

COUNTRIES AT THE CROSSROADS

Countries at the Crossroads 2012: Tunisia

Introduction

In December 2010, Tunisian citizens took to the streets following the self-immolation of Mohamed Bouazizi, a produce vendor from the south-central town of Sidi Bouzid. The ensuing protests over rampant corruption, lack of economic opportunity, and police violence spread across the impoverished south and moved northward along the border with Algeria before reaching the capital, Tunis. By this point, the protests had evolved into larger demands for political liberties, basic freedoms, and dignity. When Tunisians spilled onto the central thoroughfare Avenue Habib Bourguiba in Tunis calling for the exit of Zine el-Abidine Ben Ali, they represented a wide consensus that the longstanding president and his small clan of powerful allies must go. Demands for his departure were met on January 14, 2011, when Ben Ali fled to Saudi Arabia.

Ben Ali came to power on November 7, 1987, in a bloodless takeover ousting Tunisia's first president, Habib Bourguiba. Bourguiba, who led Tunisia to independence from French colonial rule, had become increasingly dictatorial toward the end of his administration, but he is widely credited with advancing an agenda of modernization and progress that set Tunisia apart from its neighbors. Both Bourguiba and Ben Ali maintained ambivalent relationships with the country's Islamists, who, with the exception of short periods of political courtship with the moderate Ennahda party in the late 1980s, were largely excluded from the political sphere. After more than two decades of exile in London, Ennahda's leader, Rachid Ghannouchi, returned to Tunisia on January 30, 2011. His party, led by then-general secretary and now Prime Minister Hamadi Jebali, was elected to power on October 23, 2011, to lead an interim National Constituent Assembly (NCA) charged with drafting Tunisia's new constitution.

Tunisia has made significant progress toward democratization since Ben Ali's departure, despite growing public disenchantment over lagging socioeconomic improvements and a Salafist trend that is poorly understood both domestically and among the international community. The Salafist attacks on the U.S. embassy in Tunis as well as the American school on September 14, 2012 following a turbulent week in the region after the killing of U.S. Ambassador Christopher Stevens in Libya on September 11, 2012, have cast shadows on progress towards stability, freedom of expression, and U.S.-Maghrebi relations. Incited by a blasphemous film mocking Islam and the prophet Mohammed, Ennahda's management of extremism and its relationship with Western allies is increasingly scrutinized. Despite this latest episode of violence in Tunisia, democratization experts are hopeful about Tunisia's political transition¹ because of the institutional underpinnings of its new political order, including the establishment of an interim reform commission, relaxation of laws governing registration of political parties and civil society organizations, the completion of relatively free and fair elections, significant progress in the drafting of a new constitution, rule of law reform, and plans for parliamentary elections in the spring of 2013.

Tunisia's post-revolutionary political climate marks a stark departure from the authoritarian conditions under Ben Ali, particularly the dominant clientelistic political culture and severe repression of opposition political voices.² Sixteen months after Ben

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Ali fled the country, two broad trends reflect the current state of the transition. First, the country has so far been able to integrate key political actors in the transitional process (formerly banned opposition parties, newly founded parties, the Ben Achour reform commission, and interim ministries) and to hold relatively free and fair elections, two developments that have inspired optimism about the transition in Tunisia and abroad. Second and far more troubling, many of the key factors that contributed to the 2010 uprising continue to plague the country. A country with few natural resources, Tunisia is dependent on foreign investment and tourism. Unemployment is approximately 20 percent nationwide and significantly higher in the south, reaching 30 percent in some regions.³ This regional inequality in terms of economic and social development has historically caused political cleavages, with a contentious southern population feeling alienated from the wealthier and more developed northeastern coast. Economic growth is slow as Ben Ali-era barriers to economic development—such as a weighty state with intrusive policies, weak protection of private property, uneven tax enforcement, official corruption, and lack of enforcement of the rule of law—persist and foreign direct investment lags. Tunisians are increasingly suspicious of the so-called troika⁴ of political elites—the interim leadership divided between President of the Republic Moncef Marzouki (from the Congress for the Republic [CPR] party), Prime Minister Hamadi Jebali (Ennahda), and Speaker of the National Constituent Assembly Mustapha Ben Jaafar (Democratic Forum for Labor and Liberties [Ettakatol party])—and are discontent with the performance of the interim government.⁵ A survey released in May 2012 by the Sigma Conseil and the *Al-Maghreb* newspaper found that 85.8 percent of Tunisians believe that the government has done a poor job alleviating unemployment, 90.1 percent believe the government has been unsuccessful in addressing inflation, and 41 percent preferred the stability and security they associate with the Ben Ali era.⁶

In addition to widespread discontent with the interim government, the role of religion in governance has polarized Tunisian politics. The secular opposition has been unable to mobilize support against the Islamist-led government, and Ennahda itself has been vague about the growing Salafist movement. After several incidents—including numerous rhetorical and physical Salafist attacks⁷ on ordinary citizens and secular intellectuals,⁸ an incident in which Salafi students replaced the Tunisian flag with the traditional black Salafi flag, demands from women wearing the *niqab* to remain fully covered during university exams, and the January 2012 establishment of a short-lived caliphate in Sejnane (a small town in the northwest)⁹—the Islamist-led government legalized the *Al-Islah* (Reform) Front, the country's first Salafi political party, on May 11, 2012.¹⁰ It remains unclear whether *Al-Islah* was legalized to appease the Salafist movement and include Salafist voices in the pluralistic political process in hopes of moderation,¹¹ or whether the move was no more than a response to the recent attacks. Nevertheless, Salafi participation in Tunisian politics is likely to put Ennahda into an uncomfortable position, since Salafists call for deeper integration of Islamic law (Sharia) into the constitution, while the Ennahda leadership has promised its partners that the current relationship between religion and government will not be altered.¹²

Although Tunisia's massive popular uprising provided the initial spark for the "Arab Spring" and the country held relatively free and fair elections ten months after its revolution, the interim government has not effectively built public confidence and there is growing skepticism about the political transition.¹³ The country has made significant

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democratic progress and there is consensus that the March 2013 elections are likely to be free and fair. Nonetheless, the challenges of rampant unemployment, public discontent, low levels of foreign investment, and a rapidly expanding Salafist movement will likely prove to be ongoing challenges to the democratization process.

Accountability and Public Voice

The Tunisian revolution opened a tightly controlled and highly policed state to thousands of new voices in the form of protests, independent associations, and political parties. This was coupled with an explosion of new platforms for expression including newspapers, blogs, TV talk shows, radio stations, magazines, cinema, comedy, and public art. Tunisian authorities successfully institutionalized the political transition, establishing the Higher Political Reform Commission on January 17, 2011, presided over by prime minister Mohammed Ghannouchi, and the Independent High Authority for Elections (*Instance Supérieure Indépendante pour les Elections* or ISIE), founded in April 2011. Two additional commissions to investigate human rights abuses during the revolution and to investigate corruption were also established during the early transitional period.¹⁴ Democratic transition expert Alfred Stepan recently described the Higher Political Reform Commission, chaired by legal expert Yadh Ben Achour (also referred to as the “Ben Achour Commission”), as “one of the most effective consensus-building bodies in the history of ‘crafted’ democratic transitions.”¹⁵

Though initially suspicious of the three commissions, the Tunisian public ultimately accepted the body, whose members were appointed by former members of the Ben Ali regime, because of its transitional nature. Following a second wave of protests in February 2011 calling for immediate legislative elections and a new constitution, the original 14-member Ben Achour Commission expanded to 155 experts, including representatives of civil society, women, and youth. On April 11, 2011, the commission voted on a reform package that laid the procedural groundwork for the October 2011 elections (which were originally scheduled for July 2011 but were postponed by the ISIE because of concerns over low voter registration and weak voter outreach).¹⁶ Key points of the package included a commitment to a popularly elected Constituent Assembly, which would also serve as an interim government; an electoral system of pure proportional representation, a gender-parity provision for electoral lists, and the creation of the ISIE.¹⁷

The ISIE’s primary mandate was to ensure a fair and transparent electoral process open to numerous parties.¹⁸ As a nascent body addressing an electorate rendered apathetic by decades of sham legislative and presidential elections under Ben Ali, the ISIE’s primary tasks were to update voter registration lists, create voting registration centers across the country, establish electoral district boundaries, and define eligibility criteria for candidates. With low voter registration just a month before the scheduled July 2011 elections and a weak voter outreach campaign, the ISIE postponed the elections until October 23, 2011. Whereas only nine registered political parties contested elections under Ben Ali’s regime, post-revolutionary Tunisia boasted 113 registered political parties and independents, representing a wide spectrum of political ideologies. However, a number of Islamist political parties were not granted party accreditation in order to contest the elections, including *Hizb Al-Tahrir*. The justification for the ban on some Islamist parties was Tunisia’s political party law, passed on May 3, 1988, which

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stipulates that “no party may fundamentally base its principles, activities, and programs on a religion, language, sex, or region.”¹⁹

The ISIE banned commercial political campaigning between September 12 and October 1, 2011. The controversial ban, which was designed to equalize campaigning opportunities among parties with vastly different resources, was introduced late in the campaigning process and failed to clearly define penalties for violations. Some parties violated the ban by publishing political ads in social media. However, in many cases this backfired, as the electorate seemed to react to such violations negatively. A number of parties contested the ban, notably Nejjib Chebbi’s Democratic Progressive Party (PDP). The PDP likewise led the critique of Ennahda’s campaign financing, which it claimed came from Persian Gulf billionaires. Such allegations, as well as Ennahda’s financial entanglement with the Persian Gulf, remain unfounded. The campaign period was defined by numerous peaceful and lively rallies across the country. Many Tunisians were frustrated by a dizzying array of political messages and ambiguous registration procedures, which were eventually extended to the day of the elections.

On October 23, 2011, Tunisians elected the National Constituent Assembly, a 217-member transitional legislature charged with drafting Tunisia’s new constitution. Overall voter turnout was 52 percent (54.1 percent in Tunisia and 29.8 percent abroad).²⁰ Despite the relatively short campaign period and hastily organized procedural changes—which were ineffectively communicated to the electorate—the elections proceeded smoothly. Elections were monitored at every polling station by a total of 500 international observers and 10,000 domestic observers, who described the polls as relatively free and fair.²¹ Voter complaints included long waits that in some cases exceeded four hours, vote-buying, confusing ballots, and electioneering at polling stations, especially by Ennahda.

Women candidates claimed 27 percent of the seats, based on a gender parity law passed in April 2011. The parity law, however, did not extend to seats in the NCA. Ennahda won 42 percent of the vote, winning 89 seats, followed by the CPR with 29 seats, and a surprise victory by Hechmi Hamdi’s Popular Petition Party (*A’arida Sha’abia*), which won 27 seats. The secular opposition, including the Tunisian Communist Worker’s Party (POCT), divided the remaining seats.

Hamdi is a controversial figure, and the successful performance of his party alarmed voters and observers alike. According to unconfirmed accounts, Hamdi—a former member of Ennahda in self-exile in London—broke with Ghannouchi over Ben Ali–regime financial support for Hamdi’s television station, *Al Mustakilla*. Whether or not this particular incident affected the relationship between Hamdi and Ghannouchi, the Tunisian public has been skeptical of both Hamdi and the Ennahda–Popular Petition Party relationship. After the 2011 uprising, the Commission for the Investigation of Corruption published a 2009 letter from Hamdi to Ben Ali, in which Hamdi confirmed he would air a series of programs highlighting democratic progress in Tunisia. Hamdi has since acknowledged that his channel accepted large sums of advertising income from Ben Ali.²² In addition to these shifting political alliances, Hamdi is allegedly married to the family member of one of the founders of Algeria’s Islamic Salvation Front (FIS), which was outlawed in 1992.²³ Many Tunisians believe Hamdi is closely allied with Ennahda and that the two parties strategically co-mobilized to split votes. This was especially apparent in the impoverished south.

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Tunisia's current electoral climate ensures an effective rotation of power, though it remains heavily concentrated within the "troika." As a bloc, the secular opposition appears unable to mobilize and cooperate in an effective and significant way. As a result, in the near future power rotations will most likely occur exclusively in alliances between moderate Islamists and secularists willing to work with Islamist political parties.

Presidential powers have been largely reduced relative to the extensive executive power under Ben Ali. President Moncef Marzouki of the CPR struck a deal with Ennahda to appoint Hamadi Jebali as head of the government and Mustapha Ben Jaafar as the president of the National Constituent Assembly, with the charismatic and well-spoken Mehrizia Labidi of Ennahda as vice-chair. While the secular opposition has accused Ennahda of pushing its own agenda in the Constituent Assembly, particularly on the role of religion in governance and women's rights, Ghannouchi's recent pledge not to seek to make Sharia a major source of legislation indicates a moderation in the party's stance. Ennahda underscored this stance when it announced that it does not aim to modify Article 1 of the constitution, which defines the relationship between religion and state.²⁴

The final configuration of Tunisia's new democracy and ensuing balance of powers will remain uncertain until the constitution is completed and new elections are held. Ennahda has indicated it prefers a parliamentary constitutional model with powers vested in the prime minister, whereas CPR and Ettakatol envision more power sharing between the prime minister and president.²⁵ For the moment, the political system is largely free of domination. The economically powerful families close to Ben Ali and his wife, Leila Trabelsi, are no longer in a position to dominate the country as heavily as they did during Ben Ali's rule. Early indications show that moderate Islamists are unlikely to radically change the relationship between religion and state, the rights of women, and the protection of minorities.

Civil society is an additional guarantor of Tunisia's new political openness. While the number of voluntary and national organizations exceeded 9,000 in 2009, few of these associations were permitted to operate independently under Ben Ali. This was especially the case for human rights groups and associations promoting civil liberties.²⁶ Most associations were service-oriented and coopted by the regime, and did not foster the kind of horizontal membership that contributes to a civic culture.²⁷ A day after Ben Ali's fall, the Ministry of Interior press attaché announced the registration of over 100 new associations.²⁸ According to civil society leaders, between 7,000 and 10,000 new associations, unions, and professional organizations were registered within 10 months of the revolution.²⁹ While revised legislation governing freedom of association has not been finalized, the 1959 law requiring organizations to remain apolitical and register with the government has been relaxed. Civil society organizations no longer need to go through the Ministry of the Interior's laborious registration procedures, but can register at the municipal level. Draft legislation proposed in August 2011 stipulates that associations come into existence upon submission of registration papers and requires that efforts to prohibit the formation of particular organizations proceed through the court system.³⁰

New and long-established civil society organizations—including unions, the Tunisian Association of Democratic Women (AFTD), and the Tunisian League of Human Rights (LTDH), among others—have established new negotiation channels with political parties and the Constituent Assembly. Civil society organizations were actively involved in mobilizing Tunisian citizens to register to vote and continue to push

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Tunisians to defend their rights. Women's organizations, like the AFTD and the new Tunisian League of Women Voters, have been particularly vocal in organizing on-going meetings and protests to defend their rights in the new constitution. The AFTD itself was awarded the Simone de Beauvoir prize in December 2011 for the role it played defending women's rights and liberties during the uprising.³¹ Such activism has abetted dialogue between moderate Islamist and secularist political parties, as conservative Islamists like *Hizb Al-Tahrir* call for a repositioning of women in the public sphere and politics. Tunisia's burgeoning civil society has benefited from the inflow of millions of dollars in democracy-promotion aid that is particularly focused on strengthening civil society and building organizational capacity. Both multilateral and bilateral aid from the U.S. Middle East Partnership Initiative and the EU Neighborhood Policy has been disseminated with virtually no state interference.

Media freedom, while significantly freer now than under Ben Ali's rule, remains an incomplete process reflecting broader political schisms. After the dismantling of the Tunisian Agency for External Communication (ATCE) at the end of January 2011—which heavily censored foreign and domestic press and media under Ben Ali—there was a considerable increase in freedom of expression, media independence, and Internet freedom.³² By July 2011, the Ministry of the Interior had licensed 103 newspapers and magazines and seven new political party papers, including Ennahda's *Al-Fajr*.³³ The ATCE was replaced with a temporary media advisory board, the independent National Authority for Information and Communication Reform (INRIC), charged with drafting Tunisia's new press code.

The remarkably open media environment of the first year after the revolution is increasingly constricted, however. On May 3, 2012, Tunisian courts fined Nabil Karaoui, the owner of private station Nessma TV, \$1,600 for disturbing public order and violating sacred values.³⁴ At issue was Nessma's decision to air the award-nominated Franco-Iranian film *Persepolis*,³⁵ in which a young girl imagines and talks to God. Nessma TV's decision to air *Persepolis* during the height of the October 2011 electoral campaign triggered a virulent reaction among Salafists. In addition to a protest in front of Nessma TV headquarters, one radical group firebombed Nabil Karaoui's home. Though Karaoui was a victim of vandalism, it was he who went to trial following a formal complaint signed by hundreds of Islamist lawyers. The affair caused much uproar within Tunisia's secularist circles and the international human rights community.³⁶ A secular Tunisian intellectual and editor-in-chief of the weekly *Al-Maghreb*, Professor Hamadi Redissi, was violently attacked by Salafists upon leaving the courthouse after Karaoui's hearing, which he attended to support freedom of expression.

On February 15, 2012, *Attounissia*, a newly created paper, printed a photo of a Tunisian-German soccer player cupping a model's naked breasts with his hand. Following publication, *Attounissia* editor-in-chief Habib Guizani was arrested along with Hedi Hediri, the world section editor, and owner Nassridine Ben Saida. Police also confiscated more than 7,000 copies of the paper from newspaper stands. The trio faced the same charges as Nabil Karaoui.

Outdated press and penal codes continue to restrict expression in the media sector. For example, on March 28, 2012, Ghazi Mohamed Beji and Jaber Ben Abdallah Majri were sentenced to seven-year prison terms and heavy fines for “mocking Islam” on Facebook and other social media websites.³⁷ Alarming, the government has remained

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silent on violent encounters between Salafists and the police, as well as Salafist attacks on secular activists and academics.

While the freedom of speech cases divide Tunisians, the debate does not clearly split along political lines: spokesperson for the Tunisian Union of Journalists Zied El Heni, Reporters without Borders, and Ennahda leader Rachid Ghannouchi all condemned the arrests. Though the *Attounissia* editors were eventually released, the application of morality laws is reminiscent of censorship tactics used under Ben Ali. Within this context, critics of Tunisia's post-electoral media environment worry about a return of self-censorship.

The private-public media distinction raises another concern within Tunisia's media environment. Critics of private media outlets, such as Nessma TV and Hannibal TV, argue that private media channels reflect their owners' opinions, while state-run TV stations, such as Al-Wataniya, are nominally under the control of the NCA headed by Ennahda.

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Civil Liberties

The heavy restrictions on civil liberties under the Ben Ali regime have largely been relaxed since his departure and the purge of ministers and high-ranking civil servants linked to his Constitutional Democratic Rally party. Repression peaked during the regime's final years, partly in reaction to the 2008 six-month rebellion in a southwestern mining region, which ended in violent confrontation between the police and citizens. The 2008 rebellion was the first protest movement to garner widespread support from the online community, which used social media to disseminate information on police violence.³⁹ In response, the Ben Ali regime increased harassment and arbitrary arrests of oppositional journalists, bloggers, and activists and amended the penal code to criminalize contact between Tunisians and foreign entities under a national security

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clause. To justify brutal repression, the Ben Ali regime tried to link the 2008 (and December 2010) uprisings to Al Qaida in the Islamic Maghrib (AQIM).

Civil liberties remain under threat since the revolution, however. Though the post-revolutionary interim government released all political prisoners in February 2011, the continuing lack of judicial independence and comprehensive judicial reform, and a public sense of increasing crime and violence, put the protection of civil liberties at risk.⁴⁰

Tunisian women in particular have been wary of the political transition. Tunisia's post-independence policy has long been hailed as the most progressive in the region. Habib Bourguiba's 1956 personal status code granted women greater rights in marriage, divorce, custody, and inheritance, and outlawed polygamy. Ben Ali amended the personal status code in 1993 and 1998 to ensure greater equality for women in the workforce and equal pay. To secularists, the question of women's rights and gender equity remains a top priority. Secular women, many of whom benefited from Bourguiba and Ben Ali—era state-promoted feminism, worry that their rights are under threat with an Islamist-dominated government. News stories abound of Salafists bullying unveiled women on the streets and women in bikinis on Tunisia's beaches. Critics claim that Ennahda has not adequately shown that its campaign promises to "protect tradition" will not reverse women's rights, though Rachid Ghannouchi has made several public statements that the personal status code will not be altered. While Ennahda was the first political party to accept the gender-parity provision preceding the elections and was one of the first parties to have women on top of its electoral lists, Ennahda minister of human rights and transitional justice Samir Dilou has been caught in a controversy about issuing statements defending polygamy, which has caused significant public debate and confusion among Tunisian citizens regarding the question of polygamy, despite Samir Dilou's condemnation of the statement.⁴¹ Further, while Prime Minister Jebali has stated that the improvement of women's status in Tunisia is a central component of his party's platform, high-ranking Ennahda NCA delegate Souad Abderrahim has criticized single mothers as a "disgrace to Tunisian society."⁴² Perhaps in reaction, on World Press Day Dilou nominated Tawakkul Karman, the 2011 Nobel Peace Prize Winner and chairwoman of Women Journalists without Borders, as his honorary advisor.⁴³

Ennahda's ambiguous response to recent controversies on the *niqab* (full face veil) on university campuses might also presage a change to the previous regulation outlawing the veil in public space. The *niqab* debate received much media coverage in November 2011, when two female students at Manouba University in Tunis protested the *niqab* ban on campuses. Over 200 protesters supported the students' demands to wear the *niqab* during final exams. The Ennahda-headed Ministry of Higher Education did not issue a clear directive to Tunisian University deans and professors, resulting in a long-running standoff between Salafi students and faculty. On March 8, 2012, *Hizb Al-Tahrir* organized a conference in Tunis and a protest in front of the prime minister's office. Representatives from *Hizb Al-Tahrir* worldwide attended the conference and denounced women's rights as articulated in secular legal texts and practiced in the non-Muslim world. Women's rights, they argued, should be based on Islamic principles and orthodox interpretation of Sharia. The government is thus faced with the challenge of protecting the rights of Tunisian women who believe in the modernist state feminism propagated by Bourguiba and Ben Ali, as well as their new conservative female Islamist constituents.

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The majority of Tunisians are ethnically Arab, practicing the Maliki rite of Sunni Islam, though ethnic minorities exist and have historically been treated well. Many minority groups have begun to form associations to defend or promote their identity. Noteworthy is Tunisia's first Amazigh (Berber) Cultural Association, established in July 2011. Tunisian Jews have founded the Tunisian Jewish Cultural Association to promote the country's Jewish heritage. Close to 1,500 indigenous Jews live in Tunisia, primarily in Tunis and Djerba, the site of the 2002 AQIM attack on the Ghriba Synagogue. Despite the attacks, the annual May pilgrimage to the site has continued, increasing in size in recent years. Christians practice their faith without restriction.

Ennahda has issued numerous public statements of its commitment to protecting the rights of minorities. Underscoring the party's position, in advance of the October 2011 elections Rachid Ghannouchi remarked, "until now, Tunisia has not been a society of minorities; it is a Muslim society whose religious minorities are respected. . . . [R]eligious freedom is guaranteed by the constitution and the values of Arabic Islamic culture."⁴⁴ While critics argued that Ennahda would change its position following the elections, Ghannouchi met with Roger Bismouth, head of Tunisia's Jewish community, the following month. Hamadi Jebali has likewise voiced Ennahda's brotherhood with Tunisia's Jewish and Christian communities. In response to anti-Jewish chants during Hamas leader Ismail Haniye's January 2012 visit to Tunisia, Ennahda officials condemned the discriminatory chants and characterized them as episodic, reflecting neither the party's values nor the spirit of Islam.⁴⁵

Homosexuality has always been criminalized in Tunisia. Article 230 of the penal code punishes sodomy with three years in prison. While Ennahda political bureau member Riadh Chaibi has insisted the party will not penalize atheism or homosexuality, in April 2012, Samir Dilou publicly stated that sexual orientation is not a human right, but a "perversion that requires medical treatment."⁴⁶

Freedom of association and assembly has been promoted in postrevolutionary Tunisia. An ardent supporter of those rights, the Tunisian General Labor Union (UGTT) played a crucial role in the revolution, calling for a national strike during the uprising. Prior to the general strike, the UGTT took a strong stance against police violence during protests in the south-central towns of Thala and Kasserine. In the months following the revolution, the UGTT and other unions joined with Ennahda to stabilize Tunisia's political order. The union held free and fair internal elections in December 2011, ousting many top-ranking leaders associated with the Ben Ali regime. On May 1, 2012 (International Labor Day), Ennahda urged its supporters to join in UGTT and Tunisian Union Workers demonstrations to support and celebrate the worker's role in the revolution. At the same time, however, Ennahda has opposed ongoing strikes and sit-ins organized by independent unions throughout the country, viewing them as major disruptions to economic development. Despite its political stance against ongoing strikes, the government continues to recognize civil society's right to organize, mobilize, and articulate citizen demands.

Protests and demonstrations have become the hallmark of Tunisia's political environment. Protests demanding regional economic compensation, martyr reparations for the nationwide 2010–2011 protests as well as the 2008 rebellion lasting six months in the mining region, and expanded political rights are a daily occurrence. Because the legal framework for public demonstrations has yet to be clarified, some of the strikes and

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protests have been harshly repressed by security forces. The current law on public gatherings allows authorities to ban public gatherings that disturb security and order.⁴⁷ Using this law, on March 28, 2012, Interior Minister Ali Laaryadh banned demonstrations on Avenue Habib Bourguiba, the principal site of the protests that led to Ben Ali's ouster. While the government issued the ruling in an attempt to restore public order in downtown Tunis, many viewed the decision as an effort to undermine the revolution. The ban (and government) was put to the test on Tunisian Martyrs' Day, April 9, 2012, when thousands of Tunisians marched downtown to commemorate the Tunisians who died in 1938 protesting French colonialism. The march was met with brutal police violence. Public reaction to the violence was vociferous, and Laaryadh reversed the ban on April 11, 2012, while stressing that future protests had to be peaceful and orderly. He also pledged to investigate the violent police reaction on April 9, 2012. Protests in Sidi Bouzid, Tunis, and other cities and towns have nonetheless been stymied by security forces and in some cases resulted in renewed curfews. Following protests organized by Salafists in Libya on September 11, 2012 in response to a film perceived as blasphemous, protest violence resulted in the killing of U.S. Ambassador Christopher Stevens and three other U.S. embassy employees in Benghazi. Across the region, Salafists continue to violently take to the streets. On September 14, 2012 following Friday prayers, thousands of Salafists marched onto the U.S. embassy in Tunis, jumped embassy walls and set the parking lot and other embassy grounds on fire and replaced the U.S. flag with a Salafist flag. Shortly thereafter, the American School of Tunis located close to the embassy was attacked and looted. The inability of the Tunisian government and security services to block the protesters and protect foreign properties and interests indicates an ambiguous relationship between Salafists and the ruling Ennahda party, control over general security, and limits of freedom of expression and assembly.

Rule of Law

The 1959 constitution guaranteed judicial independence, but Ben Ali appointed himself chair of the Supreme Council of the Judiciary, and politically motivated verdicts were commonly dictated to judges. Some judges voiced their frustration,⁴⁸ but most lacked independence and followed political orders. After the 2003 AQIM attack on the Ghriba Synagogue in Djerba, the government passed an antiterrorism law, which has not been overturned to date, allowing security forces to arrest and try civilians suspected of terrorist activities. Ben Ali used this law to violently quell protests in 2008 and accused the 2010 and 2011 protesters of terrorism and threatening the security of the state.

In February 2011, the transitional government amnestied all political prisoners, but significant reform has still not occurred. Despite calls for greater independence, the Supreme Council of the Judiciary remains closely aligned with the executive branch, and the Supreme Council of Magistrates (SCM), which is headed by the president of the republic and minister of justice, continues to select and dismiss judges.

The criminal justice system is similarly in need of reform. A legacy of Ben Ali's police state culture, the judicial police lacks the capacity to impartially investigate criminal cases. As part of Ben Ali's security apparatus, he most notoriously coopted the judiciary and the police. The internal police was charged with collecting information through informants on individuals who allegedly constituted a threat to the state. This

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information would then be used arbitrarily in cases against these individuals, who would often be arrested on trumped-up charges. The absence of an independent judiciary also allowed the state to pass laws that would secure its own political survival, including electoral codes limiting the opposition and various modifications to the Constitution expanding executive powers, such as lifting presidential term limits.

The Ministry of Human Rights and Transitional Justice was established after the 2011 elections and is headed by senior Ennahda member Samir Dilou. The ministry has split its priorities between addressing widespread popular criticism of decades of human rights violations and calls by legal professionals for judicial reform. Rather than focusing on deep judicial reform, however, the ministry has concentrated on the human rights violations committed under Ben Ali as well as ongoing corruption scandals. The focus on human rights violations remains a priority for quelling public grievances, especially as families of those killed during the revolution continue to engage in daily sit-ins in front of the ministry. On May 16, 2012, the ministry signed a \$3 million agreement with the United Nations and the Office of the High Commissioner for Human Rights to partially fund a much-needed judicial reform process that includes civil society in processes of transitional justice.⁴⁹ Civil society has been active in pushing for incremental reform. In November 2011, for example, a group of 14 civil society organizations, including the Tunisian League for the Protection of Human Rights, the UGTT, the National Union of Tunisian Journalists, the Association of Tunisian Judges (AMT), the Tunisian Association of Democratic Women, among other founded the Independent National Committee for Transitional Justice.⁵⁰ The committee views itself as a pressure group to push the ministry to compensate victims of political repression and try criminals, which is crucial to build trust in a new Tunisian justice system. The committee is primarily concerned with torture, and has vowed to appeal to the International Criminal Court should Tunisian appeals courts deny reparations for victims. Indicative of society's demands for reparation, individuals wounded during the uprising and families of people killed stage regular sit-ins in front of the Ministry of Human Rights and Transitional Justice.

Professional associations that existed during the Ben Ali era, such as the Tunisian Bar Association and the Association of Tunisian Judges (AMT), have also engaged in public debate. Members of the bar association, one of the most contentious professional associations under Ben Ali, were regularly harassed by the police and under constant surveillance. Though effectively shut down in 2005, when Ben Ali replaced its leadership with his cronies, the AMT has been pushing for judicial reform. AMT's short-term aims are to eliminate corrupt judges from the Ben Ali era, promote judicial independence by insulating the judiciary from the executive branch, and implement a transitional justice committee. Few of these principles, however, have been adopted since the uprising. Decrying the slow pace of judicial reform since the revolution, former head of the AMT Judge Mokhtar Yahyaoui stated that "there is no democracy, no equality, no freedom without an independent judiciary."⁵¹

International groups including the International Center for Transitional Justice (ICTJ) have also been assisting local efforts to buttress judicial system reform. This work has mainly been informative, seeking to empower local associations by framing key issues in the reform process. In April 2012, the ministry of human rights and transitional justice in collaboration with ICTJ and other groups organized the National Conference to

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Launch a Dialogue on Transitional Justice in Tunisia to link local civil society organizations with the constitutional drafting processes, advising groups on how to promote sound legislation. The ICTJ also played a role in the creation of the Commission of Inquiry into Human Rights Violations during the Revolution and the National Fact Finding Commission on Embezzlement and Corruption. The American Bar Association has initiated a program to promote judicial independence by teaching lawyers, judges, and law students about comparative approaches to judicial autonomy.

Domestic and international civil society organizations have placed the question of judicial reform into public debate, spurring a number of new developments. Working from an NCA decree that promised an independent committee to regulate the judicial branch in December 2011, the AMT and Tunisian Union of Judges submitted a proposal to the NCA in February 2012 outlining the mechanics of such a committee. A month later, on National Day of the Independence of the Judiciary, AMT president Kalthoum Kennou described the commission as the sole force that can disentangle the judiciary from the executive branch.⁵² The proposed independent commission will supersede the Supreme Council of Magistrates. Protesting the NCA's immobility, on April 18, AMT judges wore red armbands in the courtroom. Kannou called the state of Tunisia's judiciary system "alarming," and accused Minister of Justice Nouredine Bhiri of Ben Ali-era tactics, virulently criticizing the appointment and dismissal of judges without transparent consultation.⁵³ A week later, 250 Tunisian judges protested inside the NCA, collectively voicing dissatisfaction with the assembly's reluctance to establish the independent commission. Forced to react, the NCA pledged to review the AMT proposal in May 2012.

The relationship between the military and politics has not significantly changed since the revolution. Unlike Egypt and Algeria, where the military closely protects its political and economic interests, Tunisia was always considered a police rather than a military state. Repression was associated with the internal security apparatus, comprised of the secret and palace police, not the military. Some estimates state that the internal security apparatus was seven times the size of the Tunisian military.⁵⁴ As a state institution, the Tunisian military enjoyed more public credibility and legitimacy than other institutions, especially the judiciary and the Ministry of the Interior. Historically, the Tunisian military has always been kept out of politics. In 1962, Tunisia's first president, Habib Bourguiba, limited the army's power because of an attempted coup, and by 1968 he extended oversight of the army to the National Guard. Ben Ali, who himself rose to power through military ranks, further weakened and marginalized the military shortly after coming to power. In 1991, he accused a number of officers of attempting a coup and imprisoned or forced into early retirement those involved, as well as any officer belonging to an Islamist group. Over the course of his rule, Ben Ali lowered the military to approximately 30,000 troops, reduced the defense budget, delayed promotions and introduced compulsory retirement for some of the most component officers, while also expanding his own internal security apparatus. The military was charged with defending the nation, coping with natural disasters, and participating in UN peacekeeping missions.

During the interim government led by Beji Caid Essebsi, General Rachid Ammar, who did not obey Ben Ali's orders to shoot at demonstrators during the 2010–2011 riots, was appointed chief of armed forces. While the military enjoyed a surge in public support following the revolution and many believed that General Ammar should run for political

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office, the military returned to the barracks and only fulfilled its intended role: to protect citizens during the post-revolution security vacuum and secure the 2011 elections by sending 22,000 troops to polling stations across the nation. The Ministry of Defense has declared that it supports a civilian transition to democracy with no intention of imposing military rule.⁵⁵

Though property holders were sometimes coerced to transfer or sell prime real estate and profitable companies to members of Ben Ali's family,⁵⁶ property rights in general were secure under Ben Ali. The Heritage Foundation consistently ranked security of Tunisian property rights higher than the global average during most of the Ben Ali era, despite indications of an erosion of basic economic rule of law beginning in 2008. Security of property decreased precipitously in 2011, dropping below the global average for the first time since 2001. Legislation on property has not been modified, indicating that the increase in insecurity is linked to the state's inability to enforce property rights across the country evenly.⁵⁷

Anticorruption and Transparency

High-level and rampant corruption on the part of Ben Ali and his family was one of the driving factors of the 2011 uprising. This system mirrored immediate post-Soviet state capture and trickled downward through state institutions and state-run industries to petty corruption, including bribes, at the lowest level. Despite high levels of regime-tolerated (or -sponsored) corruption, the Ben Ali administration signed a number of international anticorruption agreements and was somewhat successful in building a reputation in the international community for fighting corruption. In 2004, Tunisia cofounded the Middle East and North African Financial Action Task Force, a regional institution to fight money laundering and financing for terrorism. Tunisia ratified the UN Convention against Corruption in 2008. Those engagements were cosmetic commitments to the international community, however, and did very little to prevent Tunisia's political elite from engaging in opaque economic practices and political corruption.

Following the collapse of the Ben Ali regime, Tunisia's score on Transparency International's Corruption Perceptions Index dropped from 4.3 on a 10-point scale (where 10 is "very clean") in 2010 to 3.8 in 2011, ranking it at 73 out of 183 countries.⁵⁸ This score may represent the end of a trend that has also been noted by the Heritage Foundation over the past decade—that think tank's 2012 Index of Economic Freedom indicates a small increase in freedom from corruption for the same year. It remains to be determined whether this fact is a blip or indicative of a shift toward more transparent governance linked to nascent post-Ben Ali institutional checks and balances and a reinforced civil society.⁵⁹

The ILO recently called on the Tunisian government to fight corruption more assertively in order to reinforce Tunisia's investment potential. This is an especially salient point, as the country currently suffers from an unemployment rate close to 20 percent nationwide, and the rate is significantly higher in the impoverished regions to the center and south where the revolution began.⁶⁰ The African Development Bank called for similar measures in March 2011.⁶¹ In December 2011 the president of the Tunisian Accounting Office, Abdelkadr Zgoulli, asserted his office's commitment to transparency, pledging to regularly inform Tunisian citizens of government expenditures. "Tunisia's

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accounting office,” he stated, “aims to contribute to good governance, transparency and accountability in the new democratic Republic of Tunisia.” As part of the initiative, his office released a transparent audit of 2011 election campaign financing to the heads of government on August 6, 2012, and the following day its conclusions and recommendations were presented to the press.⁶² To bolster that officer’s claims, and underscoring the government’s commitment to transparent economic development, the NCA appointed Abderrahman Ladgham to the newly created post of deputy prime minister for anticorruption. It also established an economic committee whose portfolio extends to investigating anticompetitive economic practices and corruption.

The new NCA institutions are both a response to Tunisia’s international commitments to fight corruption and a realistic appraisal of the economic situation. Shortly after taking power, members of the interim government discovered that many of the studies and statistical reports on the Tunisian economy had been hidden, manipulated, or falsified during the Ben Ali era. Those reports now are regularly released to the National Statistics Institute (www.ins.nat.tn) and to the office of the deputy prime minister for anticorruption (www.opendata.tn), highlighting the new government’s commitment to transparency in sharp contrast to murky Ben Ali–era accounting.⁶³

The interim government led by former prime minister Beji Caid Sebdi also created a Committee Against Corruption and Misappropriation of Funds in 2011 to investigate and retrieve public assets stolen by members of the former regime. The committee was revived by the NCA following the death of its first president in March 2012. Prime Minister Jebali appointed Samir Annabi, a lawyer with expertise in corruption and misappropriation, to the post and expanded the committee’s powers. The NCA has authorized the committee to collaborate with the Tunisian Central Bank, the Ministry of Justice, the Ministry of Foreign Affairs, and the Ministry of Human Rights and Transitional Justice.⁶⁴ On April 16, 2012, Abderrahman Ladgham signed a convention with UNDP to support the anticorruption campaign with international expertise and standards set by the UN. A four-pronged “roadmap for anti-corruption fight” was presented to the NCA on July 2, 2012, with a national strategy to be released in December 2012 and signing of a “National Probity Chapter” in January 2013.⁶⁵ The campaign is still in its early stages in terms of investigating cases and retrieving assets, and much of its success depends on the state of judicial reform.

The measures adopted by both interim governments indicate a significant shift in commitment to anticorruption and promise more transparency with respect to government expenditures. Tunisia has also welcomed nongovernmental organizations, including Transparency International, and international organizations to conduct independent investigations and propose recommendations based on international transparency standards.

At a press conference on July 26, 2012, held at the Tunisian stock market, the interim government announced that hundreds of Ben Ali’s confiscated assets would be sold publicly, including the largest telecommunications company Tunisiana and the International School of Carthage. Of the 300 confiscated companies, six will be sold before the end of 2012.⁶⁶ A total of 44 cases were prepared against Ben Ali, his family, and his close political circles.⁶⁷ On April 14, 2011, Ben Ali was charged with 18 crimes, including drug use and trafficking, voluntary manslaughter, conspiring against the state, and money laundering. The civilian court sentenced Ben Ali to 66 years in prison for

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embezzlement, illegal possession of drugs and weapons, and abuse of political power.⁶⁸ Leila Trabelsi, his wife, was sentenced to six years in absentia, and Sakhr El-Matri, his son-in-law, was sentenced to four years in absentia. Twenty-one additional family members received sentences ranging between four months and six years. Charges against Ben Ali in the military tribunal, which concluded on June 13, 2012, include “inciting disorder” and “murdering and looting on Tunisian territory,” for which he was sentenced to 20 years’ imprisonment. Ben Ali has already been tried by a military court in absentia for ordering the police to shoot at demonstrators in 2010–2011 in Kasserine, Thala, Kairouan, and Tajerouine, for which he was sentenced to life in prison.⁶⁹ Ali Seriati, the former head of presidential security, received a 20-year prison sentence; Rafik Belhaj Kacem, a former interior minister, was given a 12-year prison sentence; and former defense minister Ridha Grira was sentenced to 15 years in prison.

Recommendations

- The National Constituent Assembly and the future government should prioritize judicial reform. The NCA should approve the independent committee to regulate, untangle, and insulate the judicial branch from the executive. The NCA also should create a neutral evaluation process to determine the legal competence and approbation of judges appointed under Ben Ali.
- The NCA should take seriously the advice of international organizations and more effectively improve the government’s engagement to strengthen financial and economic transparency. Specifically, the NCA should expedite its anticorruption efforts to clarify campaign financing before the scheduled March 2013 elections. The NCA should publically release reports of financial audits pertaining to Ben Ali’s assets in Tunisia and abroad as well those of his family members and close economic allies.
- The government needs to take a more transparent and stronger position on extralegal political movements, in particular Salafists. Rights of free speech and assembly have to be clarified and applied evenly across all groups. This is especially pertinent following the September 14, 2012 attacks on the U.S. Embassy and American School of Tunis, which can negatively affect U.S.-Tunisian relations.
- As part of the constitution drafting process and judicial reform, the NCA needs to revisit the Bourguiba- and Ben Ali- era penal and press codes that continue to restrict freedom of expression and take into consideration recommendations by the independent body that has replaced the ATCE. Laws defining threats to public morality likewise need to be revisited and clarified. The 2012 trials against TV station owners, editors, and bloggers are based on obsolete laws under former autocratic regimes and remain inconsistent with the goals of the revolution.

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⁴ Hamadi Jebali was sentenced in 1992 for alleged membership in an illegal association and attempted coup d'état against Ben Ali. He spent 16 years as a political prisoner, 15 of which were in solitary confinement. Moncef Marzouki was a critic of the Ben Ali regime and a human rights activist. In 2001 he founded CPR, which Ben Ali banned in 2002. Marzouki continued organizing CPR and working on human rights issues. Mustapha Ben Jaafar is a medical doctor who has been involved in oppositional politics since the late 1970s. In 1994 he formed Ettakatol, which was eventually recognized in 2002. Ben Jaafar, however, was disqualified from running in the 2009 presidential elections against incumbent Ben Ali.

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