



### COUNTRIES AT THE CROSSROADS 2011: TUNISIA<sup>1</sup>

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#### INTRODUCTION

Only 95 miles southwest of Sicily, Tunisia is among the most economically and socially advanced of the southern Mediterranean countries. Its average per capita income growth rate of 5 percent since the 1980s has far outstripped the performance of its neighbors, and the society, where home ownership reaches 80 percent, is largely middle class.<sup>2</sup> Politically, however, Tunisia was an anachronism, a highly-developed police state designed to perpetuate the autocratic rule of President Zine el Abidine Ben Ali. Its poor human rights record delayed the country's efforts to achieve advanced partnership status with the European Union (EU) and massive high-level corruption discouraged private investment. Finally the Revolution of January 14, as Tunisians prefer to call the s Jasmine Revolution, removed the dictator. The spark for the uprising was the self-immolation of vegetable vendor Mohamed Bouazizi, who on December 17, 2010, after being publicly humiliated by a policewoman who arbitrarily confiscated his wares, went to the provincial headquarters and lit himself aflame. Outrage over the incident, combined with long-simmering resentment of the lavish lifestyle of the kleptocratic ruling family, created a groundswell of anger and protest, and the military and police were soon faced with a widespread popular revolt. The regime's brutal response, which included the indiscriminate use of live ammunition and the death of an estimated 200 civilians, proved unsuccessful and President Ben Ali fled to Saudi Arabia on January 14, 2011.

This dramatic exit marked the close to 23 years of executive rule under Ben Ali, who originally entered the government by moving up the ranks of military intelligence to be appointed interior minister and later prime minister. On November 7, 1987, Ben Ali had unseated Tunisia's aging founder, Habib Bourguiba, in a bloodless coup. He promised democracy, and most Tunisians greeted the takeover with relief despite its dubious constitutionality. Contrary to these hopes, however, Ben Ali's regime tightened over the following five years into a dictatorship worse than his predecessor's and replete with the latter's cult of personality despite the fact that Ben Ali lacked Bourguiba's historical legitimacy as the

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founding father who had won independence from France in 1956. Ben Ali compensated by expanding the security forces fourfold, and by the turn of the century Tunisia was blanketed with up to one officer for every 70 civilians, almost triple the coverage of neighboring Italy, the EU's most heavily-policed state.<sup>3</sup>

By the close of the Ben Ali era, Tunisia's ruling family had developed into a mafia in the eyes of the opposition, albeit one that usually punished opponents with prison sentences and violent harassment rather than assassination and forced disappearances, which it employed only rarely.<sup>4</sup> Stories of the family's extortion of public and private lands and extensive bank loans and shares of enterprises proliferated during Ben Ali's final decade in power. With the reelection of her infirm husband to a fifth five-year term in October 2009, the first lady, Leila Trabelsi, was dubbed the "Regent of Carthage,"<sup>5</sup> a reference to the seat of the presidential palace. Most large Tunisian economic ventures either paid tribute to or came under the direct or indirect control of the president's various in-laws and relatives, including his daughters by a previous marriage.<sup>6</sup> Indeed, anger over the expansive luxuries and excesses that the Trabelsi and Ben Ali families enjoyed, many of which were confirmed in confidential US cables released in November 2010, played a significant role in the uprisings that ousted Ben Ali.

Post-revolution Tunisia continues to be at the crossroads as it faces a difficult transition to a more democratic form of government. Many Tunisians fear, rightly or wrongly, that elements of the old regime or their Islamist opponents will compromise any democratic transition.<sup>7</sup> As of late August 2011, however, the transitional authorities had taken a number of major steps in the right direction. Fouad Mebazaa, the President of the Chamber of Deputies became the acting president and kept Ben Ali's long-serving prime minister, Mohammed Ghannouchi, an efficient technocrat. The latter in turn named a number of independent personalities to lead commissions to reform the constitution, to liberate the media, to investigate the crimes committed by the *ancien régime* during the revolution, and to expose its corrupt practices. Under pressure from renewed massive demonstrations against the government ("Kasbah 2"), Mohamed Ghannouchi resigned in late February amid criticism of his close ties to the former regime. The 77 year-old president then appointed his former patron from the Bourguiba era, 84 year-old Beji Caid Sebti, to serve as prime minister.<sup>8</sup> In his first week in office he abolished the Ben Ali constitution—along with its parliament—and enabled the constitutional reform commission to expand from a small number of jurists headed by a retired law school dean into a virtual transitional parliament of 155 representatives of political parties, civil society organizations, professional and labor unions, and independent personalities. This Higher Instance for Achieving the Goals of the Revolution, Political Reform, and Democratic Transition somewhat buffers the ongoing street protests by citizens demanding faster political and economic reform, not just more jobs and better pay but purges of corrupt judges and police, including the snipers who killed demonstrators in cold blood during the Revolution of January 14.<sup>9</sup> The Higher Instance, for instance, successfully persuaded the prime minister in June 2011 to delay elections for members of a constitutional assembly from July to October to allow time for more voter registration and the development of new political parties. It also drafted a new electoral law that reflected the advice of political science experts on transitions. It selected proportional representation so as to include as many as possible of the ninety-odd new political parties crowding Tunisia's political landscape while limiting the potential of a reconstituted ruling party or its well-rooted Islamist opposition.<sup>10</sup> The Higher Instance went on to elect an independent commission to supervise fair and free elections. Despite their ongoing struggle for a new democracy, Tunisians of course did not forget former President Ben Ali and his reviled wife: in

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June 2011 they were convicted in absentia of embezzlement and misuse of public funds, fined approximately \$66 million, and each sentenced to 35 years in prison, with trials on more serious charges yet to come.

### ACCOUNTABILITY AND PUBLIC VOICE

The party Bourguiba founded in 1934 to fight for independence from France has dominated Tunisian politics since independence and served to consolidate the president's rule. The Constitutional Democratic Rally (RCD), as it was renamed in 1988, had a membership of over two million, or over one-quarter of Tunisians over the age of 15,<sup>11</sup> until February 6, 2011, when the new interior minister suspended its operations and petitioned the courts to dissolve it.<sup>12</sup> Until that point, the party monopolized the public stage and mobilized the public to claim support for President Ben Ali. For example, eight months after his 2009 reelection, a mere hint by the RCD's Central Committee that the president was needed "for the coming stage" sufficed to elicit waves of petitions for Ben Ali to run for office again in 2014, even though another term would have required increasing the constitutional age limit for a presidential candidate.<sup>13</sup> Signing a petition was not much of a choice: one businessman who declined to do so, claiming a desire to stay out of politics, suffered a tax increase of approximately \$285,000.<sup>14</sup>

Only a few token opposition parties were allowed to participate in elections under the Ben Ali regime, but the RCD regularly won landslide victories and the regime did not allow the participation of genuine opposition parties or candidates. Indeed, the only true competition allowed was that between individual candidates vying for presidential favor. The regime was particularly focused on repressing Islamist parties and had since the early 1990s vigorously repressed the popular Islamist Ennahda movement. This crackdown included the forced exile of the movement's leaders, the imprisonment of thousands, and the torture and assassination of scores. Ennahda members and those suspected of involvement with the banned party were prevented from participating in any political activities and were consistently harassed and intimidated by security forces. Finally recognized officially in 2011, the battle-hardened Ennahda was by far the strongest of Tunisia's many parties preparing to contest elections to the Constituent Assembly.

Elections in Ben Ali's time took place under the full control of the Ministry of the Interior, with no independent validating authority, and were often criticized for allegations of counting irregularities, fraud, and intimidation on behalf of the RCD and its supporters. Every five years, the RCD held its national congress in the summer, followed more than a year later by concurrent presidential and legislative elections in the autumn, then local elections the following spring. In the most recent cycle, the party congress was convened July 30–August 2, 2008, national and Chamber of Deputies elections held on October 25, 2009, and local elections took place on May 9, 2010. Official estimates of electoral participation were high: 89.5 percent for the presidential contest and 89.4 percent for the legislature. Of the eligible population of voters, citizens 18 years old and above, rather than the much smaller number of registered voters, turnout still hovered at around 60 percent, a testament to the RCD's continuing capacity to bring out the vote in the countryside.<sup>15</sup> By August 14, 2011, only 3.7 million Tunisians, 52 percent of the eligible electorate, had voluntarily registered to vote in the October elections to the Constituent Assembly.<sup>16</sup>

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Amendments to the electoral law approved by the previous parliament on April 13, 2009 included the establishment of a government observatory empowered to invite foreign observers. A team of 10 from the African Union deployed observers to six voting centers and concluded that the elections occurred “in a calm and serene atmosphere.”<sup>17</sup> Another amendment banned all parties from using private or foreign media in their campaigns “to ensure equality among all candidates and prevent the intervention of foreign parties in Tunisian internal affairs.”<sup>18</sup>

Tunisia’s Chamber of Deputies, which was dissolved on March 4, 2011,<sup>19</sup> used a hybrid electoral system whereby the party whose list won an absolute majority—in practice, always the RCD—won all parliamentary seats in the given constituency, with additional seats reserved for the few small, innocuous opposition parties that were allowed to participate. The opposition quota was increased in the 2009 elections from 20 to 25 percent of the Chamber of Deputies’ 214 seats, to be allocated proportionately to the total votes won. Quotas were necessary for opposition parties because the RCD blocked them from developing grassroots public support, and none typically won more than 5 percent of the vote.

In the 2009 elections, the RCD candidates for parliament, while calibrated to not outperform their president, won another landslide victory with 84.6 percent of the vote.<sup>20</sup> The Democratic Socialist Movement, a party that had enjoyed some credibility in earlier years, won only 16 of the 53 seats reserved for the loyal opposition. The Popular Unity Party came in second among opposition parties with 12 seats, and the Unionist Democratic Union, the Social Liberal Party, the Green Party for Progress, and the ex-communist Renewal Movement received the remaining seats. The illusion of competition among a group of parties served the dual purpose of weakening established opposition parties while ensuring some representation of less well-known groups. Under the generous arrangements for the pseudo-opposition, these parties took seats with half the votes won on average by the RCD candidates. The regime did not allow the participation of any party with even a trace of Islamist sentiment.

In the 2009 presidential elections, President Ben Ali’s share of the vote slipped from his 2004 victory of 94.5 percent to 89.6 percent, a result that government critics claimed was designed make the existence of genuine opposition appear more credible. Three opposition leaders were also prompted to compete with Ben Ali for the presidency, although Ahmed Brahim, the only serious contender, was allowed just 0.22 percent of space in the state-dominated print media during the electoral campaign.<sup>21</sup>

The indirectly-elected upper house, the Chamber of Advisors, was established by constitutional amendment in 2002 and constituted in 2005 after the local elections, but it too was dissolved on March 4, 2011. According to the electoral framework, one-third of its 126 members are elected by local officials, one-third by national business, agriculture, and labor organizations, and one-third are appointed by the president. The most recent Chamber had only 112 members, however, because the labor union refused to nominate its quota of 14 members, arguing that the election procedures violated the principle of trade union independence.<sup>22</sup> Half of the Chamber of Advisors was supposed to be renewed every three years, but new elections did not happen in 2008 or after the local elections in 2010.

The Chamber of Advisors, almost coequal in legislative powers, had the authority to disregard any independent perspectives offered by its deputies, three-quarters of whom are loyal to the RCD. As for the remaining quarter, leaders of opposition parties in the lower house learned from hard experience over the years that even the mildest real opposition could land them in jail.

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In practice, the government was not accountable to parliament, and there were no real checks or balances on executive power. Opposition members could in theory initiate a motion of censure against the government but the ruling party's complete dominance neutralized that and any other possible challenge. Legislation introduced by the president had priority over any legislation introduced by the deputies.<sup>23</sup>

An effective administrative apparatus dating from the pre-independence era survived the fall of the Ben Ali regime and is facilitating Tunisia's ongoing transition to democracy. The Revolution of January 14 has not interrupted continual efforts at administrative reform, including the adoption of e-government.<sup>24</sup> The Tunisian civil service is recruited largely by merit, but personal connections are often taken into consideration. According to various polls conducted or financed by the World Bank, the Tunisian bureaucracy is quite effective relative to its counterparts in other southern Mediterranean states.<sup>25</sup>

Tunisia's civil society includes thousands of voluntary associations and national organizations that pre-date the country's independence. The number of such groups rose quickly during the Ben Ali years, from 1,776 in 1987, the year he seized power, to some 9,350 in 2009. Only a dozen or so of these organizations operated independently in sensitive areas like human rights and civil liberties, however.<sup>26</sup> The constitution guarantees freedom of association, but a 1959 law requires that groups be apolitical and register with the government. Amendments in the early 1990s made it more difficult for an association to obtain a license without government support and imposed penalties for meetings of people not legally registered as associations. Prospective associations often waited in vain for official confirmation that the ministry had received their applications, and had no legal existence or recourse without the confirmation despite the government's three-month deadline. Even legally-registered associations had to watch their step, and limit their work to government-approved specializations, which included women's issues, sports, science, culture and the arts, charity, social aid, development, and friendship. There is also a "general" category, which designates an organization as open to public participation and hence subject to takeover by RCD activists.

The regime promoted the idea that Tunisian civil society was vibrant and enthusiastically supportive of the ruling party's leader. In the run up to the 2009 elections, for example, some 8,500 associations demonstrated their public support for Ben Ali in the press.<sup>27</sup> Many of these associations were alleged to be government-organized nongovernmental organizations (GONGOs) set up by the regime to promote the image of pluralism but actually intended to spread government propaganda.<sup>28</sup> For instance, one GONGO, the Tunisian High Commission on Human Rights, tried to discredit and delegitimize independent human rights associations by contradicting any evidence of human rights violations. It tried in particular to neutralize the venerable Tunisian League of Human Rights (LTDH), founded in 1976 and the most senior affiliate of the International Federation of Human Rights in Africa and the Arab world. In 1992 the new law of associations classified the LTDH as "general" and thereby opened its doors to ruling party activists seeking to control it. The RCD did not succeed in electing its members to leadership positions at the LTDH congress held in 2000, but the independent elected bureau was subsequently unable to hold a new congress, collect dues from the organization's 3,500 members, or solicit new members. The distinguished NGO operated "in a state of artificial coma," harassed by break-ins to its offices by unidentified thugs (a common Tunisian police tactic) and by frivolous lawsuits.<sup>29</sup>

Two more recent affiliates of the International Federation of Human Rights, the Tunisian Association of Democratic Women (ATFD) and the National Council for Tunisian Liberties

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(CNLT), survived the Ben Ali era with difficulty. The ATFD, founded in 1989, was the last genuinely independent human rights and civil liberties association to have obtained legal recognition from the regime.<sup>30</sup> The CNLT, founded in 1998, was turned down when it presented its official request for legal recognition but nonetheless continued to operate, even fielding a radio station, *Kalima*, and an online sister newspaper. When the Tunisian authorities shut down Radio *Kalima* in January 2009, it was forced to start broadcasting from Italy.

The “flics,” or plainclothes political police, were pervasive throughout Ben Ali’s rule. For example, the LTDH estimated that even in its near-comatose state, some 200 flics constantly monitored its activity. Amnesty International has a regional office in Tunis but was not allowed to operate within the country or to hold a small private meeting of human rights activists in its office.<sup>31</sup> The police prevented activists from entering the building, claiming that such measures were necessary for the group’s own protection.

Professional associations, particularly those of journalists, lawyers, judges, and students, were also subjected to intensive police surveillance. For example, the RCD infiltrated and paralyzed the National Professional Association of Tunisian Journalists (SNJT) after it aroused considerable official animosity for its first annual press freedom report in May 2008. Four RCD members elected to the executive bureau proceeded to resign in May 2009 and call for a new congress to elect a new bureau. Party loyalists organized the congress and elected new leaders, who charge as the official representatives of Tunisian journalists until January 2011, when the ousted chairman regained his elected position.<sup>32</sup>

The government owns or tolerates approximately 250 newspapers, including those of token opposition parties, but such publications were closely controlled until the January 14 Revolution in order to present a false image of pluralist discourse.<sup>33</sup> The Tunisian Agency for External Communications (ATCE), scrapped after the revolution, effectively censored the press by controlling government and public sector advertisements.<sup>34</sup> Foreign media sources, such as *Le Monde*, were blocked from the newsstands if they carried any articles critical of Tunisia. The only independent voice in Tunisia was *Kalima*, the online newspaper as well as a privately owned radio station. In 2010, the government censors blocked its website, like those of human rights dissidents, as part of an elaborate system of monitoring and filtering under the ostensible direction of the Tunisian Internet Agency (ATI).<sup>35</sup> When Radio *Kalima* resorted to satellite broadcasting in early 2009, its operations in Tunis were shut down, as were those of another satellite television network, El-Hiwar Ettounsi.<sup>36</sup> One of that network’s journalists, Fahem Boukadous, who reported on the Gafsa labor disturbances of 2008 (see Civil Liberties), was jailed for his efforts in 2009 and again in 2010.

Journalists were constantly harassed and attacked throughout the Ben Ali era, particularly toward the end.<sup>37</sup> On October 28, 2009, Slim Boukhdhir, a blogger whom the regime had jailed earlier for investigative reporting on corruption, was stopped on the street, forced into a car by five men in plain clothes, driven off, beaten up, and stripped of his possessions shortly after he gave an interview about rampant corruption in the presidential family. Omar Mestiri, the managing editor of *Kalima*, suffered a similar fate three weeks later. Recently released from jail, prominent journalist and government critic Taoufik Brik was again brought to trial in November 2009 on dubious charges of assaulting a woman and sentenced to six more months of jail. This occurred after a French newspaper published Brik’s satirical mock interview in which Ben Ali confessed to corruption, nepotism, and various techniques of political repression. After his release from jail, Brik observed to a foreigner that they do not kill journalists in Tunisia, just their profession.<sup>38</sup>

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The Ben Ali administration developed a highly sophisticated framework for monitoring the internet to identify and disrupt political and activist activity online. A corps of cyberpolice patrolled the internet and even targeted known dissidents working abroad with viruses that stole their email and prevented their computers from reaching forbidden websites.<sup>39</sup> At home, the state blocked opposition websites and “anonymizers” that enable people to surf free of observation. These elaborate measures in the end apparently failed to prevent antigovernment organizing online, as social media played a significant role in enabling the political activism that brought down the regime. Ironically, blocking Facebook and shutting down the internet were interpreted by the public as a sign of weakness that further encouraged people to rally against the police state.<sup>40</sup>

Since February 2011 transitional authorities have been working on new guidelines to consolidate the media’s newly won freedoms. Presided by Kamel Laabidi, a Tunisian journalist and human rights activist who had vigorously opposed Ben Ali’s practices, the Commission on Media Reform was pressing for a new legal framework and preparing a white book on censorship practices of the *ancien régime* to be documented by the archives of the defunct Tunisian Agency of External Communication.<sup>41</sup>

### CIVIL LIBERTIES

The government cracked down harder on civil liberties in its two final years as Tunisia attempted to acquire advanced partnership status with the EU and thus could tolerate no public criticism that might further tarnish its human rights image.<sup>42</sup> In June 2010, an amendment to the penal code was rushed through parliament to criminalize the actions of “any persons who shall, directly or indirectly, have contacts with agents of a foreign country, foreign institution or organization in order to encourage them to affect the vital interests of Tunisia and its economic security.” In the discussion in parliament the responsible minister explained that these interests included “inciting foreign parties not to grant loans to Tunisia, not to invest in the country, to boycott tourism or to sabotage Tunisia’s efforts to obtain advanced partner status with the European Union.” Consequently, human rights activists and any other Tunisians lobbying the EU or any other foreign organization to exert pressure on Tunisia’s police state were subject to penalties of up to 25 years in jail, the same penalties as under the old law for people who had contacts with foreign agents to “undermine the military or diplomatic situation in Tunisia.”<sup>43</sup> Any complaints made to foreigners about the country’s human rights situation were now liable to be treated as treason.

Ali Ben Salem, the 80-year-old president of the Bizerte branch of the LTDH, was systematically harassed by police who monitored his home on a daily basis. Ben Salem’s phone and internet access were cut in 2005 and security officers have physically assaulted him on numerous occasions, including an incident in which they beat him up severely and left him for dead at a construction site.<sup>44</sup>

Arbitrary arrest was another common tactic for suppressing dissidents. The International Association for Support to Political Prisoners (AISPP) reported about 1,300 political detainees jailed in Tunisia in 2009. Although the last 21 of the thousands of Islamist Ennahda activists arrested in the early 1990s were finally released in 2008, one of their leaders was rearrested for giving a foreign interview. Hundreds more Ennahda activists were arrested and convicted after the passage of the 2003 law on money laundering and antiterrorism that allows sentencing on the

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basis of vague allegations.<sup>45</sup> Whether released or still in jail, political dissidents remained under close surveillance and were frequently subjected to arbitrary detention and harassment.<sup>46</sup> Once free, their daily lives did not differ markedly from prison, as they were prohibited from seeking gainful employment, required to report regularly to the local police, and are sometimes exiled to distant parts of the country.<sup>47</sup> Prisons were overcrowded and detainees did not have access to their own medical records upon their release, much less passports to travel abroad.

Despite Tunisia's ratification of several international human rights conventions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, there were many credible allegations of torture at the hands of the police—notably in Gafsa during the summer of 2008—and the Ben Ali regime did not permit visits by the Special Rapporteur for the UN Commission on Torture. Human Rights Watch outlined the most common forms of torture and abuse during police interrogation, including threats of sexual assault to the prisoner or women in the prisoner's family, physical attacks, particularly beating on the soles of the feet; sleep deprivation; and the tying and suspension of prisoners in mid-air.<sup>48</sup> Victims of state abuse had the option to lodge a complaint with the Office of the Ombudsman, but that office's decisions were not binding and other state agencies commonly disregarded them.

On September 24, 2010, a French court upheld the 2008 conviction of a former vice consul, Khaled Ben Said, for his complicity in the torture in Tunisia of a Tunisian resident in France. The appeals court added four years to Ben Said's original eight-year prison sentence.<sup>49</sup> Despite an Interpol warrant for his arrest, Ben Said occupied a high post in Tunisia's Ministry of the Interior as late as November 2010.<sup>50</sup> In February 2011, after the fall of the Ben Ali regime, Human Rights Watch was finally permitted to visit Tunisia's jails.<sup>51</sup>

In general, compared to its immediate neighbors Algeria and Libya, Tunisia's is a pacific population, long accustomed, like Egypt, to rule by a strong state. Security was not always guaranteed, as terrorist activities on the island of Djerba in 2002 and operations allegedly against Al-Qaeda in the environs of Tunis in 2006–07 indicated.<sup>52</sup> But citizens in general were relatively secure in Ben Ali's Tunisia.

With respect to women, Tunisia enjoys the reputation of being among the most progressive countries in the Middle East and North Africa. Legislation enacted in 1956 abolished polygamy and established women's legal equality in most matters except inheritance.<sup>53</sup>

Under Ben Ali's dictatorship women were subjected to equal levels of harassment and violence by the police. The security forces insulted, roughed up on the streets, and generally mistreated prominent female journalists, activists, and spouses of activists. Women are encouraged to participate in public life and won 33.6 percent of the seats in the 2010 municipal elections, but men continue to dominate the political realm. The first lady insisted months before the fall of her husband's regime that women's active participation in society was a top priority of the Ben Ali administration.<sup>54</sup> The regime often pointed to improvements in the status of women to present itself as a progressive and modern administration, and the government did work to eradicate such anachronisms as underage marriage, female genital cutting, and similar customs. The new transitional regime's electoral law requires that women comprise at least half the candidates in the elections to the Constituent Assembly scheduled for October 23, 2011.<sup>55</sup> Ennahda, strongly rooted among families that had resisted Ben Ali, welcomed the initiative. Despite these efforts, however, gender inequality persists in the country, particularly in rural areas.

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Tunisians are essentially ethnically homogenous and approximately 98 percent are Sunni Muslim, mostly of the Maliki rite, but other religions are tolerated. Despite massive departures in the mid-1950s, some 1,500 indigenous Jews remain in the country, concentrated on the island of Djerba and in Tunis. The chief rabbi is a paid official of the Tunisian government. Christians are also allowed to practice their faith without restriction. Discrimination based on religion primarily affects Muslims, whose religiosity may be interpreted as a cover for political uses of Islam. For instance, wearing a headscarf was publicly discouraged in Tunisia, leading one Islamist to complain that “a Tunisian woman who is to perform Hajj or 'Umrah (minor pilgrimage) can wear the hijab only after the airplane leaves Tunisia and has to take it off once the airplane lands on Tunisian lands.”<sup>56</sup> A schoolteacher won a 2007 case against a 1986 administrative directive banning the hijab in schools and was allowed to return to the classroom and continue to wear the veil.<sup>57</sup> The government also controls the appointment of imams, who are paid by the state, and the hours during which mosques are open.

The Tunisian state has permitted the French branch of Handicap International since 1992 to operate in Tunisia and encourage services and best practices for disabled people, including soccer for disabled youth.<sup>58</sup> Handicap International has created mobile screening and rehabilitation units and worked to build technical capacity of local professionals and disability organizations in the southeastern region.<sup>59</sup> Such services tend, like many other social services, to be concentrated in the eastern urbanized coastline at the expense of the interior of the country.

In regards to freedom of association, however, no region was favored under Ben Ali. Even private meetings in homes and offices were the targets of police raids. Of Tunisia's unions, only the Tunisian General Union of Labor (UGTT) and the General Union of Tunisian Students (UGET) were allowed a degree of independence. Founded independently of the dominant nationalist party in 1947, the UGTT supported Bourguiba's Neo-Destour Party in the struggle for independence but never agreed to become its satellite. Its general secretary expressed support for Ben Ali in the 2009 elections but did not take sides in the legislative ones, and he rejected the procedures for designating labor representatives in the upper house because they could enable the party to seize control of the union.

Labor union leadership in Tunis walked a fine line to retain a degree of autonomy and represent workers' grievances as effectively as possible. In 2006, disillusioned trade unionists formed a rival trade union federation, the General Confederation of Labor (CGTT,) but it was not granted official recognition. The UGTT leadership was notably silent in 2008 during massive demonstrations in Gafsa precipitated by the arbitrary hiring practices in the poverty-stricken phosphate mining region. Eventually hundreds were arrested, many of them tortured, and 38 workers, including local UGTT officials, received long jail sentences. They were conditionally released from jail in November 2009, thanks not to the labor leadership but to a pardon from President Ben Ali, in celebration of his 22nd year in power.<sup>60</sup>

The UGTT was well positioned, however, to support the antigovernment uprisings in late 2010 and early 2011 once they were underway. Prior to the ousting of Ben Ali, the union took a strong position against the excessive use of force against demonstrators in Thala and Kasserine, and the organization also contributed logistical support to the protest movement. Union representatives were initially included in the provisional government of national unity formed on January 15, but they withdrew within three days because the government still included too many holdovers from the old regime.

Tunisia's other principal national organizations, the Tunisian Union of Industry, Commerce, and Crafts (UTICA), the Tunisian Union of Agriculture and Fishing (UTAP), and

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the National Union of Tunisian Women (UNFT), have always been satellites of the ruling party, promoting the regime's interests. Hedi Jilani, president of UTICA, married several of his children into the families of Ben Ali and his wife, presumably furthering the network of mutual interests between the two groups. He consequently resigned from his official post on January 19, five days after Ben Ali's departure.

After the summer of protest in Gafsa in 2008, there were few if any political demonstrations and ever-increasing crackdowns on independent journalists that covered such activity. When protests did occur, state officials closely monitored and contained groups and occasionally used violence to disperse the gatherings. This was not the case, however, with the rapidly-expanding antigovernment demonstrations that swept the country after the self-immolation of Mohamed Bouazizi in December 2010. Shortly after the incident, protests spread first throughout the city of Sidi Bouzid, and then gradually throughout the country. Police disrupted the early protests with tear gas and mass arrests, but as the demonstrations spread, officers began to use physical force, including indiscriminate live fire. By the time Ben Ali exited the country, security forces had killed approximately 200 people and injured dozens more.<sup>61</sup> Post-revolution prosecution of security forces has been a sensitive subject. On May 29, 2011, authorities arrested high-ranking police officer Samir Feriani after he submitted a letter to the minister of the interior identifying top ministry officials responsible for civilian deaths during the revolution and accusing ministry staff of destroying incriminating records from the Ben Ali era. Feriani remained in custody without having been charged as of August 2011.<sup>62</sup>

### RULE OF LAW

The Tunisian Constitution of 1959 guarantees judicial independence, but the president chairs the Superior Council of the Judiciary, which appoints judges. There is also, outside the judiciary, a Constitutional Council appointed by the president to rule on the constitutionality of any legislation before its final passage into law. Within the judicial system there are hierarchies of civil, criminal, and administrative district courts; courts of first instance; and three appellate courts located in Tunis, Sousse, and Sfax. At the apex of the system sits a Court of Cassation that renders final verdicts on questions of civil, criminal, and administrative law. The end effect of this arrangement is that any meaningful judicial independence is deeply compromised.

Despite a relatively efficient judicial administration, the Ben Ali regime undermined what remained of the rule of law under Bourguiba's autocracy. Judge Mukhtar Yahyaoui, one of three judges in the Tunis Court of First Instance, sounded the alarm in 2001 when he wrote an open letter to President Ben Ali stating, "Tunisian judges at all levels are frustrated and exasperated by their forced duty to deliver verdicts which are dictated to them by the political authorities and which are not open to impartial thought or criticism."<sup>63</sup> Judge Yahyaoui was fired for blowing the whistle, then briefly reinstated in 2002, but the problems he cited continued through the end of the regime. Like journalists, the legal profession and the judiciary are held as virtual hostages. Any judge who ruled outside of the regime's preferences risked being exiled, if not worse.<sup>64</sup> As with bankers, who were forced to lend money to members of the president's family, judges were systematically corrupted and obliged to do the ruling family's bidding.

The Association of Tunisian Judges (AMT), the purpose of which is to defend the independence of the judiciary, was essentially shut down in 2005, and its leaders replaced by docile judges. Women among its former leadership were especially targeted, being dispatched to

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courts far away from their homes and children. The former secretary general was assaulted in Kairouan in 2009 while conducting her judicial duties, and her assailant was not apprehended.<sup>65</sup>

Appointment and dismissal procedures were arbitrary, established at the whim of the president and his family, and well-trained judges either had to rule closely in line with the regime's interests and priorities, or risk dismissal.

The Tunisian Bar Association periodically came under attack, its offices invaded or surrounded by police to discourage meetings. Defense lawyers, particularly those defending human rights activists, were also common police targets. Their telephones could be tapped and communications with their clients disrupted in other ways. Their professional reputations were at risk, and police sometimes pressured their regular clients, including banks and corporations, to seek legal services elsewhere.<sup>66</sup>

Complaints about torture and other serious human rights violations were not processed through the legal system. Coerced confessions were common and sufficed as the sole evidence for a guilty verdict, and witnesses delivering crucial incriminating testimony were not subject to cross-examination.<sup>67</sup> By law, everyone charged with a criminal offense is presumed innocent until proven guilty, but police arbitrarily detained people for indefinite periods of time without bringing formal charges. Defense lawyers were often harassed and prevented from accessing relevant evidence and meeting with their clients. Police brutality was treated with complete impunity, and the tamed judiciary ignored or suppressed allegations of torture, ignoring Tunisia's international treaty obligations.

The police, the primary agents of repression, were accountable only to the Ben Ali administration. Including paramilitaries, plainclothes officers, hired street thugs, and conventional police, Tunisia competed with Egypt for having the highest density of security forces in the Mediterranean region.<sup>68</sup> In addition to uniformed police in the cities, the National Guard acted as a rural constabulary, and the Brigades of Public Order were used to quell any public demonstration.<sup>69</sup> The ruling party also used local committees of informers and frequently hired thugs to harass and intimidate civilians acting against the regime's interests. The intelligence services, squads of hired thugs, and regular police were under the control of the Ministry of the Interior, but the Tunisian Army also had its own intelligence service, from which Ben Ali originally entered the official structure. The executive directly commanded a Presidential Guard of some 3000 men, headed by General Ali Seriatty, and another member of the president's inner circle oversaw the cyberpolice through the ATCE. General Seriatty also commanded a special emergency paramilitary force, whose brutal crackdown of protests from January 8–12, 2011, which included the deaths of at least 21 protesters, was one catalyst for widespread antigovernment demonstrations.<sup>70</sup> When Ben Ali left the country on January 14, 2011, he unleashed Seriatty's forces on the population of Tunis.<sup>71</sup> In a decisive step, however, the military defended the people by flying helicopters over snipers on rooftops. The various security and paramilitary forces outnumbered the 45,000-man army more than two to one but they were no match for Tunisia's professional US-trained military. Within a few of days of Ben Ali's departure, the military had rounded up the remnants of the Presidential Guard at their base in the northern suburbs of Tunis.

Private property in Ben Ali's time was in theory protected by law, and contracts were adequately enforced unless the ruling family's interests were involved, in which case the president and his relatives were above the law. The first lady was particularly notorious for her seemingly endless collection of villas and bank accounts.<sup>72</sup> One case in recent years involving private education stood out. The Bouebdelli Foundation, an organization created by Mohammed

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and Madeleine Bouebdelli that managed several private schools in Tunisia, incurred the first lady's wrath when Trabelsi's poorly-prepared niece was denied admission to one of the foundation's elite schools. The authorities briefly shut down the school in 2004 and again in 2007, just as the first lady was opening her new private school.<sup>73</sup> In January 2010, another Bouebdelli school was forbidden from enrolling new students, with its engineering school closed and the remaining 1,500 students given until 2013 to graduate.<sup>74</sup> But after the demise of Ben Ali and his first lady all of the Bouebdelli schools were again up and running in 2011-12.<sup>75</sup>

### ANTICORRUPTION AND TRANSPARENCY

Despite capital flight and extensive evidence of high-level corruption,<sup>76</sup> Ben Ali's government managed the economy more effectively than its peers in neighboring countries and built up a manufacturing base surpassing that of Algeria, a country with three times Tunisia's population.<sup>77</sup> The country is gradually meeting International Monetary Fund (IMF) guidelines to reduce reliance on import duties, cut taxes on businesses, and increase consumption taxes.

Tunisia ratified in 2008 the United Nations Convention against Corruption, and was a founding member of the Middle East and North Africa Financial Action Task Force, established in 2004 to combat money laundering and terrorist financing. An economic unit in the Ministry of the Interior combats fraud. The Audit Office of the Republic of Tunisia has broad powers to monitor public enterprises for financial irregularities, but it depends administratively upon the Council of State, which the president chairs. Consequently, Ben Ali's extended family and its allies were immune from investigation or prosecution.<sup>78</sup>

Prior to Ben Ali's departure, Tunisia scored relatively well on Transparency International's Corruption Perceptions Index, although it dropped from a score of 5 on a 10-point scale in 2005 to 4.3 in 2010, placing it 59 out of 178 countries.<sup>79</sup> On the World Bank's Control of Corruption Index, its score was also slightly better than the average.<sup>80</sup> The World Bank's *Doing Business* surveys of businesspeople ranked Tunisia 69 out of 183 countries in 2010.<sup>81</sup> The government revised Tunisia's national accounts to meet updated international standards in 2010.<sup>82</sup> Tunisia had also previously worked with the IMF and World Bank to publish Reports on the Observance of Standards and Codes for monetary and financial policy transparency, fiscal transparency, banking supervision, securities regulation, and insurance supervision.<sup>83</sup> Despite reform in government procurement procedures introduced in 2002, those procedures remained burdensome and Tunisian officials required significant technical assistance from the World Bank.<sup>84</sup>

Despite the range of relatively positive indicators, nepotism and corruption were widespread throughout the Tunisian economy under Ben Ali in the form of an informal system designed to concentrate wealth in the hands of the ruling family and its allies. This informal structure was so highly centralized and shielded from public view, however, that the staggering extent of high-level graft partially escaped international attention. Ben Ali's relatives and other influential families owned most businesses in the Tunisian economy and were consistently granted preferential treatment and impunity for corrupt practices, including favored access to enterprises in the process of privatization. Prosecution for corruption was extremely rare, as the majority of people able to engage in such practices did so with the complicity of the regime. Corruption extended to procurement, where the few rules in place regarding competitive bidding processes for government projects were not followed and the same elite families were highly

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avored. Tunisian banks were essentially barred from granting loans to entrepreneurs not related to the ruling family and were heavily pressured to loan exorbitant sums to regime allies, with the full knowledge that such loans were unlikely to be paid back. The number of nonperforming loans held in the commercial banking system, although reduced from 24.2 to 13.2 percent of outstanding loans from 2003 to 2009, remained substantial in Ben Ali's final years in power.<sup>85</sup> After 2007, moreover, the total outstanding loans of the family businesses were escalating, reflecting the growing kleptomania of the Trabelsi, Materi, and Mabrouk clans as they gained control of leading banks and other pricy assets.<sup>86</sup>

Tunisians also complain of petty corruption, such as bribes needed to prevent being ticketed for alleged traffic violations or payments for good grades in school or admission to an elite school or faculty. Indeed, an initial spark for the 2011 revolution was the rampant cynicism and frustration among citizens with a system in which access to government services was based mainly on the ability to pay bribes, and the ability to succeed as an entrepreneur depended entirely on connections to influential individuals.

Tunisia has no freedom of information law and citizens have little access to the government's financial information. Parliament has limited time to seriously discuss the budget, much less analyze off-budget enterprises such as the National Solidarity Fund. The fund, also known as Caisse 26-26, collected virtually obligatory donations from over 2 million citizens and financed public works but lacked transparency, and many Tunisians considered it an added tax rather than a voluntary fund. Some Tunisians praised it as a successful experiment in social solidarity, as the fund supported housing for the poor and other good works,<sup>87</sup> but critics viewed it as an "intolerable shadow" and "another form of subjection" of the Tunisian people.<sup>88</sup>

Tunisia has not permitted any NGOs, including the national chapter of Transparency International, which operates in Morocco and Lebanon, to conduct independent investigations of corruption from within the country. As noted above, independent journalists like Slim Boukhdhir were subjected to jail time and physical assaults for their coverage of corruption. The only civil society initiatives to combat corruption operate in informal formats, including blogs and commentary on internet sites based outside of Tunisia.<sup>89</sup> On January 17, 2011, however, the transitional government named Abdelfattah Amor, UN Special Rapporteur on Freedom of Religion or Belief, chairman of the commission to investigate corrupt practices during the Ben Ali regime.<sup>90</sup>

### RECOMMENDATIONS

- Constitutionally guarantee freedom of information, the protection of journalists, and unfettered access to the Internet and implement these guarantees with sound legislation and effective management, notably of the Tunisian Internet Agency (ATI).
- Ensure fair and free elections, by continuing to support an independent and credible electoral commission, enforce equal campaigning opportunities for a wide variety of political parties, take all necessary action to insure transparency in party financing, and allow international monitors to further validate the electoral process.<sup>91</sup>
- Immediately end all interference in the judicial system and enforce the rule of law "in such a way as to permit, to all citizens, the effective exercise of the liberties guaranteed by the Constitution."<sup>92</sup>
- Remove and sanction corrupt judges and police officials after due process.

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- Empower the successor to the Chamber of Deputies to exercise its constitutional authority, notably to oversee the budget and to supervise the government, especially the Ministry of the Interior and the police.
- Draft a freedom of information law to give citizens access to information of public concern, including the government's off-budget financial accounts.
- Make government economic activities, notably in the procurement of goods and services and management of state properties, more transparent and open to meaningful public scrutiny.

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<sup>2</sup> "Communication Minister lectures at Chatham House," Tunis Afrique Presse News Agency, July 8, 2010, [http://www.tap.info.tn/en/index2.php?option=com\\_content&do\\_pdf=1&id=9414](http://www.tap.info.tn/en/index2.php?option=com_content&do_pdf=1&id=9414).

<sup>3</sup> Michel Camau and Vincent Geisser, *Le syndrome autoritaire: Politique en Tunisie de Bourguiba à Ben Ali* (Paris: Fondation Nationale des Sciences Politiques, 2003), 203–205.

<sup>4</sup> Nicolas Beau and Catherine Graciet, *La Régente de Tunisie: Main Basse sur la Tunisie* [The Regent of Tunisia: Laying Hands on Tunisia] (Paris: La Découverte, 2009), 12.

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<sup>6</sup> For a useful diagram of the family businesses, see "Ali Baba gone, but what about the 40 thieves?," *Economist*, January 21, 2011, [http://www.economist.com/node/17959620?story\\_id=17959620](http://www.economist.com/node/17959620?story_id=17959620). See also "Ben Ali's hated in-laws looted Tunisia's wealth, experts say," Agence France Presse, January 17, 2011, <http://english.ahram.org.eg/NewsContent/2/8/4141/World/Region/Ben-Alis-hated-inlaws-looted-Tunisi-as-wealth,-expe.aspx>. For a list of 48 family members whose funds were subsequently blocked in Switzerland, see "Les 48 personnes dont les fonds sont bloqués en Suisse," *Le Temps*, February 8, 2011, <http://www.letemps.com.tn/article-52743.html>.

<sup>7</sup> Graham Usher offers a balanced discussion of the problem in "That Other Tunisia," *The Nation*, Sept. 12, 2011, <http://www.thenation.com/article/162966/other-tunisia?rel=emailNation> (accessed Aug. 27, 2011)

<sup>8</sup> For their respective career backgrounds, see Mounir Charfi, *Les ministres de Bourguiba 1956-1987* (Paris: Editions l'Harmattan, 1989), pp. 208, 221.

<sup>9</sup> L'armée tunisienne lève un coin de voile sur les "snipers"! *Kapitalis*, Aug. 19, 2011: <http://www.kapitalis.com/fokus/62-national/5482-larmee-tunisienne-leve-un-coin-de-voile-sur-les-snipers.html> (accessed Aug. 26, 2011).

<sup>10</sup> Experts usually recommend proportional representation for channeling democratic transitions. See Wael Abdel Hamid, "Experts advise Proportional representation for successful transition in Arab world," *FairVote*, Feb. 25, 2011: <http://www.fairvote.org/experts-advise-proportional-representation-for-successful-transition-in-arab-world> (accessed Aug. 27, 2011) and Larry Diamond, "Transition Traps," *New Republic*, Feb. 16, 2011: [http://cddrl.stanford.edu/news/larry\\_diamond\\_transition\\_traps\\_20110216](http://cddrl.stanford.edu/news/larry_diamond_transition_traps_20110216) (accessed Aug. 27, 2011)

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<sup>12</sup> Interior Minister Farhat Rajhi urged the Tunis Court of First Instance to dissolve the RCD on the basis Article 19 of the organic law number 32 of 1988 concerning the organization of political parties. See "Le gouvernement tunisien demande la dissolution du Rassemblement constitutionnel démocratique (RCD)," Tunisia Watch, February 22, 2011, <http://www.tunisiawatch.com/?p=4097>.

<sup>13</sup> A constitutional amendment adopted in May 2002 enabled President Ben Ali (1936–) to run in 2005 and 2009 by abolishing terms limits and increasing the candidate's age limit from 70 to 75.

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<sup>16</sup> 52 % des Tunisiens inscrits sur les listes électorales, *Le Nouvel Observateur*, Aug. 14, 2011: <http://tempsreel.nouvelobs.com/actualite/monde/20110814.OBS8542/52-des-tunisiens-inscrits-sur-les-listes-electorales.html> (accessed Aug. 26, 2011)

<sup>17</sup> “La mission d'observateurs de l'UA: ‘Le scrutiny du 25 octobre en Tunisie s'est déroulé dans le calme et la sérénité’,” Elections Présidentielle et Legislatives en Tunisie [Tunisia's official website for presidential and legislative elections], October 28, 2009,

[http://www.elections2009.tn/fr/index.php?option=com\\_content&task=view&id=237&Itemid=1](http://www.elections2009.tn/fr/index.php?option=com_content&task=view&id=237&Itemid=1). The writer joined a pre-electoral survey in 1993 commissioned by USAID to assess the utility of sending international observers to the 1994 presidential and legislative elections. We concluded such a mission would not be useful, a conclusion that intervening changes over the years have not negated. See Jeff Fischer, Clement Henry, Adila R. Laidi, and Keith Klein, *Pre-Election Technical Assessment: Tunisia* (International Foundation for Electoral Systems, December 1993), <http://www.ifes.org/Content/Publications/Reports/1994/Pre-Election-Technical-Assessment-Tunisia-December-15-22-1993.aspx>.

<sup>18</sup> “Tunisia: Elections,” United Nations Development Program, Program on Arab Governance, <http://www.pogar.org/countries/theme.aspx?t=3&cid=20>, accessed September 25, 2010.

<sup>19</sup> Tunisie : les 2 chambres du Parlement seraient dissoutes de fait

*Le Nouveau Observateur*, March 5, 2011: <http://tempsreel.nouvelobs.com/article/20110305.OBS9162/tunisie-les-2-chambres-du-parlement-seraient-dissoutes-de-fait.html>

<sup>20</sup> For 2009 data, see “Résultats des élections présidentielle et législatives,” Elections Présidentielle et Legislatives en Tunisie [Tunisia's official website for presidential and legislative elections], October 22, 2009, [http://www.elections2009.tn/fr/index.php?option=com\\_content&task=view&id=234&Itemid=1](http://www.elections2009.tn/fr/index.php?option=com_content&task=view&id=234&Itemid=1).

<sup>21</sup> “Media Monitoring of the Presidential and Legislative Elections—Tunisia: 2009 Report,” Observatory for Freedom of Press, Publishing and Creation, and Media Monitoring of the Presidential and Legislative Elections, December 2009, <http://www.olpec-marsed.org/fr/Content-pid-7.html>. Brahim was given 5.65 percent of the public broadcasting time but was constantly rescheduled to confuse listeners and be interrupted at prayer times.

<sup>22</sup> Interview of Abdesslem Jerad, General Secretary of the Union Générale Tunisienne du Travail (UGTT, the Tunisian General Union of Labor), *As-Sabah*, August 8, 2009, cited in “Dans une interview accordée au quotidien tunisien ‘Assabah’,” UGTT, August 8, 2009, <http://www.ugtt.org.tn/fr/actualitees-details.php?id=300>. The requirement that the union nominate twice as many candidates as its quota would enable the ruling party to select the winners.

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<sup>25</sup> With the exception of Israel and some Gulf city states, Tunisia outperforms the rest of Middle Eastern and North African countries with respect to government effectiveness, as measured by the World Bank from a variety of surveys. See “Tunisia/Government Effectiveness,” World Bank, Worldwide Governance Indicators, [http://info.worldbank.org/governance/wgi/mc\\_countries.asp](http://info.worldbank.org/governance/wgi/mc_countries.asp), accessed February 24, 2011.

<sup>26</sup> “Associative action in Tunisia, leading experience in participation in public affairs,” Agence Tunis Afrique Presse, April 22, 2010, [http://www.tap.info.tn/en/index.php?option=com\\_content&task=view&id=7496&Itemid=68](http://www.tap.info.tn/en/index.php?option=com_content&task=view&id=7496&Itemid=68); “La liberté d'association en Tunisie (Rapport),” Tunisia Watch, March 29, 2010, <http://www.tunisiawatch.com/?p=2214>.

<sup>27</sup> Ibid. [“La liberté d'association en Tunisie (Rapport),” Tunisia Watch].

<sup>28</sup> Kristina Kausch, *Tunisia: the Life of Others* (Madrid: FRIDE Working Paper 85, June 2009), p. 5, <http://www.fride.org/publication/631/tunisia:-the-life-of-others>. She adds: “Many of these GONGOs are totally unknown and inactive in Tunisia but are sent to represent ‘Tunisian civil society’ in international networks and fora, where they reaffirm the Tunisian government's supposed commitment to democratic reform and attempt to discredit the genuine NGOs.”

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- <sup>30</sup> Kristina Kausch, *Tunisia: the Life of Others*, p. 9.
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## COUNTRIES AT THE CROSSROADS

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