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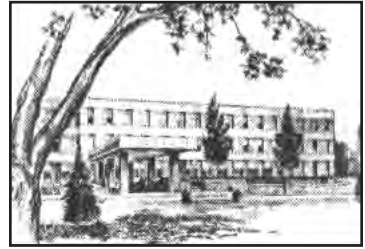


THE PROSPECTS FOR SECURITY SECTOR REFORM IN TUNISIA: A YEAR AFTER THE REVOLUTION

Querine Hanlon



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FOREWORD

The Arab Spring began in Tunisia. The tragic self-immolation of Mohammed Bouazizi in December 2010 struck a chord of discontent and frustration that ultimately propelled Tunisian President Zine El Abidine Ben Ali to step down barely a month later. The reverberations of this unprecedented series of events were felt throughout the region, and protestors took to the streets in Bahrain, Egypt, Libya, Morocco, Syria, and Yemen. A year later, Tunisia's remarkable transition continues to influence the region.

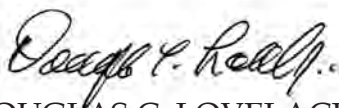
Tunisia has achieved in 1 year what none of the other Arab Spring states have been able to accomplish. Some have suggested that Tunisia's transition might even be a model for the Arab Spring countries. The Tunisian military's refusal to fire on the demonstrators and its decision to eschew an overtly political role in the transition have left the task of creating a new political order in Tunisia to the civilian bureaucracy, nascent political parties, and civil society groups. In national elections widely heralded to be free and fair, Tunisians elected a caretaker government and a National Constituent Assembly charged with drafting a new constitution for Tunisia in 2012.

In this monograph, Dr. Querine Hanlon of the National Defense University and the United States Institute of Peace finds that Tunisia is well poised to undertake serious security sector reform (SSR). SSR is a comprehensive tool for fixing the dysfunctional security sectors in fragile states emerging from conflict, developing capacities to meet the human security needs of their populations, or transitioning from authoritarian rule. In many fragile states, the security institutions are themselves a major source of insecurity. Dr. Hanlon argues that transforming the security

sector into one that is democratically accountable and functions in accordance with the rule of law is an important step toward averting the recurrence of insecurity and conflict and preventing newly democratic or transitioning regimes from reverting to authoritarian rule.

Although the prospects for SSR in Tunisia are perhaps better than in any other Middle East and North Africa (MENA) state following the Arab Spring, substantial challenges remain. Dr. Hanlon argues that the *raison d'être* of Ben Ali's security institutions was to protect the regime, not the population. The abuses of Tunisia's internal security institutions and the impunity with which they acted against ordinary citizens served as a catalyst for the protests that ended Ben Ali's rule. Reforming or otherwise dismantling this large and complex sector will be no easy task. The transition to democratic rule will require a fundamental reorientation of the mandate and institutional culture of the labyrinth of security institutions that constitute the Tunisian security sector. SSR will be critical for building trust in the government and its security institutions and central to the construct of a national narrative that undergirds a new social contract between the people of Tunisia and its government.

The Strategic Studies Institute is pleased to offer this monograph as part of the ongoing debate on the role of SSR in transforming the security sectors in the transitioning Arab Spring countries in accordance with democratic principles and the rule of law.



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QUERINE HANLON is the National Defense University Senior Fellow at the United States Institute of Peace (USIP). Dr. Hanlon is currently on sabbatical from her appointment as Dean of Academic Affairs at the College of International Security Affairs, National Defense University (NDU). At USIP, Dr. Hanlon, with Dr. Richard Shultz of The Fletcher School, is conducting a major research project entitled, "Designing Security Sector Reform for the 21st Century." Dr. Hanlon is also working on security sector reform in North Africa and recently traveled to the region on a USIP engagement trip. At the National Defense University, Dr. Hanlon was instrumental in designing the College's post-September 9, 2011-focused security studies curriculum. During her tenure, she transformed the institution from a small University component to NDU's newest degree-granting college, and negotiated, funded, and implemented NDU's first satellite campus at the John F. Kennedy Special Warfare Center and School in Fort Bragg, NC. Dr. Hanlon also expanded the College's International Counterterrorism Fellowship Program, a partnership capacity-building program into NDU's largest international graduate program with over 400 graduates from 85 partner nations. Dr. Hanlon is Associate Professor at the College of International Security Affairs. Previously, Dr. Hanlon was also a nonresident Fellow at the National Strategy Information Center, participating in two key projects on "Adapting America's Security Paradigm to a New Era: Conflict, Coalitions, and Capabilities in the Contemporary Security Environment" (2008-10) and "Teaching About Armed Groups and Irregular Warfare" (2006-08).

Dr. Hanlon's recent publications include "Security Sector Reform in Tunisia: A Year After the Jasmine Revolution," USIP Special Report No. 304 (March 2012); *Adapting America's Security Paradigm and Security Agenda* (Washington, DC: National Strategy Information Center, 2011), with Roy Godson, Richard Shultz, and Samantha Ravich; "The Sources of Instability in the 21st Century," *Strategic Studies Quarterly*, Vol. 5, No. 2 (Summer 2011), with Richard Shultz, Roy Godson, and Samantha Ravich; *The Three Images of Ethnic War* (Praeger Security International, 2009); *Armed Groups and Irregular Warfare: Adapting Professional Military Education* (Washington, DC: National Strategy Information Center, 2009) with Roy Godson and Richard H. Shultz, Jr.; and "Globalization and the Transformation of Armed Groups," in *Armed Groups: Studies in National Security, Counterterrorism and Counterinsurgency*, Jeffrey Norwitz, ed. (Naval War College Press, 2008). Dr. Hanlon is a graduate of the Edmund A. Walsh School of Foreign Service, Georgetown University, and holds an M.A.L.D. and Ph.D. from The Fletcher School, Tufts University.

SUMMARY

In the year since the revolution, Tunisia has achieved what no other Arab Spring country has managed: peaceful transition to democratic rule through national elections widely viewed to be free and fair. The legacy of the previous regime, however, remains: a complete lack of transparency, no real parliamentary or government oversight, and largely unchanged rules of engagement and training. Tunisia's internal security services are feared by the population and are themselves fearful of fulfilling their basic policing tasks. The Tunisian Armed Forces clearly ascribe to the concept of civilian oversight of the military. Although they are currently fulfilling a number of internal security tasks, they have publicly stated their intention to return to the barracks when the police can resume responsibility for internal security. Security sector reform (SSR) will be critical for building trust in the new government and its security institutions. The *raison d'être* of Ben Ali's security institutions was to protect the regime, not the population. SSR is essential for reorienting the mandate and institutional culture of Tunisia's labyrinth of security institutions. Serious reform of the security sector is essential if Tunisia's transition to democratic rule is to succeed in the long term.

THE PROSPECTS FOR SECURITY SECTOR REFORM IN TUNISIA: A YEAR AFTER THE REVOLUTION

INTRODUCTION

Mohammed Bouazizi's altercation with a police-woman in the dusty town of Sidi Bouzid, Tunisia, on December 17, 2010, was ordinary in its arbitrariness, but extraordinary for what it sparked. After spitting in and slapping his face, a local policewoman confiscated Bouazizi's vegetable cart – and all its goods bought on credit – and in so doing threatened his livelihood and the sole means of support for his entire family. Bouazizi tried to appeal to the local municipal officials, but they refused to see him. With little education and no prospect of another job, the 26-year-old man set himself on fire in front of the municipal headquarters building.¹ He succumbed to his wounds in the hospital on January 4, 2011, 10 days before Tunisian President Zine El Abidine Ben Ali was forced to step down.

Bouazizi's tragic protest struck a chord of discontent and frustration that sparked public demonstrations throughout Tunisia. The initial demonstrations took place on the day of Bouazizi's self-immolation in Sidi Bouzid and by late December had spread to the nearby cities of Kasserine and Thala. On January 12, demonstrations began in the capital of Tunis. What had begun as an outpouring of frustration and protest over poor economic conditions, and particularly high youth unemployment, rapidly escalated into an unprecedented challenge to Ben Ali's 23-year rule.

The internal security services – the police and the National Guard – responded in force. While some

protests were largely peaceful, others turned violent. Police opened fire on crowds and arrested protestors, journalists and opposition party members, lawyers, and rights advocates. But the police response failed to quell the protests. On January 13, Ben Ali made a last-ditch attempt to save his rule. On national television, he pledged to step down when his term ended in 2014, offered new parliamentary elections, and vowed to end state censorship. But with the carrot came the stick. He deployed the military to buttress the internal security forces and, on January 14, declared a state of emergency that prohibited gatherings of more than three people and authorized the use of force against any individuals who ignored the ban.

Then General Rachid Ammar, Chief of Staff of the Army, struck a mortal blow. He said “No.” The military’s refusal to fire on the demonstrators left Ben Ali with no means to quash the demonstrators forcibly, and he fled to Saudi Arabia that same day.² In the immediate aftermath of his departure, there were numerous reports of violence between the security services and rogue elements. Elsewhere the police fled, and the Army was deployed to maintain order on the streets – assuming the internal security tasks of securing the population, manning checkpoints, and protecting strategic sites and public buildings.³ Unlike the case of Egypt, however, the Tunisian military chose to stay at the critical margins. In a rare public address on January 24, General Ammar promised to uphold Tunisia’s revolution and to guarantee stability until elections were held.⁴ The military’s critical decision to eschew an overtly political role in the transition left the task of creating a new political order to the civilian bureaucracy, nascent political parties, and civil society groups.

Tunisia's new government faces major challenges to dismantle Ben Ali's security regime and to ensure the transition to democratic rule with civilian oversight over the instruments of force. The abuses of Tunisia's internal security institutions and the impunity with which they acted against ordinary citizens served as a catalyst for the protests that ended Ben Ali's rule. Reforming or otherwise dismantling this large and complex sector will be no easy task. But it is an essential component of constructing a new social contract in Tunisia.

WHY SECURITY SECTOR REFORM?

Security sector reform (SSR) is a comprehensive tool for fixing the dysfunctional security sectors in fragile states that are emerging from conflict, developing capacities to meet the human security needs of their populations, or transitioning from authoritarian rule.⁵ SSR is also an important tool for the prevention of conflict. In many fragile states, the security institutions are themselves a major source of insecurity. Transforming the security sector into one that is democratically accountable and functions in accordance with the rule of law is an important step toward averting the recurrence of insecurity and conflict and preventing newly democratic or transitioning regimes from reverting to authoritarian rule.

The SSR agenda is an ambitious one. SSR aims to address a range of security-related challenges. These include: 1) the lack of statutory security providers due to inadequate institutions, poor training, or corruption; 2) the presence of armed nonstate actors, gangs, and other nonstatutory security providers; 3) the absence of legitimate and effective formal or informal

justice institutions; and 4) the lack of effective, transparent governance of the security sector. Yet, how these challenges present themselves in a particular fragile state will vary according to legacies of conflict; tribal, ethnic, or religious patterns; systems of government; colonial legacies; the level of economic development; environmental conditions; the vibrancy of civil society; and transnational influences, to name but a few. In other words, there is no formula for SSR that will be applicable to all states.

Tunisia is well positioned to undertake SSR. With a small territory and relatively homogeneous population, Tunisia features a large and educated middle class, a liberalized economy, a youth bulge that is diminishing, and a history of encouraging socio-economic freedoms, particularly for women.⁶ For example, Tunisian election law mandates that party lists be comprised equally of both male and female candidates. Twenty-seven percent of the members of the National Constituent Assembly are women. Women serve in the military and constitute more than 50 percent of university students. Additionally, despite the significant constraints on speech and protest, Tunisia under Ben Ali featured both legal and illegal opposition parties, and a range of civil society groups that engaged in muted opposition to the government.

Tunisia has a vibrant legal community, a bar association, a lawyers union, and civil society groups, many of which were active even under Ben Ali. Civil society activists under Ben Ali were able to monitor the government's activities through the publication of laws and amendments, as well as appointments. Tunisia also has a well-developed legal code that, in principle, proscribes the functions of the government. There are 1,700 laws and amendments that govern the

security sector alone (there is no legislation governing the intelligence sector). Although the extent to which these laws are still in effect is as yet unclear, they do provide a foundation on which to reform the security sector and its oversight mechanisms.

Tunisia also has significant security capacity. Although the country is small in size relative to other Middle East and North Africa (MENA) states, its armed forces have ably filled the vacuum created by the collapse of Ben Ali's security apparatus and the defections of police throughout the country. While providing internal security, the armed forces have also secured the maritime and land borders, countered cross-border incursions from Libyan armed groups, and established five refugee camps for 1.6 million refugees, mostly from sub-Saharan Africa, fleeing the violence in Libya.⁷ The armed forces clearly ascribe to the concept of civilian oversight of the military, and although they are currently fulfilling a number of internal security tasks, they have publicly, and repeatedly, stated their intention to return to the barracks when the police can again fulfill their security functions.

One of the most striking features in Tunisian society, even a year after the revolution, is the veritable explosion of public discourse and debate. As one senior military officer noted, Tunisians "never used to talk about politics. Now we talk about politics all the time. We have so much freedom now. We almost don't know what to do with it."⁸ Every evening, Tunisia's three television stations devote their evening programming to debates on every subject imaginable. Recently, for example, a long debate between the President of the Tunisian League for Human Rights and a salafist student addressed the right to wear the *niqab* (the Muslim face veil for women) at school. "Tunisia has become a debating society," Radwan Masmoudi,

Director of the Center for the Study of Islam and Democracy, observed.⁹

Another metric of change is the number of political parties. Under Ben Ali there were five official political parties. During the October 2011 election, there were 111. A civil society activist told us that “all Tunisians are learning what democracy is and how it really works. We don’t really have political parties, and the parties we have don’t really know yet how to act like parties or what role they should play in the opposition.”¹⁰ Yet, these parties competed for seats in the National Constituent Assembly in Tunisia’s first post-revolutionary elections, which were widely heralded to be free and fair.

Civil society has also burgeoned. Some 2,000 new civil society groups have emerged in Tunisia since the revolution. Although many of these groups are still virtual, they are pushing for a voice in the Tunisian transition—demanding transparency, and fueling the Tunisian “debating society,” particularly among Tunisian youth. According to Omar Mestiri, director of Radio Kalima, “post-revolutionary media is now delivering journalist materials more representative of Tunisian society. Now, there is more space for different opinions and dialogue.”¹¹ In the year since the fall of Ben Ali’s regime, Tunisia gained four new cable channels, 12 radio stations, and 18 newspapers.¹²

Although the prospects for SSR in Tunisia are perhaps better than in any other MENA state following the Arab Spring, substantial challenges remain.¹³ The *raison d’être* of Ben Ali’s security institutions was to protect the regime, not the population. The transition to democratic rule will require a fundamental reorientation of the mandate and institutional culture of the labyrinth of security institutions that constitute the

Tunisian security sector. SSR will be critical for building trust in the government and its security institutions and central to the construct of a national narrative that undergirds a new social contract between the people of Tunisia and its government.

MAPPING TUNISIA'S SECURITY SECTOR

What are the prospects for SSR in Tunisia? What progress has been made in the year since the fall of the Ben Ali regime? What gaps remain, and how best can these gaps be addressed? To answer these questions, we will map the security sector in Tunisia, assess the status of reform efforts currently underway, if any, and identify gaps. Four categories of actors, institutions, and functions comprise Tunisia's security sector: (1) statutory security providers; (2) governance and democratic oversight; (3) justice and the rule of law; and (4) civil society. We will conclude by proposing additional steps that the Tunisian government and the international community can undertake to address those gaps, realize Tunisia's security sector transformation, and support the country's transition to democratic rule.

Statutory Security Providers.

Statutory security providers typically include all state institutions with a formal mandate to ensure the safety of the state and its citizens, such as the armed forces, police, gendarmerie, intelligence services, and border and customs guards. In Tunisia, the statutory security providers are part of the Ministry of National Defense (MOD) and the Ministry of Interior and Local Development (MOI). There are also forces assigned to

the Ministry of Justice (MOJ). The intelligence capabilities are assigned to the Ministries of Defense, Interior, and Foreign Affairs.

The Armed Forces. The Tunisian Armed Forces (*Forces Armees Tunisiens*) are small, well disciplined, and widely respected for their refusal to follow orders to use lethal force against their countrymen. Their inaction makes them stand out compared to the armed forces of other MENA nations. They are unique in the region for other reasons as well. The Tunisian military, unlike the armed forces of other MENA countries, is completely subordinate to the government and controlled by it. Consequently, the Tunisian armed forces never played a political role, nor did they legitimize the former regime.¹⁴ Additionally, Tunisia's armed forces are not economically invested in the old regime. Unlike the Egyptian military, Tunisia's armed forces did not receive any special compensation or material advantages for their service to the state.¹⁵

In discussions with senior members of the armed forces, they openly admit that in Ben Ali's hierarchy of security institutions, they were at the bottom. "We were always last," noted one senior officer. "The regime did not like us," another noted. Indeed, in my conversations with military officers, it became clear that the military's distance from the regime was deliberately created by President Bourguiba, Tunisia's founding president, who feared a possible coup and sought to institutionalize the military's distance from the center of power.¹⁶ Ben Ali, who was himself a former Interior Minister, continued this policy, while buttressing the capabilities and size of the MOI security forces.

Both Bourguiba and Ben Ali kept the armed forces deliberately out of the center of power. Conscript-

filled military ranks were deployed to less-populated regions of the country to do public works projects. Deployments were chiefly for peacekeeping missions in Africa, which kept the armed forces engaged elsewhere. A generation of officers was educated in the war colleges and command and staff colleges in the United States through International Military Education and Training (IMET) and the Counterterrorism Fellowship Program (CTFP). The military was kept small, numbering between 40,000 and 43,000 forces.

The Tunisian Armed Forces include the Army, Navy, and the Air Force. The Army numbers only 27,000 soldiers, and the Navy has no deep-water ships. The Air Force has less than 20 working helicopters and only 20 combat capable aircraft.¹⁷ Yet, the Army's participation in United Nations (UN) peacekeeping missions gave it the essential experience to fill the void left by the security forces as Ben Ali's government collapsed. The armed forces quickly moved to protect key infrastructure, restore law and order, and maintain security and stability. A year after the revolution, 18,000 soldiers continue to guard some 700 buildings and vital installations. In addition to assuming traditional internal security functions, the armed forces also face serious challenges along Tunisia's land and maritime borders. Some 1.6 million refugees from Libya's civil war, mostly from sub-Saharan Africa, crossed into Tunisia, and some 30,000 Tunisians fled to Lampedusa, an island off the coast of Italy.¹⁸

The stark contrast between the impunity of the internal security services and the measured restraint of the armed forces is reflected in how the two organizations are publicly viewed. Whereas the security forces are reviled and hated, the armed forces are viewed as belonging to the people. "The Army is one of us!" has been a rallying cry at demonstrations.

Compared to those of other MENA nations, the Tunisian Armed Forces were also funded at much lower levels in both absolute and relative terms as a percentage of gross domestic product (GDP). For example, in 2009, Tunisian military expenditures were 1.2 percent of GDP, whereas Libya and Egypt's military spending was 2.8 percent and 3.3 percent, respectively.¹⁹ Ministry officials noted that both Bourguiba and Ben Ali had kept the military's capabilities small, but "sufficient for our mission."

A year after the revolution, this assessment remains unchanged. Ministry officials rank the priorities of the Tunisian government to be economic, with national security – particularly the control of borders – as subordinate. When asked whether the Tunisian military has sufficient equipment to accomplish its expanded mission since the revolution, the response was a surprising affirmative. "We have the manpower we need. We managed to go through the revolution and do all that we do with what we have. . . . We do not need expensive weapons or aircraft – perhaps only helicopters."²⁰

In a formal ministry briefing, senior military officers noted that "the reform of the defense and the security sector requires a political system based on good governance." In addition to a commitment to transparency, officials noted that the Army must be open to different political and social actors, and that its budgets must be available for public scrutiny. "The term 'classified' or 'top secret' must not constitute, under any condition, an obstacle to the transparency of the defense budget." They also embraced the concept of democratic oversight, noting that it is "imperative" that there be parliamentary oversight of reforms of the Ministry and of the progress of those reforms.²¹

In minimizing and sidelining the military, Ben Ali created a professional, apolitical institution that was little known—and little feared. Before General Ammar emerged a national hero, he was an unknown. Yet, his actions propelled the Tunisian Armed Forces to a position of preeminence—the institution that protected the Tunisian state and the Tunisian people, not the corrupt regime. Having expressed a preference for the barracks over politics, the armed forces emerged as one of the only respected institutions of the previous regime.

The unique attributes of the Tunisian Armed Forces—its credibility, commitment to assuming its traditional functions, and its skill and willingness to assume an internal peacekeeping mission—suggest that the scope for reform of the military is very small. There will be challenges adjusting to a democratic system of governance and parliamentary oversight. Yet, the need for oversight is recognized and welcomed by the senior officers we spoke to as being essential to democratic governance. Another task will be a strategic one—military officers are keen to engage in the drafting of national strategies now that the exercise is no longer top down by fiat. Indeed, senior military officers seek to expand their role as subject matter experts and to support civilian decisionmakers in the ministry, as their counterparts do in most democratic nations. The armed forces appear well poised to tackle these tasks.

One senior military officer observed that the reform of any one ministry is closely tied to the reform of other ministries, and that the reform of the Ministry of Interior will be critical for determining how quickly the armed forces can cease conducting internal security functions. But until the legitimacy and capacity of

the MOI is addressed and improved, the armed forces will likely continue to provide an internal security function, although increasingly in a supporting role.

The Internal Security Forces. As much as the armed forces are admired as the heroes of the revolution, the police are widely reviled for keeping Ben Ali and his family in power, for imprisoning and torturing Tunisians who ran afoul of that regime, and for shooting civilians during the protests. During a recent visit, I was told that the unpopularity of particular ministries can be measured by the amount of barbed wire around their buildings. A year after the fall of Ben Ali, the MOI was still surrounded by concertina wire a few layers deep – more to protect those inside than to barricade the ministry. Army tanks also stood guard. The impression was of a ministry under siege.

The internal security forces controlled by the MOI include the police, the National Guard, the Judicial Police (which operates in the Ministry of Justice and the courts, but is controlled by the Ministry of Interior), the Intervention Forces (Special Weapons and Tactics [SWAT] forces), and the Presidential Guard Forces. The internal security forces are almost byzantine in their complexity, and the organizational chart of the MOI remains classified, which complicates the task of mapping the internal security structures controlled by the MOI, as well as the oversight mechanisms within the Ministry.

It is also difficult to establish the size of the security forces. There are no officially published statistics, and the ministry website offers no details – it is the only ministry on the Tunisian government website with an empty tab. Media reports have estimated the security forces to number from 150,000 to 200,000, although subsequent ministry announcements acknowledged that those numbers were deliberately inflated. Actual

internal security forces are estimated to number between 40,000 and 80,000, approximately half of which are part-time augmentation forces or paid informants. The higher figure accords with the ministry payroll.²² According to Mohammad Lazhar Akremi, the Minister Delegate to the Minister of Interior in Charge of Reforms under the previous transitional government, internal security forces (police, National Guard, and civil defense forces) numbered 49,000 before the overthrow of the Ben Ali regime. The police subsequently recruited an additional 12,000 forces, bringing the total to 61,000.²³ New recruits were needed to inject new untainted officers into the force, to manage the rise in crime, weapons, and drug trafficking, and to replace the forces that had disappeared after the fall of the regime. However, the training program for these new recruits has not been reformed.

The police include both the regular police and the political police, which were reportedly disbanded during the transitional government of Beji Caid Essebsi in March 2011. The political police were fully integrated with the regular police, but operated under a parallel hierarchy. The political police maintain the secret files; two copies of each are currently kept at the Ministry of Interior, where ministry officials claim they are safe. However, individuals who have left the police or the MOI have reported that files have been burned. Tunisian law currently prohibits publication of these files for 50 years. Although not as extensive as the files of some other totalitarian regimes, they contain a great deal of potentially damaging and possibly false information. Who actually controls the files is unclear.²⁴ The release on January 18, 2012, of a video on YouTube and Facebook depicting the newly appointed Minister of Interior, Ali Laarayedh, reportedly engaged in

a sexual act in a prison cell suggests that it is not the Minister of Interior who controls the files.²⁵

Whereas the police operate mostly in urban areas, the National Guard operates in the coastal and rural areas where the revolution began. Described as a paramilitary organization or a gendarmerie, the National Guard numbers approximately 12,000. National Guard forces man checkpoints, and there is a small fleet of patrol boats for customs and border protection operations. The Guard reportedly also has a counterterrorism capability consisting of the National Guard Commando Group, the National Guard Special Unit, and the Tunisian Anti-Terrorism Brigade.²⁶

The Judicial Police are part of the Ministry of Interior but work within the Judiciary. They are the investigative arm of the internal security forces with responsibility for collecting evidence, conducting investigations, and writing the formal reports of the investigations for cases before the courts. The Judicial Police do not have the tools to do professional investigations. According to Judiciary lawyers, the Judicial Police do not have the capacity for fingerprinting, DNA testing, or other means of collecting evidence. Their investigations rely solely on confession. The confession becomes the basis for the investigation report, which is the sole means by which evidence is submitted in the court before the judge. Under the Ben Ali regime, the Judicial Police used violence and torture during their interrogations, both to extract confessions and to force the accused to sign the confessions. There is no provision for the presence of legal counsel from the moment of arrest to the conclusion of the investigation.²⁷

The Presidential Guard Forces (PGF) are also part of the Ministry of Interior. There are no reliable estimates or officially published records to determine the

size of the PGF. Their principle duty was to protect the President and his family. During the demonstrations in January 2011, the Presidential Guard reportedly fired on demonstrators and battled the Tunisian armed forces.²⁸ The testimony of Ali Seriati, the former Presidential Security Chief, during the trial for his role in the deaths of protesters, revealed that the PGF had not only snipers but also water cannons and other crowd-suppression capabilities.²⁹ This suggests that the PFG's mandate under Ben Ali was quite broad.

A strong current in Tunisian society seeks justice, if not revenge. Many police fled as the government collapsed, and others have remained in their homes or elsewhere with family, fearing that there will be retribution for their roles both before and during the revolution. Some 250-300 police stations were burned, and in several towns in the interior of Tunisia, the attacks took a more personal turn with the burning of policemen's homes.

The police are fearful that they will be targeted for revenge or prosecuted for their roles in Ben Ali's security apparatus. This fear has limited their ability to perform normal police functions. The sudden reversal from a position of power and respect to one of weakness and derision has generated frustration, fear, and anger. Police syndicates have organized strikes to draw attention to their plight and to call for improved working conditions and government protection while on duty.³⁰ These strikes have sparked large counterdemonstrations with protestors shouting, "Go Back to Work," and carrying placards with slogans like "People Want to Purge the Ministry of Interior."³¹ Adel Jebali, a member of the National Union for Security Forces, one of the police syndicates, noted that "people perceive us to be criminals."³²

Tunisia has a great deal of police capacity. Senior officers are often highly educated, and many have attended police training academies in Europe. Educational standards are also quite high for entrance into the police force. Police currently are educated alongside military officers at the military academy, although there is a proposal to create a separate police academy. There is also a solid police infrastructure (e.g., police stations, communications equipment, vehicles, and uniforms). Training is standardized, and even Rules of Engagement have been established. The problem is that all of these remain largely unchanged from the Ben Ali regime. Under Ben Ali, the police were responsible for serious human rights violations, including illegal and arbitrary arrests, torture, and extrajudicial executions. According to a National Guard officer, “The competence was there, but the climate was terrible.”³³

The current Minister of Interior, Ali Laarayedh, was himself tortured during the 16 years he was jailed by the Ben Ali regime. He is an interesting choice for the Interior Ministry – one that the previously banned Ennahda Party was at first hesitant to fill. After Ennahda won a plurality in the national elections and began selecting cabinet members, some of the party leadership were concerned that the appointment of an interior minister from Ennahda would generate the perception that the party was intent on revenge. The party leadership was wary of a potential misstep that could fuel further fear, particularly within the ministry and among its personnel. But in the run-up to the October elections, two senior members of Ennahda, both of whom had been imprisoned and tortured under Ben Ali, were invited to a meeting with interior ministry officials and the leaders of the two police

syndicates. The meeting had been arranged by the syndicates, and the request was made that Ennahda fill the position of the new Minister of Interior after the elections.

This first meeting was followed by others, and the two senior leaders began to engage regularly with the syndicates. In a conversation over Ennahda's intentions, the two Ennahda leaders reassured the attendees, telling them that despite being among the worst tortured members of the Ennahda party, "We do not hold it against you. We need reform," they told their audience. "We need to turn the page and look to the future." One of the Ennahda leaders recognized the man who had tortured him in the audience. This man asked his former victim, "Do you hate us?" The Ennahda leader said, "No. You were a screw within the engine. If it wasn't you, it would have been someone else."

In relating this story, the Ennahda leader emphasized that the party would "never allow anyone to pursue revenge." Moved to tears, he added, "I do not want compensation for my suffering. . . . The only thing that will save me is to see my country the way I want. It would be a gross mistake if we fail to deliver an inclusive system for everyone."³⁴

There are positive indications that reform of the interior ministry has been a priority for Tunisia's transitional governments. In May 2011, the MOI reached out to the Geneva Center for the Democratic Control of the Armed Forces (DCAF) to undertake a preliminary study of the Ministry's communication with the public. The Communication Review, released in September 2011, offers a series of recommendations intended to "restore confidence between citizens and security forces."³⁵ In November, 2011, *Le Labo' Démocratique*, a

civil society group, together with DCAF, organized an international conferences on the archives of the secret police to help the MOI explore how best to manage the archives and how to establish parliamentary control over MOI intelligence capabilities.³⁶

The most comprehensive plan for reform of Tunisia's security sector is the Ministry of Interior white paper, entitled "Security and Development: A White Paper for Democratic Security in Tunisia."³⁷ The report was released by Tunisia's interim President, Foued Mebazaa, and Akremi. Akremi was nominated to the ministry in July 2011 to lead the reform effort and was charged by the Minister of the Interior, Habib El Essid, to draft a white paper with proposals for reform that would be specifically targeted to the needs of Tunisia. Akremi called upon experts throughout the ministry and from France, Spain, and Switzerland to participate in drafting the proposal, and the draft white paper was submitted for review to a seminar in September 2011.³⁸ The final document contains their critiques.³⁹

According to the white paper, the proposed reform of the Tunisian security sector "can be summarized as moving from a police order to a police service that can respond urgently to the new challenges of crime." To achieve this objective, "all the levers of modernization should be mobilized at the same time: reconciliation of the National Police and the National Guard, redistribution of responsibilities between municipalities and the state security services, and implementation of local security, modernization of human resource management, optimization and sharing of material, and finally, citizen control."⁴⁰

The report recognizes and addresses many of the key issues for reform of the MOI. The opacity of the

ministry with regard to its labyrinth security structures and actors is addressed through a reorganization of the security services into three bodies—the National Guard, the National Police, and Civil Protection—and the merger of civilian and uniformed National Police.⁴¹ Recruitment and training are treated extensively in a separate chapter, which recommends the creation of a Tunisian police academy, new salary hierarchies and career management mechanisms, and an overall emphasis on professionalism and ethics in recruitment, training, and advancement. Another chapter is devoted to the public image of the security services.

The report notes that no communication plan alone can change a “bad image.” The MOI’s image will only transform “when the professional practices of all its agents are transformed.”⁴² Mechanisms to accomplish this transformation include not only new uniforms and open reception areas in police stations and guard bureaus, but also new codes of conduct and greater police transparency.⁴³ Notable are the calls for reforms of policy custody practices, police intelligence, and techniques for video surveillance and electronic monitoring, and the banning of imprisonment for religious or political ideas.

Currently, the white paper constitutes the only sector-wide roadmap for reforming Tunisia’s security sector. It clearly acknowledges and addresses the critical challenges in transforming the institution and culture of the MOI. Although the report was prepared by the previous transitional government as an MOI input for the work of the Constituent Assembly, it appears unlikely that the new government will adopt its assessment and recommendations. When asked about the utility of the white paper as a roadmap for reform,

members of the Ennahda political bureau acknowledged that although the report contains useful suggestions, it is a product of the “old regime.” Ennahda seeks to draw upon the expertise of a wide and inclusive group of experts, including not only Italian and French, but also British, American, Swiss, and South African, to develop a new SSR plan. Ennahda emphasized the importance of the inclusion of Tunisian experts because the model developed must ultimately meet “their aspirations.”⁴⁴

Intelligence Agencies. The Intelligence Agency is part of the Ministry of Interior, although there are also intelligence functions in the Ministry of Defense and the Ministry of Foreign Affairs. Information on the intelligence community is not widely available. The white paper, however, devotes a final chapter to intelligence reform. The report cautions that failure to reform the intelligence function will leave “a small minority of decision makers” with a monopoly of “the power of knowledge.”⁴⁵ To guard against this situation, the paper recommends creating a National Intelligence Agency with clearly defined objectives and a legal framework under which to operate. The proposed agency would also be subject to strict controls at two levels—ministry control and parliamentary control.⁴⁶ Personnel would include both military and civilians. Domestic intelligence collection would be prohibited.⁴⁷ The Intelligence Agency would be removed from the MOI and report directly to the president of the republic.⁴⁸

The Intelligence Agency would also have a coordinating function. The white paper proposes that the agency coordinate collection and analysis for a National Intelligence Council. This council would be chaired by a head of state or head of government as

determined by the future constitution and would include two members of the National Assembly.⁴⁹ The white paper also recommends creating a parliamentary committee in the National Assembly that would include a few members with special clearances who would exercise oversight of the agency's activities and its budget. Two parliamentary committee members would also serve on the National Intelligence Council.⁵⁰

There are currently no laws governing the intelligence sector.⁵¹ A sound legal framework is a precondition for effective, efficient, and accountable security governance, particularly over the intelligence sector. Tunisia will need a legal framework that defines the roles and missions, the intelligence institutions and functions, and the prerogatives and limits of the intelligence organizations and their members.⁵² Equally important will be undertaking reforms with enough transparency to build public trust and confidence in a function intimately tied to the abuses of the previous regime.

Governance and Democratic Oversight.

The second key piece of Tunisia's security sector is governance and democratic oversight. These are found in the executive functions of Tunisia's transition governments, the Ministries of Defense and Interior, the three national commissions, and the National Constituent Assembly—the democratically elected parliamentary body with a mandate to draft a new constitution for the Republic of Tunisia.

The First Transition Government, January 17-February 27, 2011. The first transition government was created in the immediate aftermath of Ben Ali's departure. On

January 17, 2011, Prime Minister Mohammad Ghannouchi named a new interim unity government. The 19 ministers included six members of Ben Ali's cabinet – including the three critical Defense, Interior and Foreign Affairs Ministries – three opposition leaders, and 10 independents. The interim government sought to begin crafting a new narrative contrasting it with its predecessors. In addition to including opposition members in the government, promises were made to free political prisoners and to include international monitors at the upcoming elections; furthermore, political groups, including Islamist parties, were granted amnesty. The transition government also created three national commissions, which began work on January 19, 2011. (These will be discussed in further detail below). However, the participation of Ben Ali loyalists sparked a new round of violent protests. Five ministers defected from the interim government soon after it was formed, and Ghannouchi replaced the Ministers of Interior, Defense, and Foreign Affairs. Finally, as protests continued to mount, Ghannouchi himself resigned on February 27, 2011, and Beji Caid Essebsi, a former foreign minister under Bourguiba, became the new Prime Minister.⁵³

The Second Transition Government, February 27-December 24, 2011. The second transition government under Beji Caid Essebsi sought to address protestors' demands, particularly the charge that the dismantling of Ben Ali's security establishment was not moving apace. He appointed a new cabinet largely comprised of technocrats who had not served under Ben Ali's government. The new government announced the dissolution of Ben Ali's political police and his ruling party, the *Rassemblement Constitutionnel Démocratique* (RCD), in March 2011.⁵⁴ Despite progress, antigov-

ernment protests and violent street battles in Tunis reflected a deep-seated dissatisfaction with the pace of change and fear that the new government would revert to autocratic rule.

Yet, in the midst of ongoing protests, the second interim government made two critical decisions: first, to place constitutional reform ahead of elections; and second, to delay the elections for a National Constituent Assembly from July to October 2011. The first decision ensured that the old constitution, which privileged the RCD and thus made free and fair elections virtually impossible, would not return the old ruling party or Ben Ali's political establishment to power. The second delayed the transitional period, so that reformist and opposition parties would be afforded the opportunity to compete and to shape the drafting of a new constitution for Tunisia.⁵⁵

More than 90 percent of registered Tunisian citizens participated in what was Tunisia's first truly competitive election since it declared independence from France in 1956.⁵⁶ The previously banned Islamist Ennahda Party won a plurality of 89 of the 217 seats in the National Constituent Assembly.⁵⁷

The Caretaker Government, December 23, 2011-present. The Ennahda Party combined with the secular Congress for the Republic Party and the left Ettakatol Party to form a caretaker government to run the country during the year-long period in which the Assembly is charged with drafting a new constitution.⁵⁸ Hamadi Jebali, Ennahda's secretary general, is the new Prime Minister, and Moncef Marzouki, head of the Congress for the Republic, holds the largely ceremonial post of Tunisian President. At its first meeting, the Assembly confirmed the selection of Mustafa Ben Jaafar, leader of the Ettakatol party, as speaker of the new assembly.

The new Prime Minister, Hamadi Jebali, proposed a cabinet, which was approved on December 23, 2011. Only the Minister of Defense, Abdelkarim Zbidi, remained unchanged from the previous cabinet.

The Constituent Assembly approved Tunisia's new government but did not stipulate when the government's mandate would end. Given the 1-year mandate for the drafting of the constitution, the assumption was that elections would shortly follow completion of the constitution in late 2012 or early 2013. But in February 2012, Prime Minister Jebali announced that elections would not be held until August 2013.⁵⁹ One month later, Jebali announced that elections would be held no later than June 2013, and preferably on April 9, Tunisia Martyr's Day.⁶⁰ The delays may simply reflect the government's recognition that drafting a new constitution in only a year is not feasible (in South Africa, the new constitution was drafted in 2 years). However, civil society groups and opposition parties have expressed concern over the government's open mandate. Former Prime Minister Beji Caïd Essebsi has called for the National Constituent Assembly to respect the mandate to draft the constitution and prepare for elections within a period not exceeding October 23, 2012.

The Ministry of Defense. Civilian oversight and governance of the Tunisian Armed Forces are assigned to the Tunisian MOD, led by a civilian Minister of Defense. The MOD is an almost entirely civilian organization. It has primary responsibility for the implementation of policy decisions regarding the uniformed services. The Chief of Staff of the Armed Forces is the principle advisor to the Minister. The Chiefs of Staff of each of the three services—Army, Air Force, and Navy—command each of their respective services but do not serve on a unified general staff. Coordination

among the services is the responsibility of the Chief of Staff of the Armed Forces.

The Ministry of Defense is comprised of the Ministerial Cabinet, the Chief of Staff of the Armed Forces, and the National Defense Institute, the senior military defense university. The MOD oversees seven directorates for military justice, general conscription and mobilization, central administration, personnel and training, information and culture, military health, and the "National Military Mutuality," as well as the High Committee of the Armed Forces, "specialized instruments," technical departments, and military schools.⁶¹

The Minister of Defense's specific authorities are defined by a 1975 Presidential Decree, which specifies that the Minister of Defense serves the President of the Republic, who is the Supreme Commander of the Armed Forces. The Minister of Defense has the task of ensuring the security and integrity of national territory and the protection of people's lives.

As in the case of the armed forces, the scope of reform of the MOD is quite small. The Ministry will need to adjust to a democratic system of governance that will likely involve regular review and oversight by parliamentary committees of the MOD and its budget. This will require institutionalizing a culture of oversight and adjusting processes and procedures to accommodate external review. Yet, the need for oversight is recognized and welcomed by the Ministry, suggesting that the MOD will not resist these changes. Another likely reform will involve the inclusion of both civilians and military officers in the drafting of national strategies and strategic planning, a role that military officers did not fulfill in the Ben Ali regime. Senior military officers are keen to fill the role of subject matter experts and to support civilian

decisionmakers, as their counterparts do in most democratic nations.

The Ministry of Interior. The Ministry of Interior is the proverbial black box of Tunisia's security sector. Successful SSR in Tunisia will ultimately hinge on the establishment of real, democratically elected, civilian oversight of the MOI. Tunisian human rights activists characterize the current relationship between Minister of Interior Laarayedh and his Ministry as "a war."⁶²

The standoff between the Minister of Interior and the director of one of the ministry's subordinate security forces in January 2012 dramatically underscores this point. Laarayedh sought to remove Monsef Al Ajimi, the Director of the Intervention Forces, from his post. Ajimi had been formally accused of firing on crowds in Thala during the revolution. But Ajimi had the loyalty of some 12,000 police from the Bouchoucha Barracks, who physically blocked access to the accused director and then organized a strike in protest of his attempted removal. Across Tunis, key installations were left with no Tunisian security presence, including the embassies. One of the police unions intervened, persuading the strikers that their interests were not being served by supporting a senior member of the Ben Ali security apparatus—a man who had fired on the people. The courts have not yet ruled on the case, and although the strikes ceased, the Minister of Interior was forced to move the accused director to a consultant position elsewhere in the ministry.

Both the video release and the thwarted attempt to fire the Director of the Intervention Forces suggest that Laarayedh's authority over the ministry—and thus, the authority of the civilian transition government approved by the nationally elected Constituent Assembly—is quite limited. It also suggests that

ministry officials are likely to resist efforts to reform the Ministry, and, as the incident of the Intervention Forces suggests, that they have the capacity and the resources to do so. According to a legal activist engaged in promoting security sector reform, "Senior officers in the MOI do not have the intention to do reform. Those senior officers are not collaborating with the new government. They are resisting any reform and are seeking to protect their interests, their positions, and themselves."⁶³

Three National Commissions. The three commissions created within days of Ben Ali's overthrow constitute another important element through which civilian authority over Tunisia's transition to democratic rule is exercised. The three commissions are the National Commission to Investigate Violence During the Riots, headed by Tawfik Bouderbala; the National Commission to Investigate Corruption, headed by Abdelfattah Amor; and the High Commission for the Fulfillment of Revolutionary Goals, Political Reform, and Democratic Transition, headed by Iyadh Ben Achour.

The most important of these three commissions is the High Commission for the Fulfillment of Revolutionary Goals, Political Reform, and Democratic Transition, headed by Ben Achour. Also known as the Ben Achour Commission, it includes 154 technical experts, legal advisors, and members of Tunisia's political parties and civil society. According to Albert Stepan, "This Commission is one of the most successful and consensual organizations in the history of crafting a democratic transition."⁶⁴

The Ben Achour Commission began work on January 19, only days after the fall of the Ben Ali regime. On April 11, 2011, members of the Commission approved a number of documents that defined the post-Ben Ali

transition to democratic rule, each of which was subsequently implemented. First was the decision to create a Constituent Assembly to produce a new constitution and to hold Tunisia's first elections for seats in this assembly. Second, the Commission agreed that the Constituent Assembly would appoint a government and that this government would be responsible to the Constituent Assembly. Third, the Commission adopted a proportional representation electoral system and required that party lists contain alternating male and female candidates. Fourth, the commission invited international observers to monitor the elections and created an independent electoral commission by moving the *Instance Supérieure Indépendante pour les Élections* (ISIE) out of the Ministry of Interior. Finally, the Commission agreed to dissolve the RCD and ban some of its leaders from participation in the elections for the Constituent Assembly. Other party members, however, were permitted to form new parties and to participate in the election.⁶⁵

The commission appointed two other national commissions to respond to civil society demands for transparency and justice. The National Commission to Investigate Violence During the Riots was headed by Tawfik Bouderbala, the former president of the Tunisian Human Rights League. The Commission was quickly overwhelmed with claims, even though the Commission is limited only to the 2-to-3-month time frame of the demonstrations immediately before and during the revolution. The second commission, the National Commission to Investigate Corruption, was headed by Abdel Fattah, a Special Rapporteur for the former UN Human Rights Committee and a political science professor.⁶⁶ All three commissions are currently at a standstill. The chair of the corruption committee

died from an apparent heart attack, and the other two commissions are awaiting guidance from the Constituent Assembly and the transitional government. The National Commission to Investigate Violence During the Riots will reportedly release its findings in late-spring 2012.⁶⁷

The National Constituent Assembly. During the transitional period, the 217-seat National Constituent Assembly is Tunisia's legislative body. It has a clear mandate to draft a new constitution for Tunisia during 2012. What is less clear is the interim government's mandate for reform. Although the Constituent Assembly approved the caretaker government headed by Prime Minister Hemadi Jebali, this does not necessarily confer a mandate to reform the government or the security sector before the Constituent Assembly has drafted a new constitution and before elections for a new government are held at a yet-to-be-determined date in 2013.

The Constituent Assembly has made some progress. Its members adopted a "mini-constitution" in December 2011 that defines government and parliamentary authority until the new constitution is complete. In mid-January, members also approved internal by-laws to govern the constitution-drafting process.⁶⁸ Article 111 creates a commission to draft the constitution, and, on January 18, 2012, Ben Jaafar was appointed head of this commission. It coordinates the work of six other committees that will focus on: 1) introduction, basic principles, and constitutional review; 2) rights and freedoms; 3) legislative and executive powers, and relations between powers; 4) civil, administrative, financial and constitutional justice; 5) constitutional bodies, including all committees, focused on media pluralism, financial regulation, separation of politics

and religion, and law enforcement and security; and 6) local, regional and municipal issues.⁶⁹ Particularly encouraging was the adoption of transparency rules during the constitution-drafting process. According to Article 62, "Public information is the rule, secrecy is the exception. It is up for the members of the committee to decide [when exceptions will be made]."⁷⁰

Justice and the Rule of Law.

The third component of the Tunisian security sector consists of the justice functions as they relate to the security sector and the rule of law. This includes the Ministry of Justice and its prison regimes, the judiciary, and prosecution services.

The Ministry of Justice oversees the application of Tunisian law, including the offices of the regional and national judiciary and the administration of prisons and rehabilitation centers.⁷¹ According to a 1974 Presidential Decree, the Ministry of Justice is responsible for developing and implementing judicial policy; drafting legislation and commenting on draft legislation submitted by other ministries; drafting international conventions; organizing and inspecting judicial public services; and considering applications for pardon, parole, rehabilitation, and revision.⁷² Subsequently, with the inclusion of ministry oversight of the prison system and human rights, the ministry's functions also included the execution of sentences and the promotion of human rights.⁷³

The General Directorate of Prisons and Rehabilitation (GDSR), which oversees the Tunisian prison system, is one of the subordinate organizations of the Ministry of Justice.⁷⁴ Interestingly, it is currently being run by an Army Senior Colonel (one-star equivalent).⁷⁵

There are 35 confinement facilities under the GDSR, including one prison housing strictly women and seven juvenile detention and rehabilitation centers.⁷⁶ In February 2011, a general amnesty law authorized the release of 500 political prisoners.

The Tunisian Judiciary has three levels of regular courts – Cantonal, First Instance, and Appeals. At the apex is the Court of Cassation. At each level, the courts have sections for civil, commercial, criminal, social, and personal status cases (there are no specialized Sharia courts). The High Court, according to Article 68, meets for cases of high treason committed by a member of the government.⁷⁷

According to Article 65 of the Tunisian Constitution, “The judiciary is independent; the magistrates in the exercise of their functions are not subjected to any authority other than the law.”⁷⁸ In practice, however, the executive has almost exclusive control over the judiciary. The Tunisian president chairs the Superior Council of Magistrates (*Le Conseil supérieur de la magistrature*), which recommends judges (magistrates); the Tunisian president also appoints judges. The Minister of Justice also serves on the Superior Council, and the Ministry administers the judiciary and its budget and determines the number of judges needed and their assignments. Reportedly under Ben Ali, the Ministry even determined case assignments and intervened to ensure favorable rulings for members of the Ben Ali establishment.⁷⁹ The Minister of Justice can also transfer judges and prosecutors without their consent for punitive reasons or to intimidate. A recent European Union Justice Peer Review Report on Tunisia, published in December 2011, recommends “immediate steps” to restore public confidence in the justice system and the establishment of an independent and effective justice system founded on the principles of

judicial independence and the impartiality and irrevocability of judges and prosecutors.⁸⁰

The prosecution system in Tunisia is largely judicial, and prosecutors are comparable to judges. Trials are by judge, not jury. Prosecutors are part of the Ministry of Justice, although the Judicial Police, who conduct investigations and prepare the report for prosecution, are part of the Ministry of Interior. The Youth Lawyers Association and the Lawyers Union have proposed reforms of both the prosecutorial system and the role of the Judicial Police. One recommendation is to allow legal counsel to be present during interrogations conducted by the Judicial Police. In January 2012, association representatives met with the minister of justice, who reportedly told them that it was not possible to move away from an interrogation-based system. Reforming the prosecutorial system and the Judicial Police, as these groups proposed, would require training the police to conduct real investigations, transferring the Judicial Police to the MOJ and training lawyers to advocate for their clients during interrogation. The representatives concluded that the enormous institutional obstacles and time constraints limit the will to undertake serious political reform.⁸¹

The Lawyers Union and the Youth Lawyers Association are able to submit their proposed reforms to the Constituent Assembly, particularly on issues relating to judiciary reform and human rights laws. However, they noted that the Assembly has not yet begun work on these issues, since its focus has been on creating the bylaws to govern the work of the Assembly.⁸²

No equivalent white paper addresses the MOJ, but some efforts are under way to assess prospects for the reform of key subsectors. The number of active non-governmental organizations (NGO) and international

organizations (IO) efforts focused on justice sector reform suggests that the lack of a roadmap has not limited efforts. Indeed, the Ministry of Justice appears to be less of a black box than the MOI, although civil society groups such as the Tunisian Human Rights League question whether any of these efforts have produced meaningful reform.⁸³

One of the first groups to engage with the Ministry of Justice was the Geneva Center for the Democratic Control of the Armed Forces (DCAF). Discussions eventually produced an agreement in October 2011. The scope of the DCAF effort with regard to MOJ reforms includes institutional and legal reform of the penitentiary and re-education system as well as strengthening the capacity of the penitentiary and its personnel.⁸⁴ In late January, DCAF met with the Minister of Justice, Nouredine Bhiri, to discuss the implementation of the memorandum of understanding between the ministry and DCAF for prison reform.⁸⁵ The UN Development Program (UNDP) and the UN Office of the High Commissioner for Human Rights (OHCHR) are reportedly also engaged in training programs to support prison reform. The United States has also sought to engage on the issue of prison reform, but has not yet signed an agreement with the Tunisian government.

DCAF has also worked with the Ministry of Interior to collect and catalogue laws and amendments relating to the security sector. These texts have been uploaded to an electronic database, accessible in both Arabic and French, which was released to the MOI on January 26, 2012. The index includes legislation relating to the traditional security providers (the military and the police), the justice sector (the courts and prisons), as well as management and oversight of the se-

curity sector (government, ministries, parliament, and the courts). Legislation governing the work of political parties, the media, and NGOs was also included.⁸⁶ This single, easily accessible, and searchable resource for all laws and amendments pertaining to the security sector greatly enhances the transparency of the legal framework governing the security sector.

Another reform initiative that has garnered international engagement is the training of prosecutors. The UNDP-Tunisia has begun to develop a training program, and the American Bar Association (ABA) Rule of Law Initiative (ROLI) has also sought to offer training for young attorneys that focuses specifically on how to understand their role in a democratic society. Key issues include how to protect the rights of the accused and the political rights of the public.

The challenge of how best to resolve the issue of transitional justice is particularly pressing in Tunisia as public frustration with the apparent lack of progress has grown. While there is a strong impulse for revenge against those who were responsible for the human rights abuses of the Ben Ali regime, there is also widespread recognition that the numbers of individuals who were “tainted” by the Ben Ali regime are so large that the process of bringing them all to justice will likely stretch beyond the current 12-to-18-month transition process. Many acknowledge that amnesty is not politically possible, given the charged nature of the issue today, but people from across the political spectrum also agree that some form of amnesty will be necessary to prevent the construction of a post-Ben Ali Tunisia from being derailed. According to activists at the Tunisian Human Rights League, “Tunisia can’t have progress without some reconciliation with the old regime, but the people won’t support it.”⁸⁷

Ennahda clearly recognizes the importance of judicial accountability for the crimes of the Ben Ali regime and created a new position in Jebali's cabinet. The new Minister for Transitional Justice and Human Rights is Samir Dilou, a lawyer and member of the Executive Bureau of the Ennahda Party. Dilou is also an Ennahda deputy in the Constituent Assembly and the spokesperson for the Jebali government. Implementation of transitional justice is a key issue in the transitional government's agenda. Given the depth of the former regime's corruption and its influence within the judicial system, it remains a question whether justice can be achieved without first implementing extensive internal judicial reform.

A key issue is the corruption of the judicial system. Corruption was rampant, particularly in the last five years of Ben Ali's regime. As one activist noted, "He fell so quickly because not a single family was untouched by the corruption." The corruption extended across the government, not just in the Ministries of Justice and Interior, but also in the Ministries of Agriculture, Government Property, Commerce, and Industry, to name a few. "At the end," the activist added, "everyone was fed up with the corruption, even in the government. This is why the revolution took only 2 days in Tunis. He [Ben Ali] fled because no one came to his defense."⁸⁸ It will be essential to remove the coterie of judges, prosecutors, and lawyers who were loyal to the Ben Ali regime. Practices such as the fixing of sentences before trial will need to be reformed.

Another critical issue for the reform of the justice sector will be assessing whether the body of laws and institutional guidelines sufficiently protect the rights of all citizens and adequately constrain the authority of government entities in accordance with the rule of

law. Equally critical will be reforming the institutional and operational culture of the ministry, the judiciary, the prosecutorial services, and the prison system to adhere to these laws and guidelines; training existing personnel how to operate according to these guidelines; and recruiting and training new personnel to fill the mission of the justice sector in accordance with democratic governance and the rule of law.

However, within the Judiciary, and in stark contrast to the Ministry of Interior, there are some indicators that reform has begun. Judges and prosecutors who were known to be corrupt are beginning to be discharged. This is a promising beginning. A draft law removing the President of Tunisia and the Minister of Justice from the Superior Council is also being considered.⁸⁹ According to Moussa Abdelsattar, the Director of the Tunisian League of Human Rights, there are five issues that need to be addressed for there to be justice in Tunisia. First, the regime needs to prosecute former regime officials who engaged in human rights violations during the revolution. Second, there needs to be reconciliation between these perpetrators and their victims. Third, the government must establish standards for the adequate compensation of the victims of the former regime. Fourth, it is necessary to implement reform of the security apparatus, the judicial system, and the media. And, finally, there must be assurances that the martyrs of the revolution will be honored appropriately. According to Abdelsattar, progress is being made only on the first element.⁹⁰

Ennahda's leadership has urged patience to allow the judicial system to work and to allow reform of the judicial system to begin to take effect. According to Dilou, it is imperative that the government begin implementing justice while at the same time purging

the judiciary of corrupt elements from the former regime.⁹¹ Because the reform process will take time, “it is imperative that we carry on both the reform process and the transitional justice process simultaneously.”

Ennahda cannot ignore real demands for justice from the former regime’s many victims, who mobilized to overthrow the regime and who expect the new government to hold the perpetrators accountable. Yet, Ennahda does not want to generate the perception that the new government is after revenge. Nor does it want to further undermine the ability of the police to resume legitimate security functions, which will in turn enable the military to return to the barracks. Balancing these issues will require a transparent, inclusive, and incremental process to achieve legitimate justice without making the passive supporters of the Ben Ali regime into a new class of victims and sacrificing Tunisia’s present stability.

Civil Society.

The final piece of the Tunisian security sector map is civil society, a broad category that includes the media, NGOs, trade unions, and human rights advocacy institutions that promote democratic oversight and transparency of the security sector for ordinary citizens.

Civil society is a bright point in the Tunisian security sector. Since the revolution, the number of civil society groups has exploded. Civil society groups are engaged in issues with relevance across the security sector spectrum, and their efforts, together with public pressure, have been critical in pushing Tunisia’s transitional regimes to move forward with reforms. A few examples are worth noting.

While the media have focused on the important part that social networks played in the Tunisian revolution, there are civilian institutions that existed in Tunisia well before the revolution. One of these institutions is the General Tunisian Workers Union (UGTT). Its membership numbers in the hundreds of thousands.⁹² The UGTT organized several strikes during the decades of Ben Ali's rule.⁹³ Institutions like the UGTT that survived the Ben Ali regime with their legitimacy intact will be important actors during the transition period and, unlike many of the new civil society groups, are well organized and well known to Tunisia's citizens.

Tunisians have created new civil society groups to push for transparency and accountability during the transition. Two of these groups are *Le Labo' Democratique* (The Democracy Lab) and OpenGovTN. The Democracy Lab joined with DCAF to organize a conference on the management and disposition of the regime's secret police files. OpenGovTN has focused its activities on the transparency of the National Constituent Assembly and the inclusion of Tunisian citizens during the constitution-drafting process, principally through unrestricted access to Assembly proceedings. Comprised of professional Tunisians and Tunisian expatriates, the organization has developed a series of transparency initiatives – a TV channel that broadcasts the Constituent Assembly meetings live; and publication of the reports of various governmental commissions, the records of the votes of each member of the Constituent Assembly, the record of attendance of Assembly delegates, and the record of the debates and speeches of every member of the Assembly. One goal of OpenGovTN is to provide citizens with information so that they can judge their representatives'

competence and hold them accountable in subsequent elections.

An explosion of media outlets is another positive sign of Tunisia's transition to democratic rule. Widely viewed as a mouthpiece of the Ben Ali regime, the media are now adjusting to a freer climate after decades of censorship and repression. The proliferation of cable, radio, and print media is a positive step forward, but media companies claim that the government is dragging its heels during the licensing process. Ennahda has complained that the new Tunisian media establishment has tended toward sensationalist journalism and that it has negatively portrayed the achievements of the government.⁹⁴ Some argue that government scrutiny of the media is necessary because the explosion of new media companies threatens journalistic integrity. Media advocacy groups such as the International Freedom of Expression Exchange have organized conferences on the role of the media in a democratic society, access to information, and media independence.⁹⁵ Similarly, the Independent National Authority to Reform Information and Communication (INRIC), which seeks "protection of the right of the Tunisian people to a free, pluralistic and transparent media," has submitted 14 recommendations for a press code to the government and has engaged in advocacy to establish new regulations to reorganize the media and to prevent the emergence of monopolies.⁹⁶ Ennahda's leadership has recognized the need for the reform of government control of the media, and has reached out to the British Broadcasting Corporation (BBC) as a potential model for Tunisia.⁹⁷

RECOMMENDATIONS FOR THE WAY AHEAD

Successful democratic transitions require the achievement of four key goals:⁹⁸ First, sufficient agreement has to be reached about the political process to produce an elected government. This has been achieved. Second, the elected government must come to power through a free and fair vote. This, too, has been accomplished. Third, the government must have *de facto* authority to generate new policies. This, too, has been achieved by all three of Tunisia's transition governments. Fourth, the executive, legislative, and judicial authorities of the new government cannot be required *de jure* to share power with other bodies (for example, the military, or in Tunisia, the police).⁹⁹ This, too, has been accomplished, although in practice the government faces serious challenges asserting its legal authority over key elements of the Ben Ali regime, notably the Ministry of Interior and, to a lesser extent, the Ministry of Justice.

These accomplishments are remarkable. Tunisia has achieved in 1 year what none of the other Arab Spring states has been able to. This leaves Tunisia well poised to undertake serious security sector reform. Reform will be essential for Tunisia's security sector to transition from a black box whose *raison d'être* was protecting the regime, to transparent and democratically accountable institutions whose primary mission is to protect the people. There are four priority actions to be accomplished:

1. The first priority is to restructure the internal security services and the Ministry of Interior. The labyrinth of internal security institutions and the lack of transparency over the most basic issues – a ministerial organizational chart, official numbers of interior forces – suggest that reform of the internal security

sector must begin with a mapping of the institutions, the forces, and the personnel and assessing exactly what is required for effective reform. The white paper is a good start. The caretaker government should draw on the expertise of Tunisian and international experts to ensure that the mapping and assessment of the internal security forces and the Ministry of Interior are robust and that the proposed reforms meet Tunisia's security needs. With greater transparency in place, it will be possible to address the three remaining reforms.

The first is establishing democratic oversight over the Ministry of Interior, to include executive oversight by the minister and parliamentary oversight over the ministry's practices, budgets, and reform plans. Implementing these reforms will require a fundamental reorientation of the ministry's institutional culture and mission. The second needed internal security sector reform is divesting, reorganizing, and retraining the internal security and police forces to create a new police service that conducts humane, accountable, responsive, and capable policing. The third necessary reform is resolving the Ministry of Interior and the police forces' "image problem." The white paper suggests new uniforms, new logos, and more welcoming reception areas in police stations. These are important tangible indicators of change. They must be accompanied by real change; that is, fundamental reorientation in how the ministry and its forces engage with citizens and with the democratically elected executive authorities and parliament. The restoration of police services will also help restore both the confidence of the police and the public's trust in the government.

2. A second priority is to establish the governance and democratic oversight of the security sector. The

creation of bylaws to govern the constitution-drafting process, and recognition that the process needs to be transparent, are positive developments. As the National Constituent Assembly begins drafting a new constitution, critical issues for SSR include creating the legal framework that establishes permanent oversight by both the executive and the parliament over the security sector. A central element of this framework will be the creation of parliamentary committees on defense, security, and intelligence. One of the recently created constitutional commissions has drafting authority for the committees on law enforcement and security. A particular challenge during the coming year is how this oversight, particularly of the reform efforts of the security sector, will be conducted while the new constitution is being written. The one institution with a true electoral mandate during the transitional period is the National Constituent Assembly. Its oversight over the reform process during this transitional year will be important for the legitimacy of the SSR in Tunisia.

3. A third priority is to reform the justice sector, including the Ministry of Justice, the Judiciary, and prosecution services. Because there is no roadmap yet for the reform of the justice sector, developing an assessment is a good place to start. Discussions have already begun over prison reform and prosecutor training. The role of the Judicial Police and the apparent lack of investigative capabilities either in the MOI or the MOJ are clear priorities, and international technical assistance and training might be useful to begin addressing these gaps. As in the MOI, Ministry of Justice reform will likely require reorienting the institutional culture of the ministry and retraining judges, prosecutors, lawyers, court clerks, notaries, bailiffs, and many

others. This is an enormous project that could well stretch over a decade.

4. The final priority is to manage the difficult issue of transitional justice. Although transitional justice is not itself part of security sector reform, it is intricately connected to it. Transitional justice involves resolving difficult, and often emotional, issues that resonate throughout Tunisia, including whether to prosecute members of the former Ben Ali regime, and if so, who exactly should be prosecuted; whether to purge the ministries and which ones; and whether and how to compensate the victims of the former regime. How transitional justice is addressed in Tunisia will have great bearing on how SSR efforts proceed.

Closely related to transitional justice is the way to vet the state administration across all the ministries, but particularly Interior, Justice, and the Judiciary. The MOI's inability to remove senior officials in the ministry suggests that civilian control over the ministry is a pressing issue. The lack of judicial independence, particularly the executive's authority over the appointment, reassignment, and promotion of judges and prosecutors is another challenge. The vetting of the state administration is a delicate issue that involves balancing the need to purge certain key positions or senior levels of individuals tainted by the former regime against the risk of creating a new aggrieved minority – if the purges are too extensive – or of losing the ability to deliver major services. In the case of the Judiciary, the risk is to undermine the legitimacy of the judicial system and the rule of law.

Another related question is whether to prosecute those individuals who are to be purged and others for their activities under the previous regime, or to grant them amnesty. Transitional justice can provide a good

foundation for longer-term judicial reform. Support from international experts with experience managing transitional justice elsewhere might be useful, if the Tunisian leadership should request the expertise. Ennahda's leadership is certainly aware of the challenges, and has taken great pains to emphasize that anything that smacks of revenge will be counterproductive. Ennahda seeks reconciliation, not revenge.

That SSR is a highly political process is frequently underappreciated. In any political process, there are winners and losers, and the potential losers of Tunisian SSR were among the most privileged in Tunisian society. What is frequently overestimated is the value of security. The assumption is that once basic security is restored, "the rest will fall into place." This is by no means a necessary given. While Tunisia's relatively smooth transition from revolution to a democratically elected caretaker government is remarkable, much remains to be done. Serious reform of the security sector remains essential if Tunisia's transition to democratic rule is to succeed in the long term.

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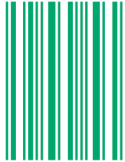
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