Border security in Tunisia

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Introduction

Border (in) security has been a major concern throughout Tunisian history, from state building, to state consolidation, going through a transition phase that followed the Arab uprisings leading to the rise of new threats.

Corruption, poorly managed borders, border officials' discretionary and exceptional powers contribute to the existence and persistence of destabilized dynamics at the borders.

This paper is an attempt to offer theoretical insights and empirical data on the state of play at the Tunisian borders. Our research focuses on the hypothesis that securitization of the borders is only a component of securing the borders.

The research design focuses on official responses rather than individuals'. As such, our research employs a multi-method approach consisting of desk review, in addition to fieldwork, observation, informal interviews and second-hand information. For practical reasons, we were only able to conduct interviews with administrative staff.

Due to the "sensitive" nature of the topic, we were at numerous occasions confronted to the National Security and Defense exception to the right to access information, which remains an "elastic concept" that needs to be furtherly defined.

While asking the pointed question of: does securitization of the borders mean securing the borders? we look closer to the security apparatus as a whole, especially in the post-January 14, 2011 period characterized by internal insecurity due to the weakening of the authority of the state, aggravated by the impact of the uprising in Libya, and the great influx of Libyan refugees to Tunisia, the proliferation of extremist religious groups; organized crime networks of all types, accompanied by uncontrolled movements of arms, explosives and related goods.

The study is outlined as follows. First, we provide a conceptual framework for border security. Next, we offer a retrospection of border security issues through modern Tunisian history. We then discuss the appropriateness of the strategies and policies undertaken by the government(s). We conclude with discussion of how our findings could inform decision makers on ways to move forward.

I.   Border Security: A conceptual framework

1. Definitions:

First differentiating borders from related concepts, like territory and sovereignty; Didier Bigo states that "the border is the boundary of the territory which comes first". Border is the circle, the spherical shell, the bubble, the content brings the shape into existence but the form allows the content to exist. We must reflect on the border as an institution and not merely as the confines of an area of empowered[1].

A. BORDERS:

Borders are geopolitical objects par excellence[2]. They not only delimit and demarcate but also recall different meanings and functions:

- Meaning of the borders

Borders are physical, territorial, and symbolic lines sometimes as important as the national flag. They create political entities. They represent the frozen balance of power in space[3] at a certain point of time and are defined by legislation, geography, economy and security

- Role of the borders

- Container; that allows the state to embrace (or cage) the populations under its control and / or to protect them from enemy aggressions in a given territory [4]

- Protection/filter: from external threats and ensuring internal security by selectively controlling who and what enters and leaves the territory

- Limitation: set the limit of the exercise of sovereignty and recognize that what is outside border is not subject to the sovereignty;

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[1] Didier Bigo , Frontières, territoire, sécurité, souveraineté

[2] Michel Foucher ; Actualité et permanence des frontières

[3] Michel Foucher cited in Didier Bigo , Frontières, territoire, sécurité, souveraineté

[4] Giddens cited in Didier Bigo , Frontières, territoire, sécurité, souveraineté

- Separation: separate states

- Fiscal and economic function: it sets the tax base on which the state has a monopoly

- Identity function: identify and close the national space; separate friends from enemies (us and them)

We conceptualize the notion of borders on the basis of ideological elements, according to the meaning we give to history, according to our system of values; for instance is the Tunisian- Libyan border relevant/ accepted for border tribes and communities who historically were a unified entity separated by colonialist legacies as shown in the "arbitrary" division of the Jeffara region between the French and Italians?

Indeed, if the cross border commerce and trade is the only mean to bring economic opportunities and employment to a marginalized region, would the cross border flows be illegal to those benefiting from it?

B. SECURITY:

The concept of security used in this paper challenges the traditional perception of it as a military/defense based approach. In fact, this thesis was defended by Amiral Pierre Lacoste, in his book "Les mafias contre la démocratie" as well as by Bertrand Warusfel in his article "Les notions de défense et de sécurité en droit français"[5].

Security is viewed as the state/ perception of being free of danger or threat.

We argue that security is a comprehensive concept that encompasses defense - understood as the preparation and use of military means against armed threats. Accordingly, defense is only a component, a means toward achieving security.

Thus the concept might as well include issues of refugees[6], illegal immigration, smuggling in goods and people, agricultural issues such as 'mad cow', human diseases and terrorism.

C. Border security: a definition?

Border security is at the heart of the homeland security: what is the object of this security?

II. Tunisian borders and the security quest:

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[5] Revue Droit & Défense, n° 94/4, octobre 1994, pp. 11-20

[6] Howard Adelman, Refugees and Border Security Post-September 11

1. Borders Brief:

Tunisia is limited to the west by Algeria with 965 km of common border, southeast by Libya with 459 km of border to the north and east by the Mediterranean Sea with 1298 km of coastline. In our attempt to theorize border security in Tunisia, we adopt a temporal framework:

A. Phase I: State building

a. The traditional/old enemies; embracing the realistic approach:

Tunisian enemies at the borders were known, easily identified thus tamed, classic cases of international conflicts. The Tunisian borders were threatened by the ambitions, attitudes or power hunt of other states; neighboring states. Those enemies legitimized the primacy of the military aspect of security.

- The Tunisian–Libyan border region witnessed several conflicts throughout its modern history. Indeed, with the French colonization and the arbitrary division of the Jefara between the French and Italian colonies and the treaty of 1910 delineating the border between the two territories, the Werghemma (west) allied with the Nwayel (east) to fight the establishment of the border[7].

Subsequent conflicts were recorded where borders played a role of either a vessel or a cause, the borders were sealed in 1956. In 1981/82; Libya sent armed infiltration into Tunisia and sabotaged a Tunisian pipeline near the border in 1984[8] and a series of border incidents followed. In 1985 Tunisia accused Libya of violating its air space and orchestrating a border troop movement, this crisis continued till September 1985.

- The Tunisian-Algerian borders as well were also in the midst of clashes and quarrels. In fact, Tunisia had territorial claim over a portion covering the areas from Fort Saint-Grégoire to Borne 233 (Beacon 233). Habib Bourguiba's[9] main argument for that claim was that those lines were drawn by colonial separatists' movements and thus were rejected by popular conscience. The ideological argument became irrelevant when Bourguiba realized that Algeria is about to get its independence and thus the sympathy of Tunisians toward Algeria would hinder such discourse[10].

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[7] Moncef Kartas. On the Edge? Trafficking and Insecurity at the Tunisian–Libyan Border . Small Arms Survey, Graduate Institute of International and Development Studies, Geneva, 2013

[8] Anthony H. Cordesman ; A Tragedy of Arms: Military and Security Developments in the Maghreb, Praeger Publishers Inc (30 novembre 2001)

[9] First president of independent Tunisia

[10] Saadia Touval ; The Boundary Politics of Independent Africa, 1999 Harvard University Press, Cambridge, Massachusetts

the This issue was gradually resolved to be finally settled by the agreement dated 6 January 1970, according to which Tunisia accepted the delineation of the borders as interpreted by France and Algeria at that time.

- Tunisian airspace: the attack by Israel on the Palestine Liberation Organization (PLO) headquarters in Hammam al-Shatt on October 1, 1985. Several Israeli fighter aircrafts, accompanied by two Boeing 707 entered the Tunisian airspace that morning; in an operation called the " wooden leg": bombing the headquarters of the Organization for the Liberation of Palestine (PLO), relocated in Hammam Chott since its moving from Lebanon in 1982 following the Israeli invasion .

These threats fall all under ***the realistic approach:*** or the traditional view that sees the state as the core element of security and its essence is protecting it from against military threats;

In this perception of security, threats are external and military based, and the actors are states. Realist's thesis is that borders are "strategic lines to be militarily defended or breached. State survival is based on the deterrent function of borders against military incursions by other states"[11]. This conception goes back to the philosopher Thomas Hobbes, who has built the whole legitimacy of the sovereign state and its powers upon a construction of security, the state as a protector of the individual against the state of nature 'bellum omnium contra omnes'. According to Robert Gilpin, states have always had "the conquest of territory in order to advance economic, security, and other interests" as a principal goal."[12]

This conception had legitimate historical reasons as "modern states were created as war machines"[13]. However, the traditional military function of borders has become much less important as states' use of force diminished considerably in the modern history.

This model was undermined by transnational flows of actors other than states (natural forces, technological, economic, religious, ecological)

This model was also criticized for building up "military security that is a social construction producing and reproducing the threat that justifies it" Indeed, each State strengthens its military potential for its own

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[11] Redrawing the Line: Borders and Security in the Twenty-First Century International Security, Vol. 28, No. 2 (Fall, 2003), pp. 78-111

[12] War and Change in World Politics 1981

[13] Charles Tilly, Coercion, Capital, and European States: A.D. 990-1992 (Cambridge, Mass.: Blackwell, 1992).

security, fueling the insecurity of neighboring states in turn that increase their military potential and so on. [14]

Phase II: The Transition post "Arab Spring"

A. **New threats:**

On the aftermath of the Arab Uprisings, new threats have emerged and others have magnified. Tunisia is no longer facing the traditional enemy.

Trafficking in legal as well as illegal good has multiplied considerably[15] (all kind of household goods, oil, clothing, weapons (small arms), drugs, chemical pills, alcohol and cigarettes). The units of the National had successfully stopped 562 smuggling operations in October 2014 and seized contraband products worth around 4.500 USD. A study by the World Bank estimated tax losses of the Tunisian State because of smuggling and parallel trade to 613.905 million USD, 255.794 million USD for customs duties.

Moreover, the smuggling of irregular migrants in and out of the country has magnified since 2011, Tunisia has evolved into an important transit country receiving flows – mainly from Sub-Saharan countries – attempting to reach southern Italy from the Tunisian coasts. In addition to mass departures of Tunisians to the island of "Lampedusa" (Italy) and the waves of Tunisians leaving to join IS. The Soufan group estimated Tunisians in Syria to 3000 making them the largest group of foreign fighters.

A high security official noted that irregular migration was a threat and a problem, since terrorist organizations function through those networks of human smugglers[16].

New forms of internal stresses along with external stresses appeared with regional terrorist networks such as AQIM; "The Islamic State" and its neighboring spinnerets that present a serious threat to national security. Radical groups such as Katibat Uqbah Ibn Nafi and Ansaar Chariaa are internal threats to border and national security as they hide in mountainous areas, plotting and striking against border patrols, national guards and the military. Fighters loyal to the IS taking over the Eastern Libyan coastal city of Derna urged the Tunisian authorities to take drastic security measures at the Tunisian-Libyan borders.

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[14] B. Buzan, O. Weaver, J. De Wilde, Security. A New Framework for Analysis, Boulder, Lynne Rienner, 1998

[15] A study by the World Bank estimated Tunisian tax losses because of smuggling and informal trade to 1.2 billion dinars, 500 million dinars of which are customs duties.

[16] Interview on July 2015.

Tunisian borders are also affected by outbreaks; diseases and epidemics such as the Ebola virus to prevent and riposte to those threats. As threats mutate and multiply, the official response is always securitization oriented, if the threat is not military, or economic, it is not "really" a threat.

Also worth noting that travelers coming into Tunisia with a travel history from the outbreak regions do not receive a health assessment from a Quarantine Officer and are not required to report to a local public health authority and self-monitor for up to 21 days as required by the regular procedure.

There is a pressing need for new approaches expanding the concept of security by incorporating non-military threats (economic, health, political, environmental, etc.), as threats are no longer coming from States, and no longer targeting The State.

The new enemy is no longer physical/ easily identified / and is de-territorialized.

Territorial integrity norm, Expansionist ambitions and the Caliphate:

New political entities such as the "Islamic State" are claiming a renewed political space; the Caliphate. This space does not recognize borders and it is in continuing conquest of territories. This ideology disregards the modern interstate system based on the mutual respect of the "Territorial integrity norm" according to which nation-states should not attempt to promote secessionist movements or to promote changes in other nation-states. These de-territorialized entities reached the neighboring country Libya and present a security/political and ideological threat to Tunisia.

B. **Tunisian Border policies; how relevant/adequate are they?**

While being virtually inexistent or overlooked in the past year, border concerns and controls had grown in the past years. Borders as seen before 2011 no longer exist.

Examining the Tunisian borders policies reveals that the realist, State centered approach of security has not disappeared. Threats are viewed as military threats and fighting fire with fire is the best response yet. This is made clear when trying to answer the following questions: what is the object of this security? The nature of the threat? Who must ensure safety? By what means?

The Tunisian Strategy seems armament focused; indeed, the budget allocated for the executive branch for the 2014 fiscal year reached 15.880.900.000 USD, an increase of 2.2% compared to 2013 (15.125.500.000 USD), the highest increase going to both the ministry of interior and ministry of

national defense. The former had its budget increased to 129.739 Million USD and the latter increased to more than 850 Million USD, with this extra funding to be spent on better equipment and materials for the ministries' respective security services as well as new recruits (48% of the recruitment in 2014 are in the Defense and Interior).

In addition, the state went from "thickening" the borders and the creation of buffer zones[17] to border barriers[18]. This tendency to "hardening" the borders is not unique to Tunisia; many of the territories subject to tension[19] have chosen to build these massive and expensive solutions, which are highly controversial. On the one hand, their effectiveness is far from proven; even if they serve as messaging conduits as per their intimidating posture, they only redirect flow issues, failing to solve their complex origins. Moreover, they are behind many related problems, such as the rise of violence in the border areas, especially those economically dependent to the cross border flows.

Tunisia has also declared state of emergency from 2011[20], following the toppling of President Zine el-Abidine Ben Ali, until March 2014, when then-President Moncef Marzouki lifted it. The President Beji Caid Essebsi resorted to this measure on July 4, 2015, days after the terror attack of Sousse[21].

Policies are also directed toward joining efforts between the security and military institutions (Joint patrols, joint strategic committees), the question stands on how harmonious these combinations; knowing the tense relations between those bodies. Worth mentioning that at many occasions, the lack of communication between the security forces also impeded crisis cell operations and hampered coordination of efforts[22]. Besides, foreign aid (especially American aid) was spent the army[23] who has been reluctant to share its equipment and information with other Tunisian security forces. Indeed, the relationship between the forces were tense since Ben Ali's regime, who was himself a former Minister of

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[17] pursuant to the Republican decree No. 2014-202 of 19 September 2014 extending the Republican Decree No. 2013-230 of August 29, 2013: from 29 August 2013 TO 29 August 2015

[18] In his speech on the 07/07/2015 ; the Tunisian prime minister announced plans to build a wall along part of its eastern border with Libya in a bid to contain the inflow of jihadist militants. The wall will stretch 160 kilometres from the coast inland, covering about a third of Tunisia's 460-kilometre border with its eastern neighbor.

[19] Example; Kuwait and Saudi Arabia, have closed their borders with Iraq to prevent jihadists incursions and irregular emigration.

[20] which empowers the Governor to prohibit the movement of people or vehicles; including on the borders

[21] http://www.bbc.com/news/world-africa-33287978

[22] http://nawaat.org/portail/2015/05/02/security-assistance-monitor-ce-que-vous-devez-savoir-sur-laide-militaire-us-a-la-tunisie/

[23] Source: http://securityassistance.org/node/166308

Interior; and had widened the gap between the military and the interior security forces in the fear of a possible coup, building the capacity and size of the latter. This all created a competing and a distrustful atmosphere; fieldwork showed that the lack of communication between the two bodies go as far as not adequately sharing relevant counterterrorism information, which might jeopardize CT efforts.

Creating fusion cells[24] is a positive but insufficient step, providing the opportunity for senior officials to sit together and exchange information should be duplicated all the way down to officers on the field, creating familiarity and closeness will ensure a better collaboration.

The question is also on how clearly the roles of each body is defined and set?

The national policies and discourses are still impregnated by "the Prestige of the state"[25], where the system is the state, and where the discourse might serve authoritarian regimes as a legitimizing tool. Human security is overlooked for State security.

Moreover, there is relatively little collaboration between Tunisian security forces and border communities in their efforts to counter those new threats, the State is still perceived as the sole security provider, a reallocation of the main security actors might be needed at this stage.

Besides, we witness the production of security discourse and the adoption of laws criminalizing migration, as for example the Law n° 1975-40 of 14 May 1975 regarding passports and travel documents, modified in 1998, 2004 and 2008 that governs nationals' as well as foreigner's entry and exit. It provided for the penalization of irregular – foreign or national – migrants. The 2004 amendment set even more severe punishments for those who assist the illegal entry of immigrants[26], extending the concept of aid. The whole process is incriminalized in the latter from the intelligence to the design and organization even on volunteering basis. Thus this text extends the repression to humanitarian organizations providing support and material assistance to those who have entered or exited irregularly. It aims clearly at isolating irregular immigrants, preventing them from any social bonds. The law goes further with the establishment of an obligation to inform, in violation of the professional secrecy when requiring the physician, pharmacist or lawyer to report any irregular immigrants at the risk of a criminal sanction. By doing so, Tunisia is linking crime and migration, treated in the past in economic terms, immigration is

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[24] "Pole Securitaire" bringing together officials from the Ministries of Interior, Defense and Justice to coordinate security efforts

[25] هيبة الدولة

[26] Migration Policy Center : MIGRATION PROFILE : Tunisia. Can be found at : http://www.migrationpolicycentre.eu/docs/migration_profiles/Tunisia.pdf

now in terms of security. Tunisia is importing European security policy and adopting a repressive policy especially towards sub-Saharan Africans; jeopardizing its own commitments and interests within the African Community[27]. Thereby, Tunisia has adopted the same discourse and policy it always blamed the EU for adopting towards its own citizens.

Finally, worth also mentioning that the high taxes and prices on certain products, make their smuggling into the country more attractive to both buyers and sellers. Besides, severe and repressive policies in custom related offenses are far from proving their effectiveness yet.

Border security goes beyond the borders; a multi layered approach to better tackle borders issues is required. In fact, defeating or addressing security threats at the borders is not solely achieved through building more fences, sending in more patrols, these are important but not sufficient. Tunisia needs to move away from the realistic, state-centered approach toward a more holistic approach. According to interviews, the economic situation has gotten worse in the borders region, which had "literally pushed young children to drop schools and get involved in the informal economy in order to support their families"; this is true to some extent, but it overlooks the "getting rich quickly mentality" that is taking roots in this young generation. "Others could not afford this because the bribes were too high for them to pay" [28].

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[27] the free movement of persons is included in almost all the agreements signed between Tunisia and most of its African partners

[28] Interview conducted in Kef, spring 2015;

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