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In the Triple Threat to Tunisia's Democracy, Corruption is King

Fabian Stroetges¹

As austerity protestors clash with security forces in Tunisia, the country's young democracy is threatened by a triple challenge: Insecurity, a lack of socioeconomic development and persistent corruption are interlinked and reinforce each other. Individually and in concert they undermine citizens' confidence in the democratic system and hamper its ability to produce democracy dividends. Corruption is the most pernicious of these three phenomena and improvements here could translate into tangible gains in the two other areas. To support Tunisian democracy, the European Union and its member states should therefore put a greater emphasis on anti-corruption efforts. Prime Minister Youssef Chahed's "war on corruption" provides a timely opportunity for this. But the window of opportunity can close quickly with a change of government. Thus, beside redoubling their efforts and making them sustainable, Europe should also develop policy options for a Tunisian political environment less open to anti-corruption cooperation.

Since toppling the authoritarian Ben Ali regime in 2011, Tunisia has made remarkable strides toward a democratic political system. Tunisia has climbed from the classification of a "hard-line autocracy" in 2010 to being ranked in 2016 a "defective democracy" – not least due to the exercise of multiple free and fair elections.² The 2015 Nobel Peace Prize went to a quartet of Tunisian civil society organizations in recognition of their contribution to the country's transition. International enthusiasm about these developments is justified: The Tunisian experience challenges culturalist arguments about a supposed incompatibility of Arab and Islamic culture with liberal democracy. It also suggests the ability of democratic political systems to integrate Islamist political forces.

But, as a fresh wave of protests in January 2018 demonstrated powerfully, these advances are vulnerable because many Tunisians have yet to experience tangible democracy dividends. In over a dozen towns and cities,

protestors vented their anger over the 2018 budget with its subsidy cuts and tax hikes. There is a widely shared sentiment that the economic injustices of the Ben Ali era that motivated the revolution have not yet been tackled.

When it comes to consolidating democratic progress, the challenges Tunisia faces can be conceptualized in a "triangle of threat." Security problems, lack of socioeconomic development and persistent corruption are interlinked and reinforce each other in a triangle of threat which undermines confidence in the new political order. Within this triangle, endemic corruption (which includes clientelism) is worth particular attention. Actors in and outside Tunisia who want to support its democratic transition should focus on anti-corruption measures.

The failure of the new political system to tackle issues that were key triggers of the 2010-11 revolution gnaws at its legitimacy. The two national unity governments that followed the tense transition have yet to produce significant socioeconomic improvements, adequate security, and good and effective governance. At about 1 percent, economic growth is too low to improve the poor employment numbers, which have barely changed since the revolution. Joblessness stands at 15 percent nationally, but the figure is almost double that in the long-neglected interior regions and even higher for youth (35.7 percent). For a time, the poor performance could be blamed on external shocks such as the economic fallout from the 2010-11 revolution and subsequent terror attacks, after which tourism collapsed. But in the meantime, succeeding governments did not muster the political will to tackle serious structural problems. Instead of using the legitimacy of their broad-based constituencies that include the major political players, the latter have largely blocked each other in the governments of national unity.

While foreign and domestic private investors are deterred by a bloated bureaucracy and high business costs, the Tunisian government does not channel its own funds into badly needed public investment. A consequence of the political standstill, roughly 80 percent of the government's budget is spent on civil servants and interest payments. Politicians have yet to take on comprehensive civil service reform, effective tax collection from the self-employed, and a policy on the buoyant informal sector. Under the state of emergency – triggered in reaction to a series of terrorist attacks – reports of abuse and torture at the hands of the security forces have increased. Furthermore, the parliament's failure to agree on details of the constitutional court and other constitutionally mandated institutions meant that deadlines for their creation have been missed – in part by the same parliamentarians that set the deadlines.

Corruption and Confidence in the State

With the exception of the army, trust in public institutions is low. Most Tunisians feel that ministries and members of parliament work for themselves rather than the public. Young Tunisians feel particularly poorly catered to.³ According to polling conducted in late 2014, corruption was “by far the single most frequent reason [for protests in 2011] in four of six countries”, featuring particularly prominently in Tunisia.⁴ Worryingly, 90 percent of Tunisian respondents in the 2016 Arab Barometer still said that corruption “pervades” government.⁵ A high number of

companies report of having to make informal payments to “speed things up”.⁶

Corruption is more than an expensive inconvenience. It is in fact the key challenge to consolidating Tunisia's democratic progress. Insecurity, lack of development, and corruption form a triangle in which each component adversely affects the other. But of the three, corruption is the most corrosive to democracy. Endemic corruption undermines the system's values, but also has real, direct and indirect, impact on security and the potential deliverables of a political and economic system.

In terms of socioeconomic development, corruption deters domestic and foreign investment and hampers economic growth: In a system with high transaction costs, it is the businesses with the right contacts that thrive, rather than the most competitive ones. By undermining the rule of law – a key component of a democratic state and guarantor of fair market competition – this effect is even exacerbated.⁷ As public resources are diverted to private gain, public services become more expensive to obtain, while their quality and availability suffers. Corruption is thus a barrier to citizens' opportunity to claim the very rights – including social and economic ones – that a democratic system ought to guarantee.

Security is affected in two main ways: Clearly, when security forces and the justice system are prone to corruption, law enforcement is less effective and offenders with connections or money can go unpunished. But, as researcher and journalist Sarah Chayes has outlined, by scarring the dignity of participants, corruption also feeds the appeal of extremist groups whose narrative often includes the establishment of a more just, corruption-free society.⁸

Insecurity also increases business costs, further undermining economic development. For example, in 2013-14, over two thirds of Tunisian businesses paid for security, about double the average in the MENA region and well above the global average of 55.5 percent.⁹ Finally, in an environment of stagnant socioeconomic development and fragile security, citizens may be more inclined to engage in corrupt practices – if only out of necessity. The triple threat of insecurity, lack of development and corruption thus adversely affect one another. However, corruption is the most pernicious to democracy because it undermines democracy's very ideals along with its deliverables.

Change Expectations, Check Corruption

Security and economics cannot be ignored, but given the key impact of corruption on citizens' confidence in the state and its strong linkage to the other two factors, a successful fight against corruption promises significant rewards for the consolidation of Tunisia's democracy.

There is wide consensus among academics and policy-makers that structural factors such as high levels of transparency and accountability in the public and private sectors, strong market competition, and low rents for discretionary distribution contribute to an environment of low corruption. Beyond that, researchers have conceptualized endemic corruption as a particular equilibrium of expectations: Both sides of a transaction have well-established and unspoken assumptions about what constitutes appropriate behavior in a transaction and what is expected from them by the other. For example, both law enforcement officers and citizens would expect that passing a bribe is part of a traffic stop and behave accordingly.

To change expectations and move toward a system of low corruption, many researchers suggest that the most promising approach is a revolutionary “big bang”¹⁰ that would introduce radical uncertainty for those seeking to engage in corrupt practices. After this, traffic cops and citizens can no longer be certain about the consequences of engaging in bribery. They might worry their counterparts could report them and they would face consequences from the authorities. The previously accepted rules of the game are rewritten, and the results are no longer predictable.

In practice, such a shift requires the concerted political will of at least a considerable part of the political elite, and even with that is difficult. An alternative approach, via incremental changes, moves the system to a new equilibrium much more slowly, but is still achievable. “Once the diffusion of corruption is conceived as a path-dependent process, then some institutional ‘keys’ could be available to reformers to change the direction of the path: even small (or even symbolic) interventions at the right time and in the right place may start an incremental change toward good and transparent governance”.¹¹ As a society travels further down that path, former levels of corruption become more distant, and harder to return to.

Tunisian Democracy vs. Corruption

While the fight against corruption has – for better or sometimes for worse – featured prominently in Tunisia’s political discourse since the beginning of the transition in 2011, progress has been mixed.

Tunisia is one of the few countries that improved in Transparency International’s Corruption Perceptions Index 2016, where the MENA region presents an otherwise dismal picture.¹² Weeks after Tunisia’s first free and fair elections, a transitional anti-corruption authority with extensive competences was established, known under its

French acronym INLUCC (Instance nationale de lutte contre la corruption). The profile of the institution and the issue of corruption were further raised with the appointment of the prominent lawyer Chawki Tabib as INLUCC’s president in 2016. The authority’s work has subsequently become more professionalized, thanks in part to international support. Prime Minister Youssef Chahed, who took office declaring a “war on corruption”, also increased INLUCC’s 2017 budget.

The government joined the international Open Government Partnership with a promise to increase transparency, and progress on its commitments can be tracked online. The end of 2016 also saw the adoption of a national anti-corruption strategy. There has been progress on legal frameworks, including the introduction of a new law that protects whistleblowers. Civil society advocacy has contributed significantly to this progress. Indeed, the very fact that civil society has the space to play a role in holding politicians accountable bodes well for the future.

Despite these important steps toward greater transparency, the first public battle in the fight against corruption only occurred in the spring of this year, and developments since have sent mixed signals. A sweeping crackdown under the state of emergency in May 2017 led to numerous arrests of corruption suspects. With social unrest rocking the country, Chahed cast his move as a security issue and stressed in an interview with the Tunisian daily *La Presse* “we are persuaded there is a link between smuggling, terrorism financing, cross-border activities and also capital flight.”¹³

Although there are indeed interconnections between corruption and terrorism, securitizing the issue politically holds risks for the democratic transition as it legitimizes exceptional government measures. Placing corruption into a security context can undermine the rule of law, an essential part of a constitutional democracy. Chahed’s statement in an interview on the matter, that “this is an exceptional situation and it requires exceptional measures,”¹⁴ indicates how easily the process of securitization can lead to the abandonment of due processes. Suspects arrested in the first sweep in May 2017 were removed from ordinary justice and tried in military courts. This mars the process, also because until now the choice of targets seems to be selective.¹⁵

Chahed’s war on corruption has proven popular among voters, and he has since announced further measures.¹⁶ Using strong rhetoric, the prime minister has now tied his political fortunes to the fight against corruption. However, recent developments do not point toward tougher anti-corruption efforts.

Following a significant delay, the parliament passed the law to establish INLUCC's successor, the constitutional Good Governance and Anti-Corruption Commission in July. This commission is expected to be operational by early 2018. With more clearly delineated competencies than its predecessor, its reach will likely be shorter.

Furthermore, the current INLUCC has found itself under-resourced and understaffed for the thousands of cases it has been dealing with. Even where cases were processed effectively by INLUCC, the judiciary subsequently failed to prosecute them effectively again and again. This is striking given the continued impact – both real and perceived – of corruption on the country's progress. According to INLUCC's President Tabib, corruption and mismanagement cost Tunisia 2 billion Tunisian Dinars (about EUR 700 million) in the area of public procurement alone, a sum equivalent to four percentage points of GDP growth.¹⁷

In the meantime, a cabinet reshuffle spearheaded by President Beji Caid Essebsi has brought former members of Ben Ali's regime back into Chahed's government.¹⁸ As one of its first legislative projects, the government pushed a controversial Administrative Reconciliation Law in September 2017. Introduced by President Essebsi over two years ago, the bill promises full amnesty for state officials who followed orders of corrupt superiors without enriching themselves, and freedom from prosecution for those who return embezzled sums and pay a penalty. Despite large protests, the law was passed by the government majority in a tense extraordinary session of parliament. While amendments to the original bill mean corrupt businessmen are no longer offered amnesty, critics bemoan that the process lacks transparency and undermines accountability as well as the transitional justice work of the Truth and Dignity Commission. As a Human Rights Watch researcher commented, the law could well be "the final blow" to the transition.¹⁹

What role for Europe?

The European Union and its member states should make use of the current political prominence of the corruption issue. Europeans and others have already devoted considerable financial resources and offered technical cooperation in many areas to support Tunisia's transition. International financial support has somewhat softened the effects of the economic downturn that followed the revolution and the violent attacks in the years since. Cooperation with and funding for NGOs has helped civil

society provide an important check on power since the revolution.

Technical cooperation has improved capacity in a variety of institutions, such as the statistical office and the central bank. Through the European Union's TAIEX instrument, there is a well-established tool for the exchange of best practices for the public administration. In 2012, the EU also launched a multimillion Euro program to support the judiciary and other good governance projects implemented by the Council of Europe. Germany supports an International Good Governance Academy based at the elite École Nationale d'Administration in Tunis. EU member states and other donors are also engaged in the anti-corruption sector, for instance with INLUCC, where capacity building and the equipment of supplies are provided.

It is worth emphasizing that Tunisia has so far been quite open to such interventions and that a hospitable political environment is a prerequisite for their success.

Europe and its partners have an interest in a stable and effective democratic Tunisia with which they can cooperate on numerous issues including security and migration.

Given the centrality of corruption in its threat against democratic consolidation and its current prominence, the EU and its members states should redouble their support to anti-corruption efforts in Tunisia. They should also invest in making these efforts sustainable and consider options in case the political environment changes toward one less congenial to anti-corruption cooperation. Ideally, their commitment in this matter should reflect a broader conceptual shift that puts the struggle against corruption at the center of democracy support. By comparison, of the 33 projects currently supported by the European Endowment for Democracy in Tunisia, only one is concerned with corruption.²⁰

Effective anti-corruption measures are likely to be a very (cost-) effective contribution they can make with the promise of tangible gains for Tunisian citizens. Assuming INLUCC President Chawki Tabib's figures are correct, a corruption-free Tunisian economy would have grown by 5 rather than 1 percent in 2016 and consequently produced numerous more jobs.

A stronger European engagement in anti-corruption would also match Tunisians' expectations and Europe's strengths. In polls, many Tunisians above all demanded support in socio-economics and anti-corruption programs from the EU.²¹ Moreover, the EU has extensive experience in this area from its enlargement programs.

Recommendations

It is unlikely that Tunisia will be able to generate a “big bang” against corruption. Europe is equally unable to force such a sudden shift, nor would it be in Europe’s interest to do so, as it would also risk generating significant instability. It is more realistic to pursue incremental reforms toward a low-corruption equilibrium. By redoubling their efforts in this area now, the EU and its member states can support Tunisian progress along this path. However, they should also develop policy options in case Tunisia takes a different direction.

- *Support to the Anti-Corruption Authority INLUCC should be sustained and carried on to its successor, the independent Good Governance and Anti-Corruption Commission. Similarly, support for the judicial system, including the Court of Auditors should be sustained. At the same time, EU institutions such as the anti-fraud office OLAF and/or its member state counterparts should establish institutional partnerships with their respective Tunisian counterparts. This would facilitate an ongoing exchange of best practices even following the termination of current programs and under different political circumstances.*

Tunisia’s anti-corruption authority remains underfunded, yet it does benefit from donor support. Such open support, however, is only possible with approval of the Tunisian government. Institutional partnerships between Tunisian anti-corruption authorities and their European counterparts would be a good way to sustain the exchange of best practices beyond the end of current projects. As this would be a more technical form of cooperation, it also has a better chance of surviving changes to the political environment in Tunisia. The independent status of OLAF and member state institutions can go some way to alleviating potential concerns about interference in Tunisian sovereignty in such a changed political climate.

- *In bilateral discussions, the EU and its member states should encourage the Tunisian government to continue, expand, and institutionalize its anti-corruption efforts. Such measures could become part of the EU-Tunisia Action Plan in the framework of the European Neighborhood Policy (ENP).*

Both Tunisian voters and many international stakeholders welcome that the Tunisian government has put the fight against corruption on the top of its agenda.

However, critics point out that the government’s actions have been selective and lack respect for the rule of law. Tunisia’s partners should encourage the country’s government to leave the investigation and trial of corrupt officials to the relevant authorities, and to resource these sufficiently as well as improve coordination among them. Concrete steps in that direction could be agreed in the new ENP Action Plan, which is to succeed the current 2013-2017 one. A committee of the EU-Tunisian Association Council could discuss progress reports on benchmarks that track efforts on both sides of the Mediterranean.

- *The EU should offer greater flexibility in the negotiations for a Deep and Comprehensive Trade Agreement (DCFTA) with Tunisia and offer membership in the European Economic Area in the longer term.*

Liberal trade regimes reduce opportunities for corrupt practices. The sooner the EU and Tunisia adopt such a regime for their trade with the DCFTA, the faster it can translate into gains in the governance area. Membership in the European Economic Area liberalizes trade even more, but it also offers access to structural funds that could help Tunisia’s interior regions.²² The EU’s willingness to exclude Tunis Carthage Airport from the recent Open Skies agreement between the two provides a good example of how more liberal trade can coincide with concessions to protect strategic sectors.

- *The EU and its member states should carefully review whether individual measures to support Tunisia could enable corruption.*

A 2017 report by the European Court of Auditors found that EU support on Tunisia was generally well spent.²³ It also briefly noted the persistence of corruption in Tunisia. In some cases, international assistance can unwittingly contribute to the persistence of corrupt networks in a country.²⁴ Political economy assessment frameworks with particular consideration of this aspect should therefore precede the conception and implementation of projects in Tunisia.

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Notes

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