

# Pursuing Truth & Dignity in Tunisia

## I-SSR programme



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TASIA WAGNER

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TASIA.JANA@GMAIL.COM

### ABSTRACT

On June 9<sup>th</sup> 2014, Tunisia's Truth and Dignity Commission (TDC) was officially launched in order to deal with past human rights violations by revealing their truths. However, despite the ambitiousness of the commission several challenges remain. In order to be truly effective and to achieve its aims the Truth and Dignity commission must make a decisive effort to ensure it overtake the transitional justice process.

For post-Arab spring countries, transitional justice is a crucial step to building national unity and cementing a legitimate institutional framework of justice. On June 9<sup>th</sup> 2014, Tunisia's Truth and Dignity Commission (TDC) was officially launched in order to "deal with past human rights violations by revealing their truths, and holding those responsible accountable, providing reparations for the victims, and restituting them in order to achieve national reconciliation"<sup>1</sup>.

Although the Truth and Dignity Commission is heralded as a step in the right direction by many international observers<sup>2</sup>, best practice approaches must be taken into account in order to ensure its success. While the International Center for Transitional Justice (ICTJ) is tasked in overseeing the process by providing technical assistance, working with civil society and ensuring women's participation, addressing the structural weaknesses of the commission is crucial. Thus, it is necessary to unpack the challenges that the commission faces and to critically assess the tenets of the commission and the organic draft law that establishes it.

Transitional justice is a crucial step to building national unity

## BACKGROUND

On December 17 2010, 26 year old Mohamed Bouazizi doused himself with paint thinner and set himself on fire in the middle of a public square in Tunisia. The act was one of desperation and

hopelessness. In response, young Tunisians took to the streets, many over educated yet unemployed, rallying for more opportunities, better living conditions, and greater freedom from the corruptive regime. In light

of the toppling of President Zine al-Abidine Ben Ali, Tunisia's dictator for more than 20 years, much of the West congratulated Tunisia's people for their fight for democracy. However, the promise of democracy does not make it so: decades of human rights abuses remain imprinted in the memories of Tunisian citizens and political polarization is widespread.

Efforts to tackle the vacuum left by the overthrow of Ben Ali began to take shape in the early months of 2011. Two ad-hoc committees were created directly after the revolution. The first, titled the National Commission to Investigate Human Rights Abuses, was tasked to examine any crimes committed during the uprisings, such as the killing of protestors

by police and security forces. Yet, although Ben Ali, his minister of the interior and other high-ranking officials were convicted for complicity, the actual perpetrators were never found. A second commission was also established in order to investigate corruption and embezzlement<sup>3</sup>, which was one of the main grievances among Tunisians and helped spark the revolution.

However, many have noted that the overall focus of these commissions seemed to be on “political expediency rather than neutral fact-finding”<sup>4</sup> and “point[ed] to a lack of clarity regarding the concept of transitional justice and lack[ed] awareness of the relevant techniques and methods”<sup>5</sup>. Wary of the process, many Tunisians questioned the legitimacy of the commissions<sup>6</sup>. This was further underscored by the release of five Ben Ali security officials<sup>7</sup> in April 2014, who were accused of killing protestors during the 2011 uprising.

In an interview Rim El Gantri, Head of office for ICTJ’s Tunisia Program also acknowledge the draw-backs of the previous ad-hoc commission. He stated, “it was obvious that the ad hoc measures taken right after the revolution—including fact finding committees, and efforts to provide reparations for the martyrs and

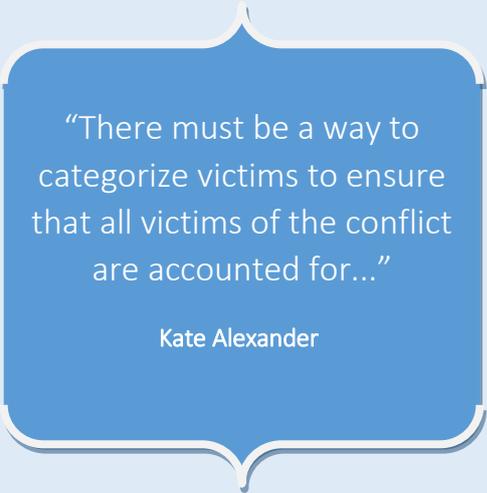
wounded—did not fully respond to the needs or rights of victims or other citizens”<sup>8</sup>.

## **TUNISIA’S TRANSITIONAL JUSTICE LAW & COMMISSION**

In December 2013, the Organic Law on Establishing and Organizing Transitional Justice was ratified by the National Constituent Assembly (NCA) through the approval of 125 members. The comprehensive legislation constitutes 70 provisions that provide a formal framework aimed at tackling human rights violations from 1955 to 2013. It is separated into two parts: First, the legal policy framework for the transitional justice process is outlined. Second, it establishes the Truth and Dignity Commission as the instrument under which the policy framework is applied.

The mandate of the commission focuses on revealing truths, collecting and preserving the national memory of past abuses, holding those responsible for the violations accountable, fighting corruption, and giving reparations and rehabilitation to the victims in order to bring about national reconciliation<sup>9</sup>. The commission aims to address internationally recognized violations of humanitarian law. These are briefly outlined in Article 8 and include

“deliberate killing, rape and any form of sexual violence, torture, enforced disappearance, and execution without fair trial guarantees”<sup>10</sup>. Additionally, a commendable emphasis was placed on violations that impacted children, the elderly, women and those with special needs in Article 4.



“There must be a way to categorize victims to ensure that all victims of the conflict are accounted for...”

Kate Alexander

The commission itself is comprised of a 15 member body that is appointed by the NCA and is set to hold a term of four years, with the ability to renew for one year. In an effort to ensure neutrality, restrictions were placed on candidates to the commission in Article 22. The restrictions include those who have held positions of authority in a political party, those who have been previous supporters of the Ben Ali regime, those who have held any position of power such as governor, mayor or delegate, any judge who has participated in trials of a political character, among others<sup>11</sup>.

## ANALYSIS

Despite the ambitiousness of both the Organic Law and the Truth and Dignity Commission itself several challenges remain.

First, although reparations are one of the tenets set forth by the Organic Law, a number of challenges are present. While Article 41 establishes a “Fund for the Dignity and Rehabilitation for Victims of Tyranny”, where the money for monetary reparations is actually expected to come from is not listed. And while the Tunisian economy has certainly grown since 2011, the economic situation remains shaky<sup>12</sup>.

Additionally, there must be an effort to categorize victims in order for reparations to be handled fairly. For example, are women who have been raped treated similarly to those who have been maimed? How are families of victims going to be compensated? In an interview with Kate Alexander, a researcher who worked extensively in the war crimes chamber of Bosnia and Herzegovina and Uganda’s Justice and Reconciliation project, she commented, “one of the problems of compensation can arise when you have a family that relied on the person who was abducted [by the government] as a breadwinner. The abduction and

disappearance of that person severely encroaches upon the ability of the family to survive. There must be a way to categorize victims to ensure that all victims of the conflict are accounted for in the transitional justice mechanism and in the provision of reparations.”<sup>13</sup>

Second, a balance must be struck between monetary reparations and the rehabilitation of victims. “We do not want to barter truth and justice against checks”, Kora Andrieu, an expert with the Office of the High Commission for Human Rights (OHCHR) in Tunisia noted “...a check that is not accompanied by measures to unveil the truth and recognition is not worth repairing. It is indeed a way to buy the silence of victims.”<sup>12</sup> In this context, Andrieu mentioned the severe weakness of Morocco’s Equity and Reconciliation, “...victims are not allowed to mention the names of their executioners. Violence remains anonymous.”<sup>12</sup> Highlighting the importance of this in Tunisia, Faouzi Sadkaoui, a special representative for victims of the revolution, has stated, “This is psychologically very important for the victims”<sup>13</sup>.

In the context of rehabilitation, a focused socio-cultural approach must be taken. Surprisingly, the Organic Law provides no mention on how Islam,

religious leaders or mosques can play a role in the process. Lessons learned from past processes, such as the disarmament, demobilization and reintegration (DDR) in Sierra Leone have shown the importance of incorporating local and informal approaches<sup>14</sup>. And although the Equity and Reconciliation Commission in Morocco was secular, the Islamic approach to human rights was purposefully incorporated<sup>15</sup>. Integrating informal approaches, especially those in line with local traditions, must be incorporated into Tunisia’s Truth and Dignity Commission.

Third, in order for truth and justice to be achieved the neutrality of the commission and its commissioners is central. Rida Belhadj, a senior leader of Nida Tounis, discussed<sup>16</sup> reservations concerning the Truth and Dignity Commission. He stated that the hesitancy in particular is on the ‘capability’ of the commissioners to do their jobs in terms of qualifications and questions whether they will be impartial. Some have already criticized the selection of commissioners by suggesting that they are only concerned with partisan politics, rather than the transitional process itself<sup>17</sup>.

Controversy concerning members<sup>18</sup> of the commission has already begun. Party members from the Congress of Republic

(CPR) parliamentary party boycotted the vote that decided on the members of the Truth and Dignity Commission due to concerns about the candidates on the list<sup>19</sup><sup>20</sup>. Further, there have been several critiques concerning Sihem ben Sedrine, a well-known human rights activist and president of the Truth and Dignity Commission, for being too closely-tied to Ennadha<sup>214</sup>. Additionally, only a few days after the official launch of the commission, Khemaies Chammari resigned<sup>2223</sup>. At the time of this writing, a replacement has yet to be named. Overall, however, the “worst-case scenario would be for Tunisia’s process of transitional justice to be seen through the prism of political rivalry between Islamists and secularists; leaving the wider public ‘lost in translation’”.<sup>4</sup>

## CONCLUSION

In order to be truly effective and to achieve its aims the Truth and Dignity commission must make a decisive effort to ensure that these weaknesses do not overtake the transitional justice process. Continued oversight by the ICTJ in conjunction with the cooperation with civil society groups is essential to establishing a more inclusive and legitimate process. Overcoming these obstacles will not be easy. However, as with the Arab Spring, Tunisia has the ability to become a symbol of

perseverance and a model for transitional justice for the Islamic world at large.

“The worst-case scenario would be for Tunisia’s process of transitional justice to be seen through the prism of political rivalry between Islamists and secularists; leaving the wider public ‘lost in translation’”

Eileen Byrne

## ABOUT THE I-SSR PROGRAMME

The concept of I-SSR defines our approach towards SSR (Security Sector Reform) and DDR (Disarmament, Demobilisation & Reintegration) processes as being based on pragmatism, realistic and holistic approaches and above all an Islamic-world led approach and initiative.

I-SSR approach engages fully with western donor and expert community and also aims to work with local and regional models and realities. We have pool of expertise in both SSR and DDR initiatives.

### PROGRAMME DELIVERABLES:

- Alternative analyses based on local models and realities
- Out-of-the box critical thinking
- Building up on the work of western led SSR and DDR models
- Incorporation of Islamic-world inspired formulas in post conflict reconstruction and resolution

## ABOUT THE INSTITUTE FOR ISLAMIC STRATEGIC AFFAIRS (IISA)

**IISA** is a think-tank and an intellectual forum for addressing the current and future dynamics of the Islamic-world and its interaction with Western civilisation. Based in London, IISA will create trans-Islamic and global reach. IISA seeks to establish a platform where Islamic-world's dynamics, trends, issue, problems or crises are analysed within the Islamic-world and by working on local models and realities and not against any external standards or perceptions. We will be one of the leading think-tank on the Islamic-world and its role in the contemporary global system. In a short span of time we have attracted great academic support and a reputation for both open and track-II dialogues. IISA is the only think tank initiative that goes beyond national and regional inclinations and addresses strategic and socio-political issues/crises of the Islamic-world in its totality. For more information i.e. our mission statement, current programmes and our academic and regional expertise please visit the following links:

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**Facebook:** <https://www.facebook.com/pages/IISA-Institute-of-Islamic-Strategic-Socio-Political-Affairs/118608928247992?ref=hl>

## END NOTES

<sup>1</sup> Republic of Tunisia Ministry of Human Rights and Transitional Justice (2013) “Organic Law on Establishing and Organizing Transitional Justice”. Unofficial translation by the International Center for Transitional Justice (<http://www.ohchr.org/Documents/Countries/TN/TransitionalJusticeTunisia.pdf>)

<sup>2</sup> United Nations Office of the High Commissioner for Human Rights (2014) “Taking on the past: the Tunisian Truth and Dignity Commission” posted June 9<sup>th</sup> 2014, Retrieved July 20<sup>th</sup> 2014 (<http://www.ohchr.org/EN/NewsEvents/Pages/TakingOnThePast.aspx>)

<sup>3</sup> Decree law No. 2011-7 of 18 February 2011 titled, “Establishing the National commission investigating corruption and embezzlement”. For more on this see: <http://www.legislation-securite.tn/fr/node/30445>

<sup>4</sup> Byrne, Eileen (2014) “Truth Telling in Tunisia” In: The Majalla, posted 19 Jun 2014. Retrieved 8 August 2014 (<http://www.majalla.com/eng/2014/06/article55250340>)

<sup>5</sup> Ferchichi, Wahid. “A Chronicle of Legislative Developments in the Aftermath of the Tunisian Revolution”. Heinrich Boll Stiftung.

<sup>6</sup> Amra, Tarek (2014) “Tunisia court orders release of former Ben Ali officials” Reuters, 13 April 2014. Retrieved 20 July 2014 (<http://uk.reuters.com/article/2014/04/13/uk-tunisia-politics-idUKBREA3C08P20140413>)

<sup>7</sup> Gall, Charlotta (2014): “Questions of Justice in Tunisia as Ousted Leaders are Freed” In: International New York Times, 16 July 2014 Retrieved 4 August 2014 ([http://www.nytimes.com/2014/07/17/world/africa/questions-of-justice-in-tunisia-as-ousted-leaders-are-freed.html?\\_r=0](http://www.nytimes.com/2014/07/17/world/africa/questions-of-justice-in-tunisia-as-ousted-leaders-are-freed.html?_r=0))

<sup>8</sup> These included Rafik Haj Kacem (former Interior Minister), Mohamed Ghariani (former Secretary General of the governing party) and Ali Seriati (former head of the presidential security service).

<sup>9</sup> ICTJ (2014) “ICT Program Report: Tunisia” posted June 16 2014, Retrieved August 4<sup>th</sup> 2014 (<http://www.ictj.org/news/ictj-program-report-tunisia>)

<sup>10</sup> World Bank (2014): “Tunisia Overview”. Retrieved July 1 2014 (<http://www.worldbank.org/en/country/tunisia/overview>)

<sup>11</sup> Interview. Lessons learned from Uganda’s Justice & Reconciliation Project: Alexander, Kate (2014, August 2). Skype and chat interview.

<sup>12</sup> Belhassine, Olfa (2014): “Reparations have distorted and politicized the debate on transitional justice” In: Le Presse Die Tunisie posted June 10 2014, original in French, translated by Google, Retrieved July 30 2014 (<http://www.lapresse.tn/19082014/84060/les-reparations-ont-fausse-et-politise-le-debat-sur-la-justice-transitionnelle.html>)

<sup>13</sup> Mersch, Sarah (2014): “The slow and painful search for the truth” Qantara.de, posted 3/4/2014 Retrieved August 1<sup>st</sup> 2014, (<http://en.qantara.de/content/victims-of-the-tunisian-revolution-the-slow-and-painful-search-for-the-truth>)

<sup>14</sup> For more on this see: N. Boothby, J., et al. (2006) Mozambique child soldier life outcome study: Lessons learned in rehabilitation and reintegration efforts. In: *Global Public Health*, 1 (1): 87-107 and

Zack-Williams, Tunde B. (2006): Child Soldiers in Sierra Leone and the Problems of Demobilization, Rehabilitation and Reintegration into Society: Some Lessons for Social Workers in War-torn Societies. In: *Social Work Education* (25)2:] 119-128

<sup>15</sup> Skroch, Catherine (2012): “Morocco’s Equity and Reconciliation Commission: A new paradigm for transitional justice” *Conflict Trends* (1): 19-26

<sup>16</sup> Interview. Belhadj, Rida (2014, June 15). In person interview conducted by Usama Butt

<sup>17</sup> Alarab.co.uk (2014): “Criticized for the truth and dignity in Tunisia”, posted June 10 2014 original version in Arabic, translated by Google retrieved July 28 2014 (<http://www.alarabonline.org/?id=24892>)

<sup>18</sup> Members appointed to the Truth and Dignity commission are as follows: Mr. Sadok Ben Zuhair Makhoulouf, representing associations of victims, Mr. Khaled Ben Ameer Krichi representing associations of victims, Mrs. Sihem Bensedrine Bent Ahmed, representative associations for the defense of human rights, Mrs. Bent Ahmed Abdellatif Ibtihel, representative associations for the defense of human rights, Mr. Mohamed Ben Abdallah Bensalem, magistrate of the judiciary, Mr. Abdellatif Mohamed Ben Ayadi, Administrative Judge, Mrs Oula Bent Omar Ben Nejma, lawyer, Mr. Azzouz Ben Omar Chawali, specialist in religious sciences, Mr. Mustapha Ben Ali Sghair Baâzaoui specializing in finance, Mr Ben Ali Bashir Radhouane Ghrab specializing in issues related to transitional justice, Mr. Slaheddine Rached Ben Ameer, specializing in issues related to transitional justice, Ms. Noura Bent Tahar Borsali specializing in issues related to transitional justice, Mr. Mohamed Larbi Ben Khemais Chammari, specializing in issues related to transitional justice, Ms. Hayet Bent Mohamed Ouertani specializing in issues related to transitional justice and Mr. Adel Ben Ali Maïzi, specializing in issues related to transitional justice.

For more information please go here: <http://www.legislation-securite.tn/fr/node/33755>

<sup>19</sup> Nadia, D. (2014): “Tunisia: CPR boycotting the vote on the instance truth and dignity” *Tunis Numerique* posted May 20 2014 original version in French, translated by Google retrieved August 4<sup>th</sup> 2014 (<http://www.tunisienumerique.com/tunisie-le-cpr-boycotte-le-vote-sur-linstance-verite-et-dignite/222662&usg=ALkJrhj6u0Xc-Prw5BT9vP1dMxqPv89Huw>)

<sup>20</sup> Tunisia News Gazette (2014): “Members of Truth and Dignity Authority Sworn in Before President of the Republic” posted June 9 2014, Retrieved August 13 2014 (<http://tunisianewsgazette.com/%EF%BB%BFmembers-of-truth-and-dignity-authority-sworn-in-before-president-of-the-republic/>)

<sup>21</sup> Schneider, Julie. “Tunisia: a first lady for the truth commission” *International Justice Tribune*. Retrieved August 16 2014 ([http://www.justicetribune.com/article/?tx\\_ijtarticles\\_homecarousel\[action\]=show&tx\\_ijtarticles\\_homecarousel\[article\]=539&tx\\_ijtarticles\\_homecarousel\[controller\]=Article&cHash=b12aaf67d7c2992625b204b3cbdfa8bf](http://www.justicetribune.com/article/?tx_ijtarticles_homecarousel[action]=show&tx_ijtarticles_homecarousel[article]=539&tx_ijtarticles_homecarousel[controller]=Article&cHash=b12aaf67d7c2992625b204b3cbdfa8bf))

<sup>22</sup> AllAfrica.com (2014): “Tunisia: NCA – Review of Vacancy Within Truth and Dignity Commission” posted July 10 2014 retrieved July 30 2014 (<http://allafrica.com/stories/201407110932.html>)

<sup>23</sup> Rabaa, H. (2014): “Tunisia: First Instance Resignation of Truth and Dignity Commission” *Tunis Numerique*, posted June 18 2014 original version in French, translated by Google retrieved August 3<sup>rd</sup> 2014 (<http://www.tunisienumerique.com/tunisie-premiere-demission-de-linstance-verite-et-dignite/227080&usg=ALkJrh-h-o-s1Kg81Ylqpx1LOLWVYr43jhQ>)