

Truth
& Dignity
Commission

FOR US,

The transitional justice's path in Tunisia

After the Truth and Dignity
Commission



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17 December 2018 represents an important date for Tunisia's transitional justice process, it is the date where the Truth and dignity Commission processing stage ended, the stage which lasted for more than four years, it was one of the longest time periods for a transitional justice system in nearly 40 experiences in the world. The Truth and Dignity Commission in Tunisia began its work in June 2014 after a preparatory course for transitional justice that began immediately after the revolution (weeks after 14 January 2011) and it had a profound impact on forming the Tunisian transitional justice experiment. The preparatory path has given rise to a common perception of victim and violation definitions and provided a broader than all previous experiences, a relatively long time-frame (over 58 years) and a composition for the Commission that was based clearly on the partisan bias.

It is well noted to everybody that the Truth and Dignity Commission faced many difficulties and challenges, internal and external, political and civil, legal and procedural. However, it managed to complete its pledge, achieve some successes and present its final report. The Commission's successes is relative, as each success faced a challenge that reduced its success rate, as the special transitional justice circuits were threatened with the reconciliation bill, and reparation decisions faced the economic cri-



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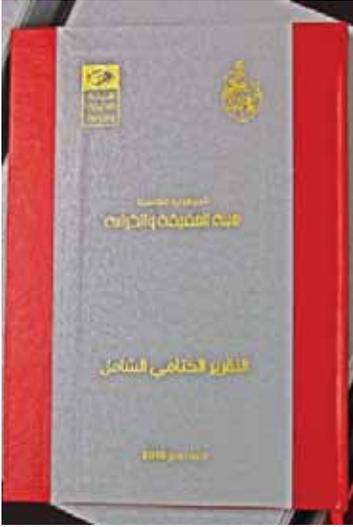
nistrative control structures..). It goes beyond formal and conditional reforms. The most notable experience in this context is South Africa's experience, in which implementing the Truth and Reconciliation Commission's recommendations continues to this day, i.e. more than 20 years after the Truth and Reconciliation Commission's work ended and the delivery of its report.

These institutional reforms, which are derived from the transitional justice's path and specifically from the Truth and Dignity Commission, would if implemented, be a guarantee against the recurrence of violations, abuses and corruption that the revolution has risen against. These recommendations are supposed to be based on previous reform initiatives (mentioned in paragraph 3) and based on previous recommendations and reports (previous committee reports, independent bodies reports and recom-

mentations, oversight structures reports, reports of international organizations.) and built on a participatory consultative track (consultation of reform structures, consultation of civil society, consultation of victims groups.) It is based on the new facts that were reached during the Commission's work (investigation, the testimony of victims, the testimony of violators, and access to archives.) In order for these recommendations to be accurate reform process that is thorough and comprehensive in its content, clear in its approach, and effective in describing its implementation.

In a critical reading of the Truth and Dignity Commission's report that was submitted on 26 March 2019 particularly the recommendations section, followers and defenders of the transitional justice path find that the form and content of recommendations were not as hoped. These recommendations are in brief, inaccurate in describing the necessary steps for their implementation, far in reality from the system that was dismantled, and unstructured, and they were often mentioned in a rhetorical form that is difficult to be developed and translated into a real stage or facilitates describing how it would be implemented, they lacked quantitative and qualitative indicators that may help in monitoring implementation. they also give an impression that has not been come up with something new or unknown, they look as if they were a number of earlier reports and recommendations that have been reformulated from less important structures and organizations and that do not know the real situation from an important body such as the Truth and Dignity Commission.

The recommendations' lack of real concrete content added more difficulty to the expected difficulty in implementing the recommendations, a historical and a political difficulty for transitional justice. On the first one, experts agree that most of the transitional justice experiences in the world -even the most successful ones- have not succeeded in implementing the recommendations emanating from their reports. Some unofficial statistics state that implementation rates did not exceed 20% for a number of reasons, the most important of which is that the bodies responsible end their reports so that the recommendations find their way to the shelves of an executive authority that does not care about reform, and without the existence of any official structure that will ensure following up the reports and the implementation of these recommendations.



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Recommendations for reparations and sometimes memory preservation may be the most likely recommendations to be implemented, as many associations, families and victim groups adopt these recommendations and continue to pressure official actors to implement them. The recommendations on reform and guarantees of non-repetition are defended by only a limited number of human rights associations that defend democratic values.

A number of defenders of transitional justice and experts have bemoaned this reality, which calls into question the usefulness of transitional justice as a whole. This shared reality of transitional justice is added to the Tunisian reality weakened the Truth and Dignity Commission's credibility during its term of office, which



faced a furious opposition to their work especially from official state organs, perhaps more ferocious than in any other experiments.

I is well known that the Truth and Dignity Commission faced opposition from the executive authority and political parties which -with the media's assistance as well as statements made by members and former workers, statements by close persons to the Commission and reports by monitoring bodies -contributed to developing a hostile public opinion. All these habits and disinformation (none of the three presidencies, Republic, government, parliament, participated in the most important work phases of the Commission from the hearings or the final seminar to submitting the report of the Commission) and hostile public opinion, makes the report and its conclusions unacceptable only because it is issued from a body which failed to gain popular trust. Thus, the executive branch planned carefully for the Commission's work and its report to be ignored, especially reform recommendations. And perhaps, the fact that the Head of the Commission was admitted reluctantly by the three presidencies away from the supposed official procession on unannounced dates after ignoring the Commission's demands for weeks may confirm this ignored sham scheme that the executive had begun to implement.



It should also be noted that the Transitional Justice Act, Organic Law No. 53 of 2013, provides in its last chapter no. 70 the following:

“Within a deadline of one year, as from the publishing date of the comprehensive report of the commission, the Government shall draw up a plan and work program in order to fulfill the recommendations and suggestions provided by the commission. The aforesaid plans and programs are submitted to the deliberation of the assembly charged of legislation. The assembly shall supervise the performance of the commission in achieving the working program and plan through a parliamentary committee which shall be established for this purpose and which shall collaborate with the concerned associations to make effective the recommendations and suggestions. The present law shall be published in the Official Gazette of the Republic of Tunisia and implemented as law of the State...”

This chapter was an attempt to ensure that the final report was more noticeable and that it was given due attention and get its recommendations adopted by the executive branch while supervised by the legislative authority by holding them fully responsible for reform after the end of the Commission of Truth and dignity’s term, as one of the two most important authorities in the State (The judiciary is responsible for another part of the transitional justice path, the judicial and transitional justice services.) It should be also noted that during the drafting of the Transitional Justice Law by the Technical Committee for the

National Dialogue on Transitional Justice, international experts who support the Tunisian experience noted the importance of implementing the recommendations, especially the ones related to applying reform, and stressed that the law should include procedures for implementing the suggested recommendations. This was stated in the aforementioned chapter of law which can be considered as a real development in transitional justice laws.

Despite these preemptive recommendations, despite foreseeing the danger of ignoring the recommendations, Tunisia is witnessing today uncomfortable signs that indicate that the executive authority ignores the Commission's report and violates the law by not preparing a plan for the parliament to implement in shadow of the parliament's current weakness in carrying out its oversight role, and in shadow of the parliament's renewal elections during the current year 2019 right after holding the legislative elections.

The political parties' position on transitional justice is also a second indicator of this concern, as positions range from hostility and rejection especially parties related to the former regime, such as Nidaa Tounes, Machrouu Tounes and Tahya Tounes; Political maneuvering and swinging in positions for the Renaissance Party and some left-wing parties; And weak support for some parties that present themselves as the guardians of the revolution, such as the Democratic Alliance. These positions were reflected clearly in drafting the legal text (in the process of consultation between the executive authority and some parliamentary blocs) that would destroy and blow up the transitional justice path by abolishing circuits related to transitional justice and establishing executive committees that would push towards more disregard by the executive authority for the Commission's report and its reform recommendations.

Despite all this failure in the path of transitional justice, the difficulties in ending the work of the Truth and Dignity Commission and submitting its report, and despite all the negative indications about the executive and legislative authority interaction with the issue, The hope of continuing the transitional justice path, especially the recommendations, remains a strong desire for civil society, which, despite its sharp criticism of the Commission, has remained supportive for the path of transitional justice.

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While the three presidencies refused to give due attention to the final report when it was submitted, civil society, international organizations, and partners embraced the report and recognized its importance. Some civil society components have also begun to undertake to follow up on the report's findings and to develop recommendations-based strategies to induce official actors to implement the Transitional Justice Act. But these initiatives should discuss establishing a new contract with other actors in the field and in the public arena, especially the media that was hostile to the Truth and Dignity Commission, political parties with positions that can be developed toward supporting the subject, and the different components of civil society that will benefit from reforms that will be cut off from previous systems. And with the independent bodies that the report covers some of their work fields.

This new alliance which is on the Commission's report and recommendations, which the Commission did not succeed in establishing during its years of work- the fact which contributed to increasing its adversaries-, can contribute to establishing a new dynamic path of transitional justice that will continue for years. It can contribute to organizing a general debate building a supportive public opinion, which in turn pressurizes the government and the parliament to apply the law and to embark on a reform course that will lead Tunisia to be among democratic countries that respect human rights and law.