is causing political parties monopolize control over the policy making process, without the aid and input of public policy research, which further complicates the reform of issues such as regulation of *Decree Number 88*, making it highly unlikely that such issues will be introduced on the official agenda, or ever result in a parliamentary vote (Amiri and Khrigi, 2015).

Institutional Conflict as a Threat to Democracy

Advocacy Coalition Framework provides a helpful lens through which we can understand the political and institutional landscape affecting policy outcomes in Tunisia. First, we apply ACF in order to produce a stakeholder analysis to explain "stakeholder behavior and policy outcomes in intense political conflicts" (Sabatier and Weible, 2005). ACF provides 1) the opportunity to present the policy issue and decide on who to include as a stakeholder, 2) the beliefs associated to the policy issue and its ability to influence the policy, 3) motivation to form

coalitions, 4) stakeholders' resources and venues, and 5) the main factors behind policy stability and change (Weible, 2007).

Even though the Tunisian political system is dynamic and complex, being composed of multiple political parties, we also find that the policy process itself is limited to very few stakeholders. Evaluating *Decree Number 88* and analyzing the conflict it created within the last decade provides us with an understanding to the main stakeholders benefiting from the stasis of the policy. Over the past decade, many problems associated with the *Decree Number 88* unfolded and it started creating challenges to the novice democratic process. Article 35 of *Decree Number 88* states "Associations are prohibited from accepting assistance, donations, or grants from countries not linked with Tunisia by diplomatic relations, or from organizations which defend the interests and policies of those countries" (Decree Number 88, 2011). Additionally, Article 41 of *Decree Number 88* states that "the association shall publish information about the foreign assistance, donations and grants it receives and record its source, value and purpose in one written media outlet and on the website of the association, if any, within one month of the date of the decision to request or accept it. The association shall also inform the Government Secretary General of the same in a registered letter with receipt acknowledgement, within the same period" (Decree Number 88, 2011).

Although both articles clearly specify the reporting regulations that CSOs must follow, the decree fails to mention the consequences if organizations fail to adhere. This failure to codify a penalty for non-compliance, or any other form of enforcement mechanism, created a problem of non-compliance. Achref Aouadi, President of IWatch Organization, the local representative of International Transparency in Tunisia, mentioned in a personal interview "*Decree 88* did help creating civil society organizations, but after a couple of years, you can see the limits of the

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decree; it was pro-freedom to the point that did not mention accountability"[33]. Once high numbers of Tunisian CSOs chose not to follow the policy, this set up a new problem. In addition to the non-reporting, this led to the institutional dilemma in which there is now conflict between the judicial and executive branches of the government where the latter is not implementing the rulings of the former.

One instance of this institutional conflict playing out is illustrated by a time that the Administrative Court shut down a total of 83 organizations after receiving official complaints from the Ministry of Relations with the Constitutional Instances, Civil Society, and Human Rights. After processing a number of complaints from international organizations, the prime minister's office instructed the Appeals Court to evaluate the legality of shutting down the non-compliant organizations. Once the cases were reevaluated on appeal, the ability to operate freely was reinstated for most of the organizations, even though they were operating without complying with *Decree Number 88* (Nadhif, 2017).

The Appeals Court's decision to reinstate the violating organizations created the opportunity for a coalition between legislative, executive, and judicial actors. Following the ruling, the Prime Minister's office, Appeals Court judges, and members of parliament from various political parties became united in their conflict with the Administrative Court. This coalition created a situation in which any implementation mechanism associated with civil society organizations was viewed as an attempt to stymie democratic activity, and led to many politicians, CSO leaders, and citizens to question the independence of the judiciary in Tunisia. Complicating this event is the continued absence of a Constitutional Court. Although required by Tunisia's new constitution, attempts to seat judges on the Constitutional Court have failed by

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[33] Personal Interview with Achref Aouadi, president of IWatch Organization, August 2nd, 2016.

each of the governments, most recently the Tunisian Parliament attempted and again failed to do so in 2019.

With this institutional backdrop, we find that political parties with the largest parliamentary block are the main stakeholders set to benefit from the lack of change in *Decree Number 88*. These large parties, notably Ennahdha Movement and Nidaa Tounes, continue to receive international funds from foreign donors, which they use to run their local, regional, and national campaigns (Marks, 2017). Financing and operating these campaigns through non-governmental organizations will continue until regulation is put in place; the catch is that those with the power to make the change are the main benefactors of non-compliance.

The second set of stakeholders benefiting from the lack of implementation mechanism in *Decree Number 88* are the international actors who are exploiting the lack of effective policy implementation to funnel money through CSOs and into Tunisian politics in order to serve their own ends. Part of the attraction to the international entities is rooted in Tunisia's democratic success as the only country in the region to have successfully achieved a lasting democratic outcome after the Arab Spring. Because of this, many Western countries are pouring millions of dollars into Tunisian politics in order to help consolidate the newly established democracy and continue to stabilize the country (Hall, Peel, and Saleh, 2013). In this case, we see that some of the foreign investment in Tunisian politics is well intentioned.

There are several reasons why a positive outcome for Tunisia's continued democratic consolidation is viewed by Western powers as being advantageous enough to warrant investment in the project. This is particularly true because of Tunisia's geographically strategic location: First, based on proximity to Europe, the stability of Tunisia is viewed as an important bulwark for protecting the stability of Europe (Badalic, 2019). Second, a democratic country with strong

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institutions is important for European security, as it can help fight illegal immigration and terrorism, which represent two of the greatest challenges facing European governments today (Burwell et al. 2016). Third, any restrictions imposed on civil society organizations can affect the international NGOs present in Tunisia, many of which have been operating in Tunisia for years – and long prior to the revolution. For these NGOs (many backed by the foreign governments in which they are based), they naturally wish to continue the work they are doing, and reporting requirements inhibit this activity at best, and at worst make it illegal (Klaas and Dirsus, 2018).

The regional dynamic is also emblematic of a heated regional divide – and one that has far reaching international consequences as both sides have proxy relationships with powerful nations around the globe. On one side of this divide, the main regional actors are Saudi Arabia and the United Arab Emirates, both of whom consider the Arab Springs to be an existential threat to their regimes. Because of this, the UAE and the Kingdom of Saudi Arabia have spent millions of dollars in supporting the failure of Tunisia's democratic project (Hall, Peel, and Saleh, 2013). On the other side, Qatar and Turkey have demonstrated strong support for Tunisia as a nascent democracy (Cherif, 2017). Both sides are using CSOs within Tunisia to fund their supporters in Tunisian government, so any restriction action on financial funds will be a direct threat to their ongoing engagement (Jandoubi, 2015).

Conclusion

Advocacy Coalition Framework explains the set of core ideas, causation, and beliefs in public policy; it provides the opportunity to map coalitions and explain the interests linked to them (Cerna, 2013). The public policy process in Tunisia is a top-down approach mainly controlled by political parties. Additionally, while government research institutions do play a role in setting the policy agenda, they only work on specific policies requested by the

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government. Other independent research institutions conduct and produce high quality policy research that influence policy dialogues and establish a clear path to coalitions (Amiri and Khrigi, 2015).

In 2011, The Higher Authority for the Realization of the Revolution's Objectives, Political Reform, and Democratic Transition passed several Decrees that are considered the backbone of Tunisian Democracy. These new decrees which were established by the technocratic transitional legislative institution and then coalition-led newly elected Constituent Assembly after the ouster of longstanding authoritarian leader Zine el Abidine Ben Ali reflect strongly held beliefs and desires of the people moving forward as a new democratic nation post-revolution, and much like the American Constitution, these beliefs are profoundly shaped by the deep fears and distrust Tunisians have of authoritarian rule. Therefore, these deep beliefs are baked into the new laws, making the decrees themselves difficult to change, even when it becomes apparent through the test of time that the policies are not working entirely as planned.

In addition to the deep core belief system, there is policy core belief stability reflected in these Decrees is a result of several factors: first, political parties benefit from the lack of implementation of these policies. Second, any change is considered by many to threaten their very existence in the political scene. Third, public policy research in Tunisia is new, and primarily controlled by the government institutions they aim to study, which sets up a conflict of interest in which the research results are usually beholden to influence of the politicians who commissioned the work. Fourth, the lack of coordination between institutions and the absence of data is creating a conflict among policy makers, as Amiri and Khrigi (2015, 9) assert "The state policy research institutes interviewed cited difficulties in accessing public sector data from other ministries. They complained of a lack of uniform system for sharing data across ministries or

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even within ministries". Finally, the main legislative body in Tunisia is the Parliament, which both benefits from *and* is harmed by the continual absence of a majority. Because it is so new, Tunisia's Parliament also has a dearth of experience in its elected officials, while the policy agenda remains dominated by ongoing issues related to the aftermath of democratic transition, such as economic development and unemployment.

Decree Number 88 is considered a revolutionary law and one of the pillars contributing to ongoing democratic process. Even though the absence of regulatory laws to enforce compliance is creating a conflict among different government bodies, it is considered a deep core belief among policy makers and will be hard to change. Independent researchers should take the lead in drafting regulatory policies and lobby policy makers for endorsement of such policies. Ideally, the process should include compliant national organizations, international organizations, independent research institutions, traditional media, new-generation media influencers, and policy makers. The institutional conflict should be raised by the media to 1) get public support, 2) explain that the targeted changes will only affect the regulatory level not the decree itself, 3) demonstrate that the lack of implementation is actually threatening the democratic process and opening the window for foreign intervention, and finally, 4) show how the benefits of enforcing the policy far outweigh potential downsides. Once public support is obtained, the draft policy should be introduced to the Parliament by an elected official who support the amendments. This process capitalizes on a window of opportunity, forming a coalition of advocates, and allow passage of real reforms that will benefit the democracy, and Tunisian society as a whole. Doing so, with the help of lessons from the Advocacy Coalition Framework, will not only result in the endorsement of regulatory policies associated with *Decree Number 88*, it will also contribute to the establishment of a new space for open policy debate in other areas.

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CHAPTER 5: Conclusion

This research is a comprehensive study of the contradictory impact of civil society organizations on the Tunisian democratic transition. The unique strength of this study is that it lies at the intersection of public policy and political science, not only contributing to academic knowledge in the realm of political science, but also providing "real world" guidance for Tunisian policy makers and CSO leaders. An ancillary benefit of this study is that it provides a roadmap for the fruitful application of ACF to future studies involving other countries, as well as providing a foundational analysis of the Tunisian political landscape that scholars may utilize in comparative political research involving either Tunisia or other nascent democracies.

Civil society organizations in Tunisia played a critical role in consolidating the transition to democracy. This central role gained international attention with the awarding of the 2015 Nobel Peace Prize to the Tunisian National Dialogue Quartet, a group of four CSOs that represent various interests in Tunisian society (Nobel Peace Prize, 2015). While the work of the Quartet and other CSOs have had a positive impact on Tunisia's democratization process and helped to consolidate the democratic transition, the impact of civil society organizations is not without problems. In fact, a large number of these organizations are currently jeopardizing the process. Between the lack of transparency on the part of the CSOs and the lack of implementing the law by government institutions, few of these organizations publish their financial reports and share their activities with the public as required by the law. Other problems include using funds to promote specific political parties or other illegal activities – in some cases linked to terrorism (Ltif, 2020).

One of the main goals of this dissertation is to examine the frequently overlooked negative implications of CSOs on Tunisia's progress toward democratic consolidation and to

identify the source of problems. This was done through an analysis of the efficacy of *Decree Number 88 of 2011*, the law established to regulate civil society organizations, and an evaluation of its effectiveness. The initial findings provide an explanation for the strong presence of civil society organizations as well as the post-revolution legislation that enables CSOs to thrive. The Tunisian context is unique to the region precisely because CSOs enjoyed a significant amount of flexibility to operate under the authoritarian regimes of Habib Bourgiba and Zine al Abidine Ben Ali. Because of this, many CSOs worked "within the system" to achieve non-political goals. Therefore, even under the authoritarian rule that existed prior to the Arab Spring revolutions, the presence of organizations that conducted civic activism laid the groundwork that would ultimately lead to the creation of thousands of new organizations after the revolution, once Tunisia's democratic transition had occurred.

To evaluate civil society organizations and understand the relative success of the Tunisian revolution, this study examines the evolution of CSOs in Tunisia and evaluates its relationship to democracy. Previous research done by scholars such as Azmi Bchara (2012) and Shelly Deane (2013) indicate that the Arab Spring is imitating post-cold war democratization movements, where the presence of civic engagement had a major impact of democratic consolidation. I build on this earlier work by examining previous democratization literature, exploring the history of civil society in Tunisia, assessing the links between civil society and democratization, and providing a deep analysis of the reasons behind the contradictory functions of civil society organizations in Tunisia.

Policy makers, who were in charge of drafting transitional legislations, focused on creating progressive decrees that adhere to international norms and failed to assess the capacity of existing institutions and to evaluate their compatibility with the new legislation. Even though

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the number of organizations before 2011 was large, the government was able to monitor them adequately. This is because CSOs were under the authority of the Ministry of Interior, which was considered the strongest institution under the Ben Ali regime, and which still holds considerable administrative capacity. When Parliament voted to switch the jurisdictional control of *Decree Number 88* from the Ministry of the Interior to the Prime Ministry, the step was celebrated as a victory for civil liberties; however, this change failed to live up to expectations. The executive control of civil society oversight by the Prime Minister's office proved to be unsuccessful in establishing a sustainable monitoring mechanism to replace the work previously done by the Ministry of Interior.

With the creation of more than 15,000 new organizations and the millions of dollars that were funneled through them, successive governments lost control of CSOs, particularly the ability to track funding sources, while policy makers failed to understand the exact challenges facing the Prime Ministry in the monitoring process. The first elected government established the Ministry of Relations of Constitutional Bodies, Civil Society, and Human Rights hoping to create some balance between the separate but occasionally overlapping organizations of the Ministry of Finance, the Prime Ministry, and the Administrative Court. This switch and the commensurate rebalancing of ministerial power was intended to and recover the government's control over rogue organizations. Rather than relying on career bureaucrats, the new institution was primarily headed by political appointees who either failed to understand the exact challenge, did not have the political will to implement new policies, or lacked sufficient time in office to implement tangible changes.

This research is one of the few public policy studies conducted about civil society organizations in Tunisia after the revolution. It analyzed the contradictory role CSOs are playing

on the democratic transitions and explains the reasons behind the stasis of the legislations associated with it. It presents the historical background of CSOs in Tunisia, goes through the democratization literature, evaluates the positive and negative impact of CSOs on post-revolution countries, studies the legislations regulating CSOs, stipulates a clear mapping to existing problems, and provide specific recommendations. The findings can be summarized in the following points:

1. CSOs in Tunisia are playing a contradictory role on the democratization process;

2. The problems associated with CSOs are not the result of legislative failure only, rather the shortcomings represent a combination of institutional challenges, political divisions, and lack of any decisive mechanism for implementation; and

3. Any attempts to eradicate the negative externalities of *Decree Number 88* should focus on improving oversight on CSOs and increasing overall implementation efficiency for the existing decree, while avoiding any real or potentially perceived erosion of the Decree, which would alienate large constituencies and delegitimize what remains of the government's ability to provide oversight of civil society.

My data reveal that policy makers who were tasked with fixing the problems associated with CSOs focused mainly on the superficial level problems, and failed to identify the deeper difficulties. In short, legislators focused on negative symptoms (for instance, low level corruption or money smuggling) while leaving untouched the greater structural problems that led to the symptoms, such as non-compliance with financial reporting rules.

Several policy makers connected the reform process to the war on corruption and based on this extrajudicial determination, dissolved multiple civil society organizations without going

through the court system for judgment. In addition to being a direct violation of *Decree Number 88*, the arguably graver consequence of this action is that it undermined civilian confidence in the system, and exacerbated suspicions regarding possible ill-intent on the government's part. In another deleterious strategy to bring CSOs into compliance, other legislators chose to attack the problem by getting rid of the current regulatory framework regulating CSOs, and sought to create a replacement for *Decree Number 88*. Both approaches incited institutional conflict that put certain civic freedoms in jeopardy, while deepening the issues associated with civil society.

The interview process for this research started in 2016 and focused on the implications of civil society organizations on the ongoing democratic transition. Using a grounded theory-based methodology, the data reveal that even though participants agreed that CSOs are having a positive impact on the Tunisian democratic process, they also stated that there are significant negative factors associated with civil society. The contradictory functions of civil society organizations on the Tunisian democratic process are the core theory of this dissertation. The interview process aimed to analyze participants' understanding of the issues accompanied with civil society and evaluate the impact of the legislation regulating CSOs. Another qualitative section of this dissertation tracked public statement of policy makers, who have a direct impact on CSOs, and concluded that many were either unaware of specific problems that plague the CSO regulatory regime, such as the exact role of the Ministry of Finance, while others focused their attention on a futile a top-down approach that consists of replacing *Decree Number 88*. On one example of the latter, Mr. Mahdi Ben Gharbia vowed in multiple public statements that his team was working on a new law to completely replace *Decree Number 88* and establish new monitoring standards. Provoking much criticism due to the widespread perception that overturning *Decree Number 88* was a direct challenge to CSOs – and therefore, a direct

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challenge to democracy – Mr. Ben Gharbia's loss of political capital over this unpopular stance led him to resigning before being able to introduce new regulatory legislation for CSOs. Following this, Mr. Ben Gharbia later acknowledged the complexity of the CSOs challenge.

The qualitative section of the dissertation reveals that most participants, many of whom are members of civil society organizations, consider *Decree Number 88* as the shield protecting CSOs from the control of the government. Whether participants had a deep or a superficial understanding of the *Decree* itself, and regardless of whether the organizations they lead or are associated with happen to be compliant or non-compliant CSOs, all share the belief that transitional decrees are the backbone of Tunisian democracy and any alteration or change to these decrees is considered a loss to the existing freedoms. Even the CSO members who express the belief that an absence of any clear implementation mechanism for CSO oversight is or may be harmful are reluctant to support changing (let alone eliminating) *Decree Number 88*. Instead, these CSO members and leaders indicated that the absence of a strong institution tasked with monitoring CSOs' work and finances will hinder efforts to solve the negative issues associated with CSOs. The qualitative portion of the research helped generate the main hypotheses, and also led to the central academic contribution of this dissertation: that civil society organizations in Tunisia, whether intentionally or not, are having a contradictory impact on the ongoing democratic process.

This research sheds light on how a successful democratic transition is not a finish line; there is still a need to study public policy for new democracies to continue moving in a positive direction. Viable civil society, as an example, is not free of obstacles; the ability to use democratic freedoms toward corrupt ends is inherent in any democratic system, a fact that underscores the need for legislators to have enough knowledge in the theory and practice of

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public policy to be able to deal with such difficulties. Toward this end, Advocacy Coalition Framework provides both a useful lens for understanding the contradictory role of civil society organizations and a fruitful tool for remedying current problems.

Along this vein, my dissertation evaluates the various effects of CSO policy stability on the current democratic transition and proposes a path for effective policy change. The transitional decrees that were established in 2011 freed civil society organizations and political parties from the restrictions imposed by the previous authoritarian regime, and guided the country to its first democratic election. With this history, many politicians and lay citizens alike consider these decrees to be the outcome of revolution, and epitomize them as the cornerstone of Tunisia's successful democratic experiment. As such, most Tunisians oppose changing *Decree Number 88*, or any regulatory action that could possibly inhibit the free operation of Tunisian civil society.

Guided by insights garnered through the application of Advocacy Coalition Framework, my research clarifies the fundamental nature of Tunisian legislation that regulates civil society organizations and proposes concrete ways that the policy can be leveraged to expand the benefits of a vibrant civil society while minimizing the negative externalities that can undermine democratic consolidation. ACF was developed to deal with public policy problems surrounded by intense debate, which makes it the ideal framework for studying the Tunisian case (Hoppe and Peterse, 1993). In addition, the flexibility of ACF renders the framework adaptable to the research question at hand.

From revolution to the completion of the data set under analysis, which constitutes the years of 2011–2020, Tunisia had eleven consecutive governments.[34] Several of the governments recognized the problems associated with civil society organizations, although all of them failed

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[34] At time of publication, government instability has led to an additional two governments, bringing the total to 13 governments from the years 2011 to 2021.

to introduce any tangible changes. The main cause of this failure is the absence of a comprehensive understanding of the problems associated with CSOs and limited solution strategies. ACF offers a useful tool for understanding Tunisia's current political environment, for instance, how and why CSO activity may be used to undermine the democratic institutional achievements that civil society helped to establish in the first place. ACF also offers a useful tool for conceptualizing a path to policy change via a coalition of government institutions and other stakeholders that could create the conditions for passage of improved CSO regulatory policy.

Whether the focus was on following the recommendations of the European Union Commission regarding money laundering and terrorism or finding an easy solution by attempting to change the existing legislation, these efforts lacked an understanding of policy formulation approaches and a genuine political will of change. These steps did not take into consideration the importance of building a coalition, leading to the exclusion of certain members of CSOs from the decision-making process. A significant finding that emerged from conducting a stakeholder analysis informed by Advocacy Coalition Framework is that the policy's stasis is largely attributable to personal and institutional interests, not efficacy of the legislation. In other words, stasis is preserved not because *Decree Number 88* has produced excellent results; conversely, stasis in this case is a result of a political equilibrium forged by stakeholders, such as ruling political parties and individual political elites, who benefit from the law and do not wish to see changes that would diminish their individual power, nor the future political prospects of their parties.

The existing policy stability is not only affecting civil society organizations and their functions in Tunisia negatively, but also creating a major institutional conflict. *Decree Number 88* tasked different institutions with specific responsibilities, that if implemented effectively,

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would contribute to a clear monitoring mechanism. However, implementation according to the language of *Decree Number 88* has not occurred. For instance, Article 39, Part 2, of *Decree Number 88* charges the Ministry of Finance with the task of creating an "Accounting Standards for Associations." Once these accounting standards are established, then the Prime Ministry will be in charge of auditing organizations and identifying non-compliant ones. The Ministry of Finance never issued the official "Accounting Standards for Associations" in a strategic effort to exploit the order of operations prescribed in *Decree Number 88* in order to maintain power that policymakers intended to strip from the Ministry of Finance. Essentially, the Finance Ministry intentionally withheld – and continues to withhold to the present time – the Accounting Standards, knowing that once it submits this mandated list, the power to identify non-compliant organizations will be ceded to the Office of the Prime Minister. This has created a conflict between the Prime Ministry, the Ministry of Relations with the Constitutional Instances, Civil Society, and Human Rights, the Ministry of Finance, and the Administrative Court; more importantly, the Finance Ministry's withholding tactic has stymied the existing coordination mechanism, and led to the inability of the government to implement this otherwise "good" legislation.

In 2018, as a step toward removing Tunisia from the E.U.'s list of countries supporting Money Laundering and Terrorism, the government added civil society organizations to its new National Registry Law, officially named *Law Number 30 of 2018*, which requires organizations to adhere to the same requirements as public and private enterprises. The new requirement was immediately criticized by international organizations, which denounced it as a threat to the democratic process in Tunisia (Freedom House, 2019). Critics of *Law Number* 30, both Tunisian and international, stake their opposition to the law on two primary reasons: first, that many civil

society organizations lack the capacity to comply with the new requirements, and second, that the law was inappropriate for CSO regulation because it was crafted specifically for application in the private sector.

The main legislative body in Tunisia is the Parliament, operating a semi-presidential system with closed-list proportional representation. Since the endorsement of the 2014 constitution and the election of Tunisia's first democratic government, no single political party has won a majority, necessitating coalition-building and governance by consensus. Even where Ennahdha, Tunisia's largest political party, has won a comfortable plurality, compromise was always required; since democratization, political and legislative decisions have always based on a coalition between the winning parties, while issues such as such as economic development and unemployment take the lead in the agenda setting process.

Despite clear benefits of Tunisia's coalition governance, one drawback of Tunisia's legislative structure is that problems related to civil society organizations rarely make it onto the Parliamentary agenda. When Parliament does address CSO activity at all, its attempts at reform have proved too weak, and not compelling enough to produce change because the government's objective of not provoking criticism for stifling CSO activity overshadowed its motivation to reform flaws in CSO oversight. In the case of *Law Number 30 of 2018*, the government attempted a top-down approach to CSO financial reform by legislating stricter financial reporting protocols to combat money laundering, however, expecting civil society organizations to adhere to the law's mandated legal constraints on their own proved futile. This approach rendered *Law Number 30* a failure: it was ineffective at its goal of compelling CSOs to comply with financial oversight, and at the same time, it backfired by resulting in international criticism that Tunisia

was experiencing democratic backsliding. For instance, Freedom House downgraded Tunisia's status from "Free" to "Partly Free" (Freedom House, 2019).

This research is not just theoretical but has practical application; it provides Tunisian policy makers with a clear map to identify the existing problems and produce tangible changes that will strengthen the role of civil society organizations in Tunisia. The issue of regulating civil society organizations is going to be a challenge to Tunisian policy makers unless a different governmental approach is implemented. This dissertation serves as a manual to policy makers to identify the exact challenges facing CSOs, explain the contradictory functions of CSOs on the democratization process, demonstrate the strengths and weakness of *Decree Number 88*, analyze the implications of the current structure, and issue a list of policy recommendations that can help produce concrete results. It will also address a gap in the literature in the study of civil society and provide a new perspective using Advocacy Coalition Framework. Chapters 2, 3, and 4 of this dissertation stand as convincing evidence that ACF is not only a methodological means of understanding the problem, but provides a fruitful approach to crafting policy and supporting implementation of existing CSO regulations in the case of Tunisia.

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Appendices

Appendix 1

Office of Research Compliance
Institutional Review Board

April 28, 2016

MEMORANDUM

TO: Dhia Ben Ali
                             Najib Ghadbian

FROM: Ro Windwalker
                             IRB Coordinator

RE: New Protocol Approval

IRB Protocol #:   16-04-690

Protocol Title: *The Impact of Civil Society Organizations on the Tunisian
                             Democratic Process*

Review Type: ☐ EXEMPT   ☒ EXPEDITED   ☐ FULL IRB

Approved Project Period: Start Date: 04/28/2016 Expiration Date: 04/20/2017

Your protocol has been approved by the IRB. Protocols are approved for a maximum period of one year. If you wish to continue the project past the approved project period (see above), you must submit a request, using the form *Continuing Review for IRB Approved Projects*, prior to the expiration date. This form is available from the IRB Coordinator or on the Research Compliance website (https://vpred.uark.edu/units/rscp/index.php). As a courtesy, you will be sent a reminder two months in advance of that date. However, failure to receive a reminder does not negate your obligation to make the request in sufficient time for review and approval. Federal regulations prohibit retroactive approval of continuation. Failure to receive approval to continue the project prior to the expiration date will result in Termination of the protocol approval. The IRB Coordinator can give you guidance on submission times.

This protocol has been approved for 30 participants. If you wish to make *any* modifications in the approved protocol, including enrolling more than this number, you must seek approval *prior to* implementing those changes. All modifications should be requested in writing (email is acceptable) and must provide sufficient detail to assess the impact of the change.

If you have questions or need any assistance from the IRB, please contact me at 109 MLKG Building, 5-2208, or irb@uark.edu.

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Appendix 2

UNIVERSITY OF ARKANSAS

To:	Dhia Ben Ali BELL 4188
From:	Douglas James Adams, Chair IRB Committee
Date:	02/24/2020
Action:	**Approval**
Action Date:	02/24/2020
Protocol #:	1910225949
Study Title:	The contradictory role of civil society organizations on the Tunisian Democratic Process
Expiration Date:	02/18/2021
Last Approval Date:	
Risk Level:	

The above-referenced protocol has been approved following Full Board Review by the IRB Committee that oversees research with human subjects.

If the research involves collaboration with another institution then the research cannot commence until the Committee receives written notification of approval from the collaborating institution's IRB.

It is the Principal Investigator's responsibility to obtain review and continued approval before the expiration date.

Protocols are approved for a maximum period of one year. You may not continue any research activity beyond the expiration date without Committee approval. Please submit continuation requests early enough to allow sufficient time for review. Failure to receive approval for continuation before the expiration date will result in the automatic suspension of the approval of this protocol. Information collected following suspension is unapproved research and cannot be reported or published as research data. If you do not wish continued approval, please notify the Committee of the study closure.

Adverse Events: Any serious or unexpected adverse event must be reported to the IRB Committee within 48 hours. All other adverse events should be reported within 10 working days.

Amendments: If you wish to change any aspect of this study, such as the procedures, the consent forms, study personnel, or number of participants, please submit an amendment to the IRB. All changes must be approved by the IRB Committee before they can be initiated.

You must maintain a research file for at least 3 years after completion of the study. This file should include all correspondence with the IRB Committee, original signed consent forms, and study data.

cc: William D Schreckhise, Key Personnel