

The effectiveness of a competition regime

Abel Mateus

Former President of the Portuguese Competition Authority
Professor of Economics at University College of London and
Universidade Catolica Portuguesa

Outline

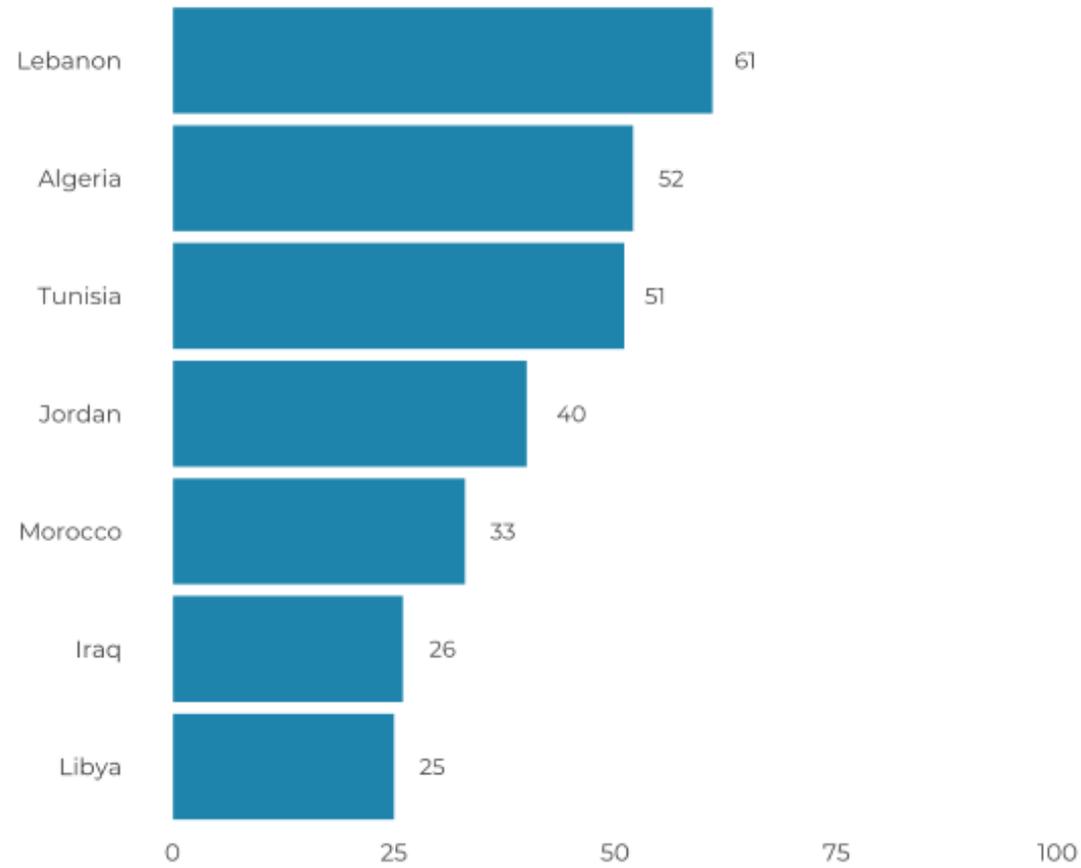
- Aspirations for a better living among Arab populations (of lower income per capita countries). Security is the crucial factor for development (Syria, Libya and Yemen)
- Building strong institutions: the core for the success
- Important institution: Building an effective competition policy regime
 - Good pre-conditions in UAE, Oman, Bahrain and Qatar
 - Worse pre-conditions in Iran, Iraq and Mauritania
 - Better competition regime: UAE, Qatar and Saudi Arabia
 - Worse: Lebanon, Mauritania and Iraq (Iran and Algeria)
- Building an effective competition law
- Building an effective National Competition Authority

Arab Barometer, June 2021, on Domestic Conditions (Morocco, Algeria, Jordan, Libya, Lebanon, Iraq and Tunisia)

- The economy is the main challenge
- Priority for government policies: to create more jobs
- In all these countries a major concern is losing income in the next 12 months
- And there is a large desire to emigrate, particularly among young educated
- There is a large perception of corruption in State (from 61% in Morocco to 89% in Tunisia)
- There is a large use of internet (social media) to get breaking news, particularly among the educated

Most important challenge facing the country

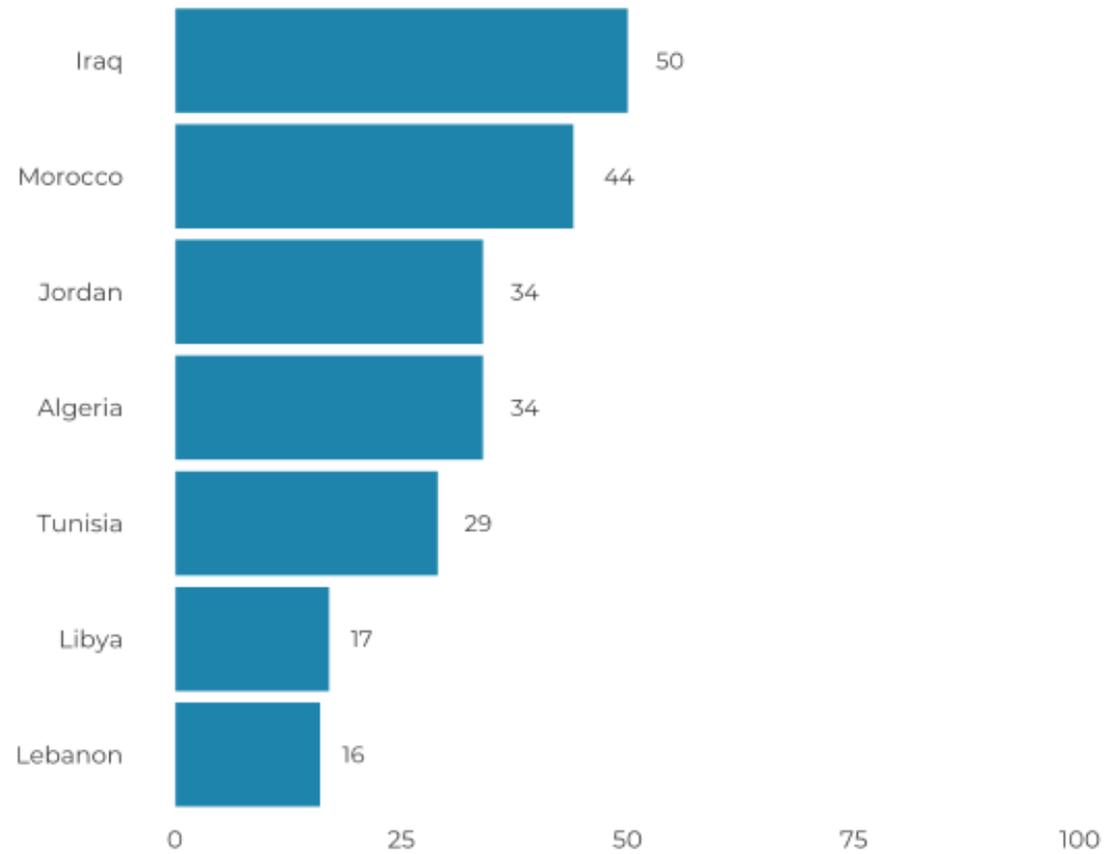
% saying economic situation



Arab Barometer Wave VI Part III (March - April 2021)

Main government action to improve economic conditions

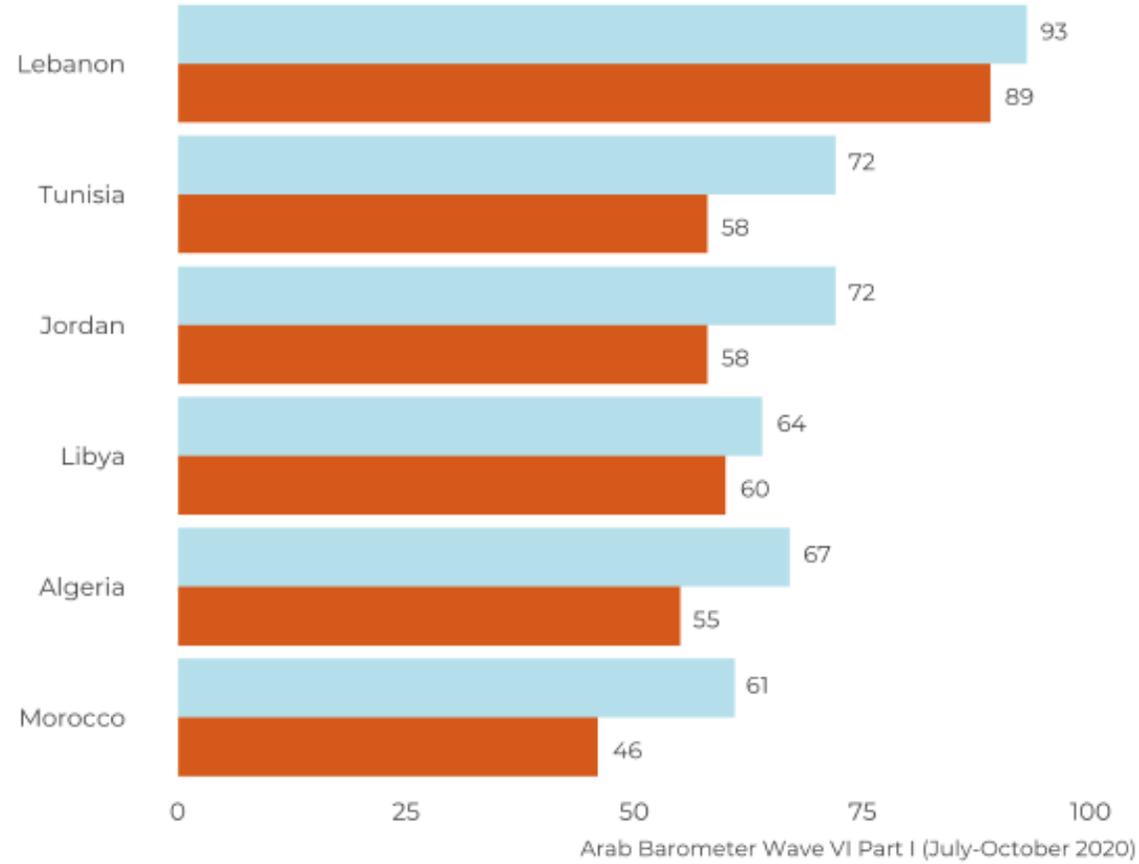
% saying create more job opportunities



Concern for losing main source of income in next 12 months

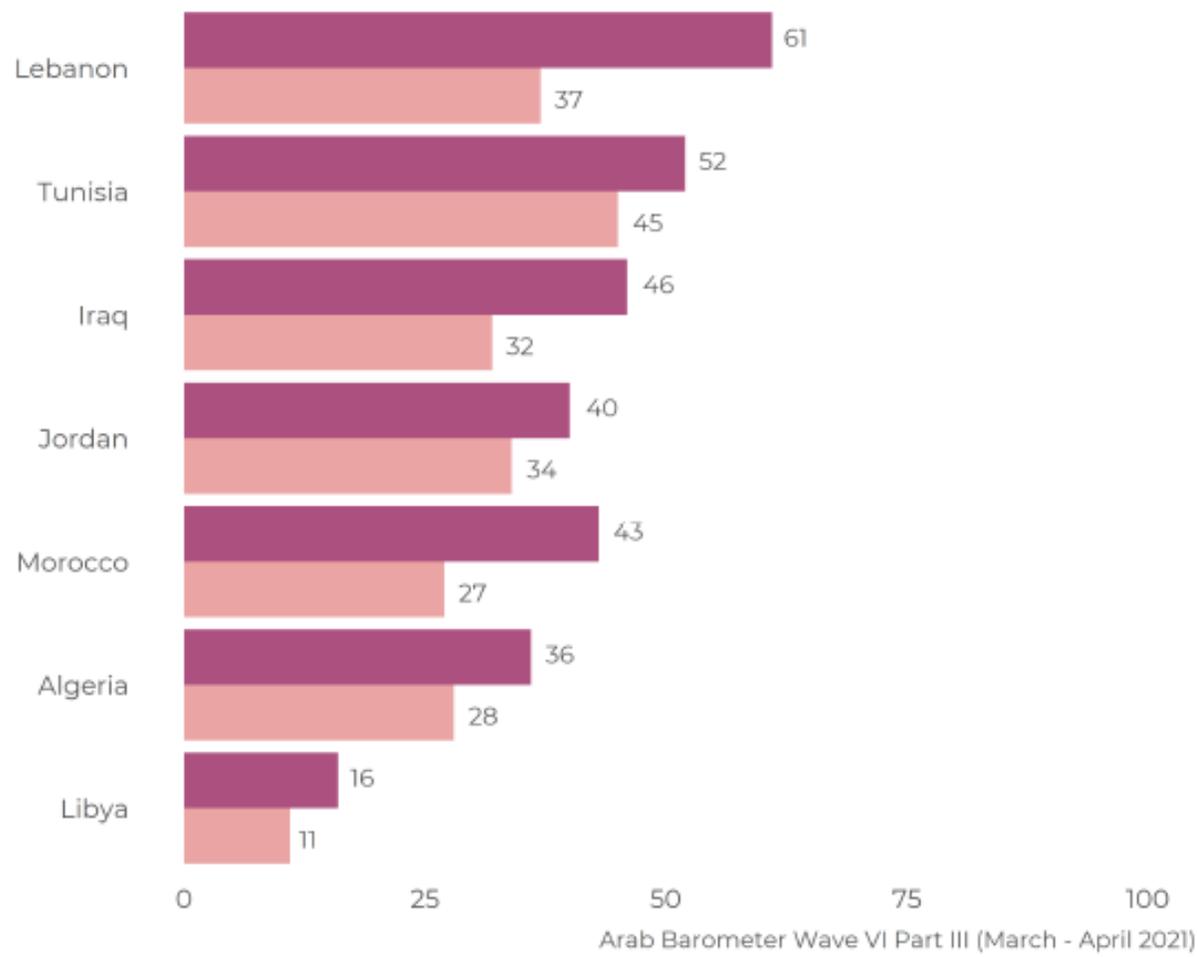
% saying very or somewhat concerned by gender

Female Male



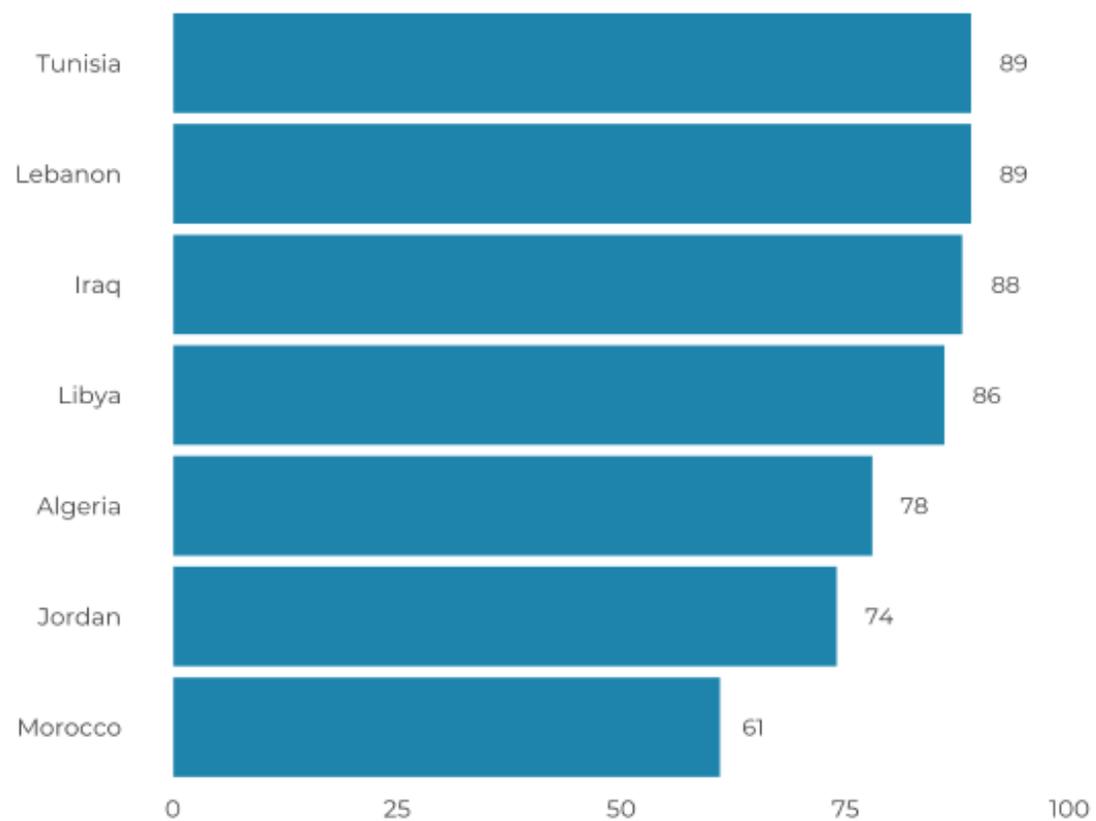
Desire to emigrate
% saying yes by education

Higher Max Secondary



Corruption in state institutions and national agencies

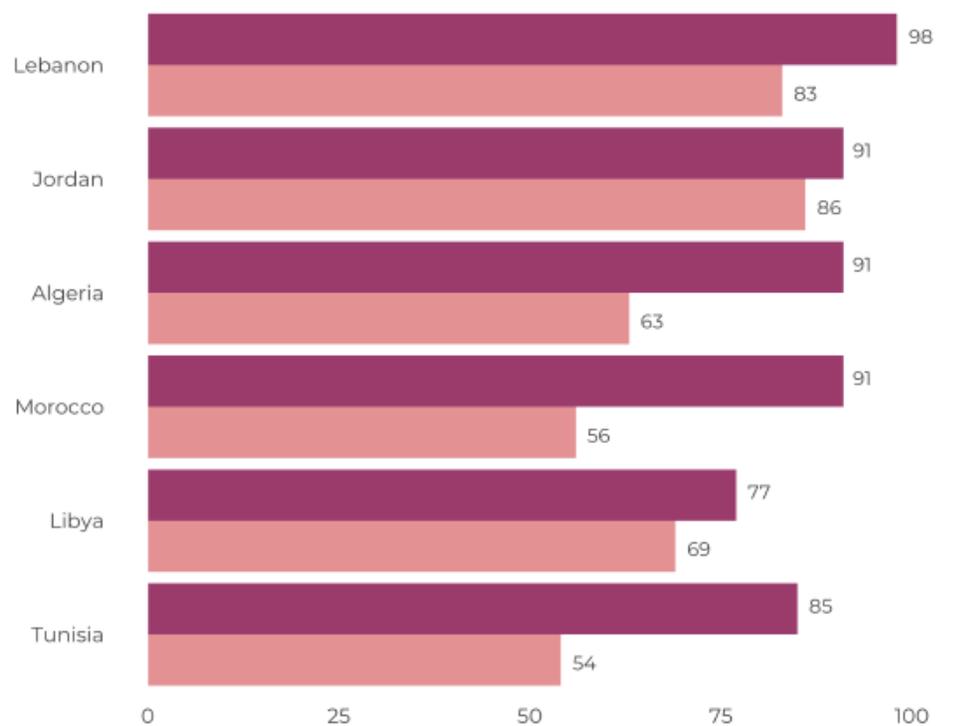
% saying it is prevalent to a large or medium extent



Internet usage

% saying throughout the day or at least once daily by education

■ Higher ■ Max Secondary

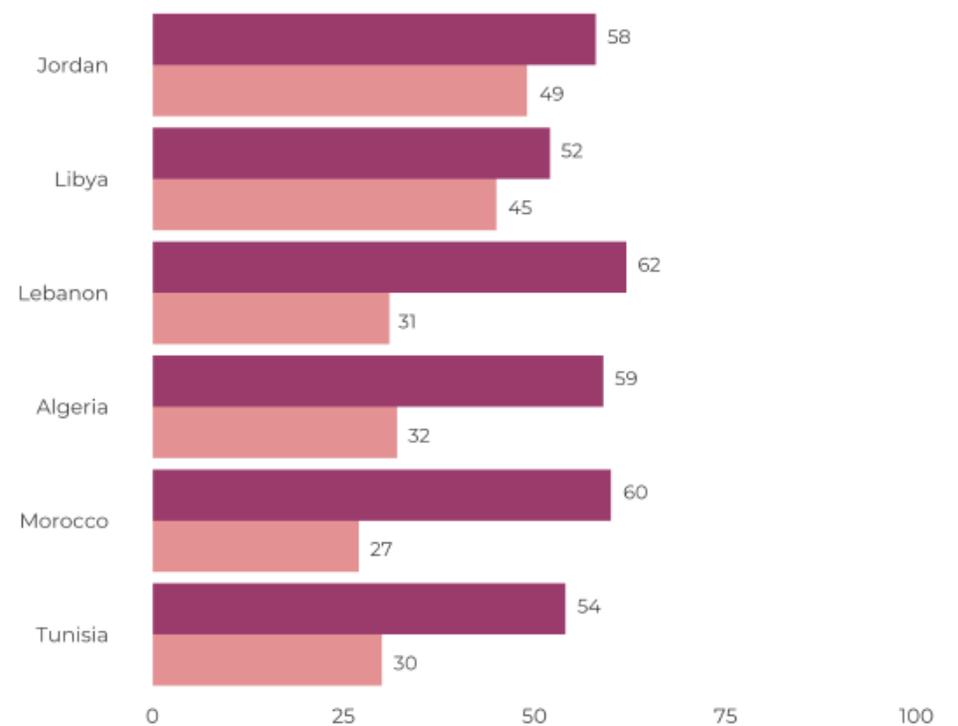


Arab Barometer Wave VI Part I (July-October 2020)

Primary source of news for breaking news

% saying social media by education

■ Higher ■ Max Secondary



Arab Barometer Wave VI Part I (July-October 2020)

The central role of institutions in building a modern market economy and democracy

- Brave young protesters aren't going to take to the streets waving banners demanding judicial reform or civil society groups that can one day support a slow, incremental process of change.
- Hollywood isn't going to make any summer blockbusters about political negotiations that succeed because respected pillars of the community convince stakeholders to adopt a consensus-based approach (ref to Tunisia)
- democratic rule requires something a lot more important, if less obviously visible, than having a good-guy democrat at the top of the government. It requires the **institutions of democracy**: political parties capable of winning elections, politicians capable of governing, a bureaucracy capable of implementing that governance, and civil society groups able to provide support and stability to those institutions

- Amanda Taub in Vox, 27.1.2016 (five years after the Arab Spring)

A CORE INSTITUTION

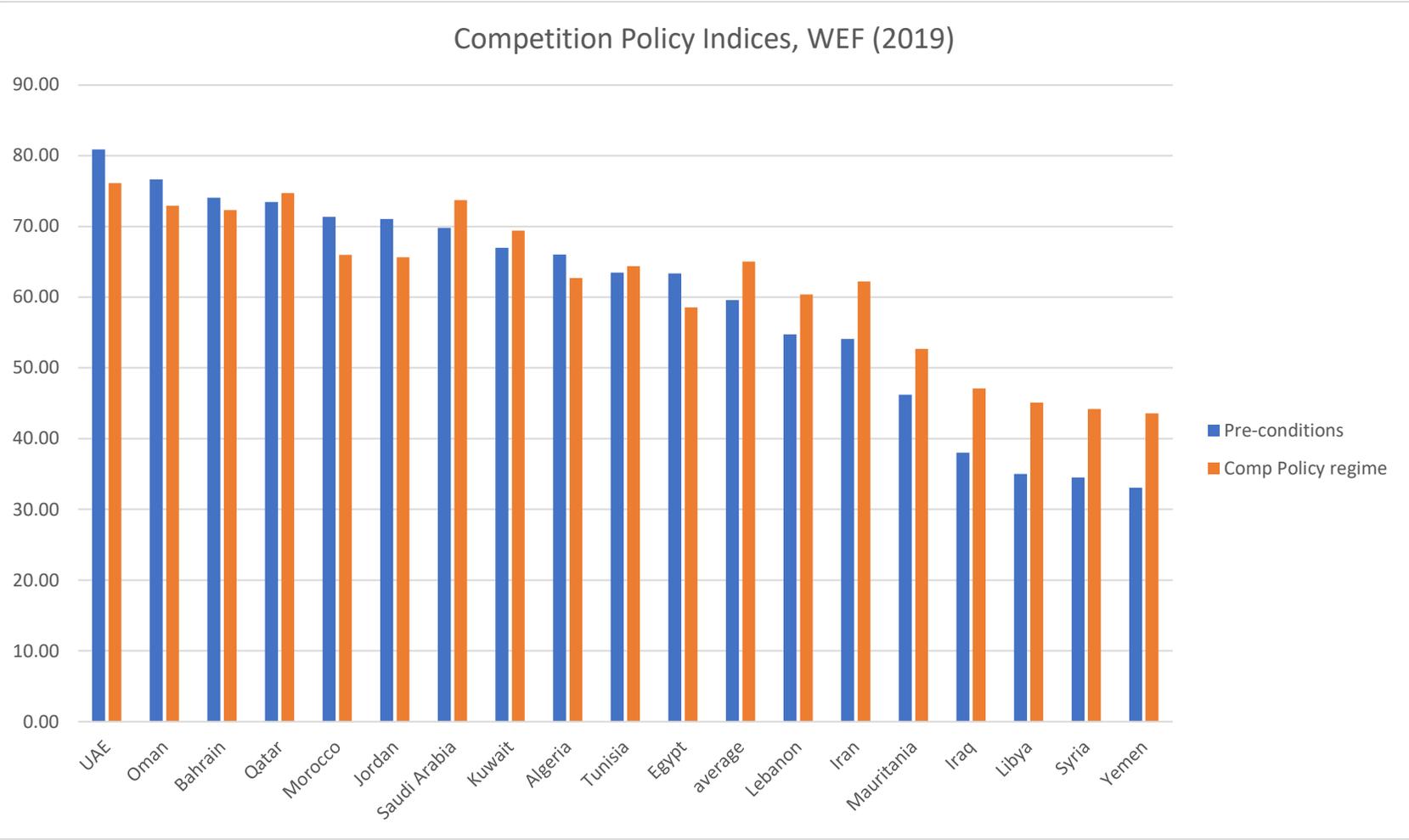
Building an effective regime of competition policy in a developing country

- Effective and working State in a peaceful environment
 - A market economy with low levels of informality
 - Market infrastructure: physical and economic
 - Trade Policy: a small country should have an open trade regime, with low tariffs and quantitative restrictions
 - Low barriers for firms to enter and to exit activities
 - Effective regulation of natural monopolies (energy, telecom, water), financial sector and insurance markets
 - Rule of law: modern economic and judicial codes, lack of threat of expropriation, functioning court and independent judiciary, effective policing
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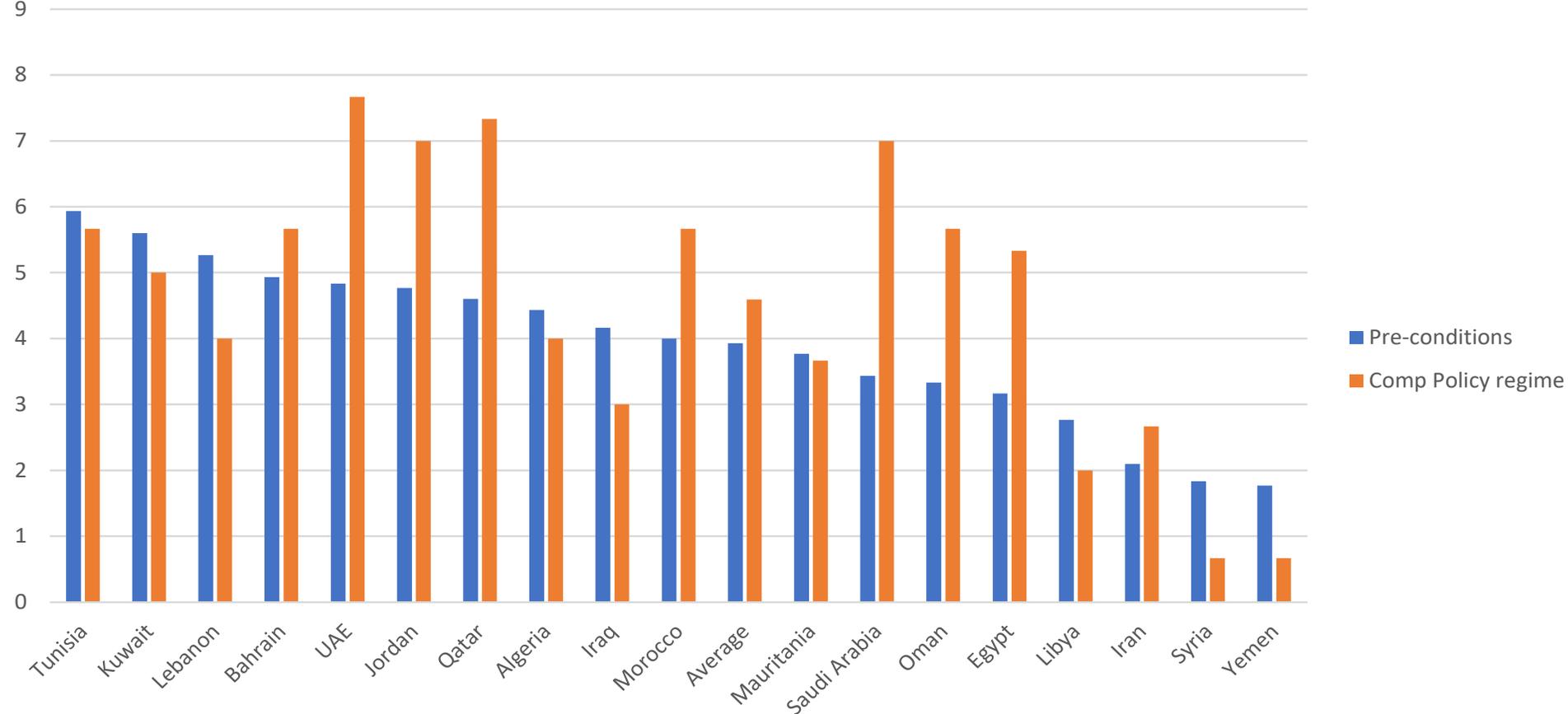
COMPETITION POLICY INDICES: PRE-CONDITIONS (2019)					
		MENA			
		WEF			
	Security	Infrastruc ture	Rule of law	Pre-conditions	
UAE	92.80	88.50	61.30	80.87	
Oman	92.90	80.50	56.60	76.67	
Bahrain	95.10	78.40	48.70	74.07	
Qatar	89.40	81.60	49.30	73.43	
Morocco	88.90	72.60	52.60	71.37	
Jordan	85.70	67.40	60.10	71.07	
Saudi Arabia	88.70	78.10	42.60	69.80	
Kuwait	82.30	68.40	50.20	66.97	
Algeria	80.40	82.00	35.70	66.03	
Tunisia	77.90	62.70	49.80	63.47	
Egypt	67.80	73.10	49.20	63.37	
Average	80.13	68.38	44.53	59.59	
Lebanon	69.50	61.30	33.40	54.73	
Iran	72.80	64.80	24.70	54.10	
Mauritania	74.70	32.40	31.50	46.20	
Iraq				38.00	
Libya				35.00	
Syria				34.50	
Yemen	43.00	33.90	22.30	33.07	

COMPETITION POLICY INDICES (2019)				
	MENA			
	WEF			
	Trade openness	Market dominance	Cost starting business	Competition Policy regime
UAE	72.70	66.90	88.80	76.13
Oman	64.30	56.40	98.10	72.93
Bahrain	66.10	51.40	99.40	72.30
Qatar	66.20	62.40	95.50	74.70
Morocco	53.10	46.80	98.10	66.00
Jordan	53.50	55.30	88.10	65.63
Saudi Arabia	62.70	61.70	96.70	73.70
Kuwait	62.60	46.60	99.00	69.40
Algeria	41.50	52.50	94.10	62.70
Tunisia	51.90	43.50	97.80	64.40
Egypt	41.50	54.20	79.90	58.53
Average	55.31	49.91	89.83	65.02
Lebanon	53.60	47.50	80.00	60.37
Iran	39.80	47.40	99.40	62.20
Mauritania	46.30	19.80	91.90	52.67
Iraq				47.10
Libya				45.10
Syria				44.20
Yemen	53.90	36.20	40.60	43.57

Competition Policy Indices, WEF (2019)



COMPETITION POLICY INDICES, BTI (2022)



Competition policy is much more than competition law

- Barriers to competition flowing from government policy—including trade barriers, mandated monopolies, licensing regimes, and other regulatory barriers to entry and exit- are not usually addressed by competition law
- When those barriers are pervasive—still the case in many countries—competition laws and agencies will not be enough to unleash a competitive and productive economy
- The primary lever for governments is to address these policy barriers directly

- World Bank, WDR, 2005

Problems and solutions in the MENA region

DIAGNOSTIC

Inefficient market structures, and

Inefficient government systems, ex:

Heavily concentrated and inefficient economies

Collusion

Centralization of economic power among few elites

General rent-seeking

POLICY

- Effective competition policy regime and
- Effective competition law, and
- Effective and efficient National Competition Authority
- Plus: Well-functioning market regulators

AIMS/RESULTS

- Enhances business environment
- Fosters investments
- Improves economic performance and growth

Creating an Effective competition law

- There are several model laws that can be used as inspiration (UNCTAD model law)
- Main prohibitions
 - Cartels and collusion practices
 - Monopolization and exclusionary practices by dominant firms
 - Which should include merger control
- Level playing field between private and public sector
- Clear definition of sanctions and enforceability: fines designed for dissuasion and in accordance with economic law practice

Creating an Effective competition law (II)

- Clear attribution of competences to Competition Authority, Regulators and Courts
- The Executive should not interfere in enforcement
- Control of Competition Authority decisions: general courts or specialized section in the court system?
- Control of Competition Authority level of enforcement by Parliament

Necessary conditions for an effective National Competition Authority (NCA) in a developing country

- **Preconditions and in parallel: an effective competition policy**
- **Preconditions: a modern and effective competition law**
- Should be part and complement the regulatory system
- The effectiveness of a NCA depends strictly on an effective and efficient Rule of law system (judiciary and administrative); otherwise, it can be an additional burden on business
- Nevertheless, the NCA can play an important role in advocacy and in the building up of the competition policy regime

Necessary conditions for an effective Competition Authority in a developing country (II)

- National competition authority with the following components and requisites:
 - Independence: administrative, financial, judicial
 - Competent Board: recognized personalities with at least 20-year experience in the field
 - Competent staff: half economists and half jurists
 - Enough resources: in develop countries the rule is 100 personnel per 10 million inhabitants
 - Capacity to sanction law infringements and appropriate sanction levels
 - Recourse only to courts (court competency?)

Competition laws are not always enforced vigorously in developing countries

- One explanation might be constrained resources. For example, the competition agency in Tanzania had only two economists and no lawyers in 2000, while the authority in Zambia had four economists and one lawyer
- A second explanation is that enforcement often depends on effective courts. Unless the competition agency can rely upon the judiciary to support its decisions and protect it from political interference, the agency will find it difficult to enforce its rulings
- A third explanation is that it can be difficult to prosecute politically connected firms, even when the competition agency is independent, unless the law and the agency command a high level of public support. For example, when the independent Monopoly Control Authority in Pakistan tried to take action to reduce cartelization in the cement market in 1998–99, the government intervened, fixing prices at a “mutually acceptable” level. Similarly, when the competition agency in Tanzania forbade a local brewer from barring independent agents and mini wholesalers from stocking competitors’ products, the firm, with support of government officials, contravened the agency’s orders. When officials intervene against agency decisions on behalf of influential firms, competition agencies will be hesitant to move against them in the first place. **High level of political commitment is key**

BETTER COMPETITION
POLICY



IMPROVES MARKET EFFICIENCY

Pressure for firms to reduce costs

Pressure to improve quality and diversity

Pressure to innovate



ECONOMIC GROWTH

MORE EQUAL INCOME DISTRIBUTION



EQUITY

LOWERS CORRUPTION

REDUCES RENT-SEEKING

IMPROVES DEMOCRACY



RULE OF LAW
AND SOCIAL INCLUSION