



Transitional Justice Process: A Study of the Truth and Dignity Commission in Tunisia

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ABSTRACT

Transitional justice is an attempt to rise and advance from periods of state-led abuses towards instituting the supremacy of law. Tunisia has a marked history of gross human rights violations. To investigate and proffer solutions to these violations, the country's Transitional Justice Law, which gave birth to the momentous Truth and Dignity Commission (IVD), was passed in. The Commission was an exceptional transitional justice inaugurated to investigate and expose the truth about gross human rights violations committed from 1955 to 2013. With a focus on the victims of torture, this research examines the extent of the implementation of the TARR model of transitional justice by the Commission. Results revealed that the Commission has succeeded to a considerable extent in revealing the truth about the violations victims of torture have endured. The study, therefore, recommends the demonstration of a stronger political will by the upcoming government for ultimate success.

Keywords: Gross Human Rights Violations, Transitional Justice, TARR Model, Torture, Truth and Dignity Commissions (IVD), Victims of Torture

Introduction

There is usually a necessary experience for transitional justice for countries to provide adequate and context-specific responses to the large-scale and/or systematic human rights violations they must have endured and suffered from, after numerous periods of conflict, abuse, and repression (ICTJ, 2009). Transitional justice is not an exceptional form of justice, but a justice accustomed to societies transforming themselves after periods of persistent dictatorship and human rights violations (Newman & Clarke, 2009; Waterhouse, 2009; Hayner, 2011; Jones et al., 2012). Its aims differ depending on the context however, the following features are usually constant: the recognition of the dignity of individuals, a redress and acknowledgment of violations, and the aim to prevent them from occurring again (ICTJ, 2009).

In its discourse, the needs and rights of victims of mass atrocities are the center of debate and often get invoked as the core of the transitional justice process and its institutions (Newman & Clarke, 2009; Waterhouse, 2009; Hayner, 2011; Jones et al., 2012). Victims and victimhood are thus, considered as key to ensuring the legitimacy of the transitional justice process (Barker, 2001). Victims' participation in the transitional justice process has gradually expanded covering both judicial proceedings and non-judicial forums (Kritz, 1995; Bassiouni, 2002; Fischer, 2011).

The concept of transitional justice incorporates a sum of complementary judicial and non-judicial mechanisms (Kasapas, 2008; Kamminga & Scheinin, 2009; Fischer, 2011). One of the examples of such non-judicial mechanisms employed in the field of transitional justice is truth commissions (Villa-Vicencio, 2000; Hayner, 2001). The function of these justice mechanisms, such as truth commissions, is not solely to deal with violent conflicts but to also provide a forum to victims (Kritz, 1995; Bassiouni, 2002). Truth and Reconciliation Commissions are defined as alternative forms of transitional justice mechanisms established by governments to deal with the aftermath of conflicts or repressive governments (Kritz, 1995).

Problem Statement

The history of Tunisia has been marked by dictatorship, oppression, torture, and abuses. The two regimes that ruled Tunisia from its independence in 1955 till the escape of Ben Ali and his family in 2011 have been accused of large-scale human rights violations (Moore, 1988, cited by Sadiki, 2002). Both regimes were accused of repression, dictatorship, and large-scale human rights violations. This era was marked by structural violations of social, economic, and cultural rights, systematic corruption, and the regime resembled more of a mafia state. Both dictatorships built an image of Tunisia as a secular modern country, promoting majorly women's rights (Urech, 2014; Andrieu, 2016).

The misleading image of state secularism and feminism, nonetheless, came at a high price: imprisonment, persecution, and torture of anyone who opposed the two tyrants. Opponents were usually hung naked. Women picked up by the State were



raped, beaten, or electrocuted (The Economist, 2016). Freedom of speech, press, assembly, and the association was restricted, and public criticism was met with intimidation, torture, criminal investigations, house arrests, arbitrary arrests, and travel bans (Arieff & Humud, 2011). This oppression was nastiest that an ordinary citizen living next to the victims of torture, forced disappearance, or rape by security agents would not know their neighbors' agony (Aliriza, 2019).

Fortunately, Tunisia later held her first free and democratic elections in October 2011 after the escape of Ben Ali during which she established her first transitional justice mechanisms to look at recent human rights and financial corruption abuses (Benedizione & Scotti, 2015). Later on, in December 2013, a genuine transitional justice process was officially embarked upon serving as a roadmap for pursuing justice, accountability, institutional reform, the provision of reparations to victims, and memorialization in Tunisia (Gray, 2018). The Transitional Justice (TJ) Law brought to life the Truth and Dignity Commission, also known as Instance Vérité et Dignité (IVD) in French. The Commission was authorized to investigate and expose the truth about gross human rights violations from 1955 to 2013. This period covers the dictatorial rule of Tunisia's first two presidents, Habib Bourguiba and Ben Ali, and the first government after the revolution. The Commission is known for its titular originality, as no truth commissions included the term 'dignity' in their title (Gray, 2018).

The Commission formally launched its work on June 9, 2014, and its mandate came to an end in December 2018 after an extension (IVD, 2018). As Tunisia marks the 8th anniversary of the revolution, national and international attention is centered on the country to see if the outcomes of the transitional process met the expectations of the victims. These outcomes of transitional justice can be viewed in light of the TARR model (Parmentier, 2003). The IVD also based its recommendations to the government on the four elements of the first TARR model. The IVD received 63,000 files of violations such as wrongful detention, physical violence and torture, violations of freedom of speech, denial of the right to work, and unfair trials. The most common and systematic violation mostly suffered by victims under the Tunisian dictatorship is torture (IVD, 2018, p.128). Against this backdrop, the research examines the extent to which the IVD implemented the TARR model of transitional justice with an exceptional focus on the victims of torture.

Literature Review

Transitional Justice

Transitional justice is a response to the systematic or widespread violation of human rights that seeks recognition for victims and the promotion of possibilities for peace, reconciliation, and democracy (ICTJ, 2009). It is a full range of processes and mechanisms connected to a country's attempts to come to terms with a legacy of large-scale past abuses, to ensure accountability, serve justice, and achieve reconciliation (Secretary-General, United Nations Security Council, 2004). Rooted in accountability and redress for victims (ICTJ, 2009), the focus is to answer the question of how societies going through the transition from autocracy to democracy would handle a heavy history marked with gross human rights violations such as torture, slavery, forced disappearance, etc. (Ferman & Pinto, 2019). Its measures aim at restoring the dignity of victims and establishing rules to reform the state's institutions for the rule of law to reign, using various combinations of healing measures of restorative justice alongside a system of punitive justice targeting those chiefly responsible for committing the violations and the perpetrators of the most serious crimes (Sottas, 2008). Truth commissions are examples of non-judicial mechanisms employed in the field of transitional justice (Villa-Vicencio, 2000; Hayner, 2001)

Truth Commissions

Some essential difference exists among various truth commissions including the commissions of inquiry; the truth commissions; and the truth and reconciliation commissions (with the combined tasks of establishing and recording the truth to reconcile society) (Smeulers & Grunfeld, 2011). Kritz (1997) defined truth and reconciliation commissions as alternative forms of transitional justice mechanisms established by governments to deal with the aftermath of conflicts or repressive governments. They are bodies established to investigate a history of violations by the military or other government forces or by armed opposition forces (Hayner, 1994).

Truth commissions are temporary, officially sanctioned, and non-judicial bodies established to investigate human rights violations in a short period of time, in which statement-taking, research, and public hearings take place. They take a victim-centered approach and after the mandate, they conclude their works by presenting their findings and recommendations in a final public report (Amnesty International, 2007; ICTJ, 2009). As part of its investigation, they receive evidence from victims, family members, and other members of civil society (Landel, 2009). Their contributions in the transitional justice process and lives of victims cannot be overemphasized (Hayner, 2011). The Office of the United Nations High Commission for Human Rights (2006) said, over 30 truth commissions have been established in a range of countries from 1974 to 2019.

Dictatorships in Tunisia and the Creation of IVD (Truth and Dignity Commissions)

History of Past Dictatorship, Revolution, and the Arrival of Democracy

The self-immolation of a Tunisian street vendor, Mohamed Bouazizi, on the 17th of December 2010 marked the kickoff of the Arab Spring protests in the MENA region. Bouazizi set himself on fire in front of Sidi Bouzid (a province in the center of



Tunisia) municipality building to protest police mistreatment and humiliation. Thousands of people took to the streets all over the country blaming and revolting against the repressive authoritarian regime for retarded economic growth, increasing poverty and social inequality, high rate of youth unemployment, and rampant corruption. Demonstrators raised slogans such as ‘Ben Ali et RCD dégage’ (Ben Ali and RCD get lost), ‘Mort au RCD’ (death to the RCD), ‘Bread, Freedom, Dignity and Social Justice’, and called for the disappearance of the authoritarian president Zine El-Abidine Ben Ali. On the 14th of January 2011, Ben Ali eventually fled the country with his family to Saudi Arabia where he died on September 19, 2019 (Moore, 1988, cited by Sadiki, 2002, p. 497; Wolf, 2018, p. 245).

Although public discontent did not emerge abruptly with the 2011 uprising, people also took to the streets of the city of Gafsa, a mining region southwest of Tunisia where unemployment is particularly high in 2008. The government of Ben Ali however responded by sending the army to assist police to curtail the demonstrations. In fact, some analysts consider the Gafsa riots as a precursor to the December-January protests, which first burst in the nearby town of SidiBouزيد. The difference between the two is that the latest protests were spread quickly via social media and media coverage such as Al Jazeera (Arieff & Humud, 2011, p. 24). Before this 2011 revolution were two regimes of dictatorships and repressive government since Tunisia’s independence from France; the dictatorial rule of the octogenarian, Habib Bourguiba, the first president after independence, and the rule of Ben Ali who came into power in November 1987 (Moore, 1988, cited by Sadiki, 2002). Both regimes built an image of Tunisia as a secular modern country, promoting majorly women’s rights (Urech, 2014, p. 2; Andrieu, 2016, p. 265).

However, this misleading image of state secularism and feminism came at a high price (The Economist, 2016). The list of two tyrants’ opponents initially included leftists, members of trade unions or student unions, and Youssefites (supporters of Bourguiba’s former companion-turned-arch-rival Salah Ben Youssef). The list was extended by early 1980 to include the Islamists (Nadhaouis, members of Ennahdha party), who, along with their family members, were severely persecuted (Wolf, 2017; Gray, 2018). Ben Ali’s regime demonized ‘Islamists’ and citizens who simply choose to practice their religion, both on a national and international level “so that, all too frequently, there was little differentiation seen between members of radical, potential terrorist groups and genuinely moderate Islamists” (Gray, 2018, p. 15-16).

Ben Ali and his Constitutional Democratic Rally (RCD) party led a police state and had complete control over parliament, state and local governments, and the Tunisian political sphere (Arieff and Humud, 2011, p.2). Freedom of speech, press, assembly, and the association was restricted, and public criticism was met with intimidation, torture, criminal investigations, house arrests, arbitrary arrests, and travel bans. International media advocacy groups such as Reporters without Borders (RSF) and the Committee to Protect Journalists (CPJ) routinely cited Ben Ali’s regime as one of the world’s most repressive towards freedom of expression with “journalists, bloggers, and dissidents were subject to surveillance, harassment, physical assault, and prison” (Arieff & Humud, 2011, p. 23).

The arrival of Democracy, Transitional Justice, and the Creation of Truth and Dignity Commissions

Following the immediate aftermath of the escape of Ben Ali, a provisional government led by the former president of the Chamber of Deputies, Fouad Mebazaa (appointed President), with the former Premier, Mohammed Ghannouchi (appointed Prime Minister) was installed (Benedizione & Scotti, 2015). In February 2011, this interim government issued a general amnesty law for political prisoners and repression victims (Lamont & Pannwitz, 2016). The government included representatives of the Civil Society Organizations such as the Trade Unions and the formerly banned Ennahdha party and some left-wing groups. However, the public continued to protest calling for the firm and decisive steps aimed at making a decisive break from the repressive past. This led to the resignation of the Ghannouchi government on 27 February 2011 in the favor of a new government led by the octogenarian Beji Caid Essebsi (Benedizione & Scotti, 2015, p. 5-7).

Essebsi led the caretaker government up until Tunisia held its first free and democratic elections in October 2011. During this period, Tunisia established its first transitional justice mechanisms in the form of ‘two fact-finding committees’ tasked with looking into recent human rights and financial corruption abuses. The first committee focused on victims who had suffered violations of rights during the period of the revolution. The second committee looked at the violations of economic rights, with a specific focus on those deriving from the discriminations in the allowance of licenses for the exploitation of public goods and grants; both these sectors had been subject to the highly corruptive control of Ben Ali’s family (Benedizione & Scotti, 2015, p. 5-9).

The October 2011 elections saw the Ennahdha party winning the majority of the 217 seats of the National Constituent Assembly (NCA). The majority of Ennahdha’s elected members were either former political prisoners, victims of torture, exiled, or had suffered serious discrimination, social exclusion, and economic hardship during the dictatorship period (Gray, 2018). In January 2012, the Ministry of Human Rights and Transitional Justice was established and headed by Samir Dilou. Among other tasks, the Ministry drafted a comprehensive transitional justice law. Minister Dilou, a powerful advocate of transitional justice, collaborated with the International Transitional Justice Practitioner Community (ICTJ), the United Nations Office of the High Commissioner for Human Rights (OHCHR), the United Nations Development Program (UNDP) and mutually played a role in Tunisia’s national consultation on transitional justice (Lamont & Pannwitz, 2016). On April 14, 2012,



the Ministry also organized a seminar in Tunis to launch a national consultation on transitional justice that aimed to assemble relevant institutional stakeholders in the transitional justice process including domestic and international non-governmental organizations, international organizations, and domestic and international political officials (Lamont & Boujne, 2012).

The elected members of the NCA were mandated to draft a new constitution, which was finally promulgated on January 27, 2014, as the Constitution of the Republic of Tunisia. Earlier in December 2013, Tunisia officially embarked on a genuine transitional justice process when the NCA passed in the country's historic Transitional Justice Law (TJ), which served as the roadmap for pursuing justice, accountability, the provision of reparations to victims, institutional reform, vetting, and memorialization in Tunisia, with several institutions mandated to lead that charge. The TJ Law gave birth to the Truth and Dignity Commission, also known as Instance Vérité et Dignité (IVD). Inspired by the South African body that examined the crimes of apartheid, Tunisia's commission was empowered to investigate and expose the truth about gross human rights violations committed from as far back as 1955, a year before the country's independence from France. The name of the commission is notable among truth commissions globally for its originality, as no other truth commission has included the term dignity in its title (Gray, 2018).

According to the TJ law creating the commission, those responsible for the worst crimes, such as rape and murder, should be prosecuted; victims of abuse and corruption should be compensated, and the commission should offer reforms so that the past is not repeated (The Economist, 2016). The IVD formally launched its work on June 9, 2014, with victims were invited to submit written 'dossiers', detailing the abuses and consequences they suffered, until June 2016. The final report was submitted to the President of Tunisia on December 31, 2018; to the Speaker of Parliament on 28 February 2019 (Belhassine, 2019); made public on March 26, 2019 (IVD, 2018) and to the Prime Minister on April 19, 2019. Over 783 pages of the report are devoted to analyzing the past dictatorships, through the investigations, testimonies, and archives that reveal the human rights violations, system-based crimes, and corruption (IVD, 2018). The remainder part of the report addresses the mandate of the IVD, reparations, and rehabilitation, and the national consultation on the comprehensive reparations program (Belhassine, 2019). The IVD report consists of the main findings of the investigation, identifies suspected perpetrators, and makes recommendations to prevent the repetition of these grave violations. According to Article 70 of the TJ law, the government must draft a plan to implement the IVD's recommendations, and parliament must approve such a plan within one year of the publication of the report (IVD, 2018).

Theoretical Framework: The TARR Model of Transitional Justice

This research is guided by the TARR Model proposed by Parmentier which identifies four (4) elements concerning post-conflict transitional justice: *Truth* about situations that occurred during the conflict; ensuring *Accountability* of perpetrators; *Reparation* to victims; and the promotion of *Reconciliation*. The model was used as a framework to examine controversial issues in situations of transition and examine specific institutions and procedures for dealing with the past, such as the International Criminal Court or truth commissions (Weitekamp et al., 2006). The IVD based its recommendations to the government on the four elements of the Parmentier TARR model of transitional justice that include:

Truth

The first step in any transitional justice process is the uncovering of the truth (Weitekamp et al., 2006; Aoláin & Turner, 2007). Truth-seeking is implemented through national or international fact-finding measures, commissions of inquiry, truth commission, recording history, memorial projects (Kamminga et al., 2009; U.N. Secretary-General, 2010). The primary aim of truth commissions is to uncover the truth regarding the events that transpired as well as acknowledge the harm done to victims (Huyse, 2003; Cunneen, 2008; Herbert et al., 2014). Victims and their families have the right to know the truth about the abuses they have suffered, including the identity of perpetrators, the causes that gave rise to the violations, and, if appropriate, the ultimate fate or whereabouts of the forcibly disappeared persons (ICTJ, 2013). In 2005, the United Nations Commission on Human Rights recognized that every person had the 'inalienable right to the truth' (OHCHR, 2005).

The right to the truth helps to restore and maintain peace; aids the reconciliation processes; contributes to the eradication of impunity; reconstructs national identities; and sets down a historical record. Establishing the truth about what happened and who is responsible for serious crimes helps communities to understand the causes of past abuse and end it. Without accurate knowledge of past violations, it is difficult for a society to prevent them from happening again. The truth can also assist in the healing process of victims after several episodes of traumatic events; restore personal dignity, usually after years of stigmatization; and safeguard against impunity and public denial. Establishing truth can also initiate a process of reconciliation, as denial and silence can increase mistrust and social polarization (Naqvi, 2006).

Accountability

Accountability is a step in the rebuilding of rule of law that helps victims re-establish positive moral order (Weitekamp et al., 2006). Prosecution and securing accountability for past crimes in the aftermath of conflict is a crucial aspect of justice (Parmentier & Weitekamp 2007; Kasapas, 2008). Truth commissions are mandated to probe credible evidence indicating an individual's accountability and forward it confidentially to relevant prosecution authorities for investigation, with a view of



justice. Some NGOs consider that truth commissions should also identify those who planned/ordered the abuses, thereby establishing chain-of-command responsibility, as well as those who aided and abetted them (Amnesty International, 2007). However, contrary to common understanding, Parmentier et al. (2008) consider that accountability is far from a straightforward reality. The scholars explain that one of the main challenges is to identify the offenders that should be called to account: should it be the main planners of the crimes or those who carried out the plan along with those who aided them? Another dilemma is how to deal with the ‘bystanders’ who did not actively participate in committing crimes but may have benefited from the consequences (Parmentier et al., 2008). Since there cannot be a conviction without evidence, accountability requires that victims act as witnesses in the criminal justice process (Parmentier & Weitekamp, 2007).

Reparation

The right to restitution, compensation, and rehabilitation denotes all kinds of redress, material and non-material, for victims of human rights violations. Every state must make reparation in case of a violation of the obligation under international law to respect and to ensure respect for basic human rights and fundamental freedoms (Van Boven, 1993). The 2005 UN Basic Principles and Guidelines on the right to a remedy and reparation for victims (UNBPG) states that “adequate, effective and prompt reparations are intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law.” Reparation should be proportional to the gravity of the violations and the harm suffered (Amnesty International, 2007). Allocating reparations to victims is seen as a tool that could help victims heal. Reparations also can help to remedy the consequences of collective violence in times of transition (Moffet, 2015).

Accordingly, reparation for the violations of human basic rights has the purpose of relieving the suffering of and affording justice to victims by removing or redressing, to an appreciable extent, the consequences of the wrongful acts committed against them and by preventing and deterring violations. Reparations should respond to the needs and wishes of the victims (Van Boven, 1993). Reparations are not solely about responding to victims’ basic needs such as receiving medical and psychological care or having a financial source for living. Reparations should respond to the real impact of violations in victims’ lives and at the same time be acknowledged as sincere efforts on the part of the larger society to accept what happened and to provide some real measure of justice to those harmed (Correa et al., 2009).

Victims of gross violations of international human rights law and serious violations of international humanitarian law have the right to be provided with full and effective reparation in its five forms: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition (Amnesty International, 2007). The various aspects of reparation include restitution, compensation, rehabilitation, and satisfaction. Restitution is to re-establish, to any possible extent, all situations that existed for a particular victim before the violations of human rights. Compensation shall usually be provided for any economically quantifiable damage resulting from human rights violations (Van Boven, 1993, cited in Smeulers & Grünfeld, 2011).

Yogi (2006) explains that in some cases, when the victim has suffered from torture or other forms of ill-treatment or gender-based violence, there may be a need, in addition to financial compensation, for rehabilitative measures of both a physical and psychological nature. As noted in the preceding subsection, article 14(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment explicitly imposes a duty on States parties to provide redress for torture victims ‘including the means for as full rehabilitation as possible. Correspondingly, truth commissions must ensure the participation of victims and their organizations to make certain that the proposed reparations respond to the interests of victims and are perceived by them as adequate (Correa et al., 2009).

Reconciliation

Reconciliation has been defined as a process that gradually transforms a divided past into a shared future (Bloomfield et al., 2003). Within the context of transitional justice, there is no clear definition of the reconciliation concept. However, it has been connected with other significant concepts such as coexistence, social reconstruction, forgiveness, reintegration, acknowledgment, and mercy (Bar-Tal, 2004; Stover & Weinstein, 2007; Fischer, 2011). Fischer (2011) argues that reconciliation is a mixed orchestration of ‘top-down’ and ‘bottom-up’ processes that relies on the cooperation of political leaders, social groups, and the general population. Reconciliation is crucial for societies in transition to prevent renewed outbreaks of violence and vengeance (Smeulers & Grünfeld, 2011). In post-conflict situations, there is a high risk that seeking vengeance for past abuses may lead to the explosion of violence (Fischer, 2011).

One of the main goals of the reconciliation process is promoting intergroup forgiveness which leads to reduction of anger, the chance of retaliation, feelings of revenge, and also suspicion and mistrust towards the perpetrators (Cehajic et al., 2008). To forgive and not forget the perpetrator groups can facilitate the relationship-constructive actions in reconciliation programs and help victims to think about a fresh start by relieving their burdens (McCullough et al., 1997; Digereser, 2001). Looking into the TARR model, reconciliation is based on the restorative justice ‘principle of personalism’ which refers to the social dimension of emotional involvement that enables the conflicting parties to restore the broken relationships (Weitekamp et al., 2006). Indeed, truth commissions’ work on seeking truth can help to promote individual and collective reconciliation.



However, neither truth commissions nor any other official institution or procedure could impose reconciliation, both at the individual and the collective level, meaning that both victims and perpetrators' rights and dignity should be respected and both parties cannot be forced to take part in any reconciliation procedure installed by truth commissions (Amnesty International, 2007).

Materials and Methods

This research employed the qualitative research design. The research analyzed the final report of the Truth and Dignity Commission (IVD) using the TARR model of transitional justice. To have a defined scope and ensure that a valid and reliable sample is used, the research took into consideration only the victims of torture. Other relevant literature was collected in an eclectic manner ranging from official documents to published outlets. Results were qualitative and were analyzed using the open method of content analysis. Analyses were limited to the finding of the IVR Reports, the assumptions of the TARR model, and submissions from a few pieces of works of literature.

The final report is 1,700-pages long, divided into 8 volumes, and written in Arabic (IVD, 2018). It provides the information gathered by the IVD during their mandate from the period of July 1955 to December 2013. The information was retrieved from three (3) sources as follows: (a) various archives, including those of the Presidency of the Republic, (b) hundreds of diplomatic documents containing data on the colonial and post-colonial period, and (c) the closed-door testimonies of 49,654 victims. The IVD also commissioned several researchers (including sociologists and psychologists) to conduct studies on a broad range of issues such as knowing 'the impact of repression on the lives of couples', 'violations suffered by women from 1955 to 2013', and 'memories of women in the city' (Belhassine, 2019).

Findings and Discussion

The final report of the Truth and Dignity Commission of Tunisia is analyzed in a bid to evaluate the extent of the implementation of the four blocks of the TARR model of transitional justice in identifying the needs of the victims of torture only and in providing recommendations to cater for their needs.

Torture and Victims of Torture

Torture has been a systematic violation in Tunisia. A great deal of victims who submitted their complaints has been exposed to some level of torture (IVD, 2018). The final report revealed that the IVD received 14,657 complaints of torture, including 688 women and 13969 men. It also received 29,137 complaints related to cruel and inhuman treatment in prisons and detention centers, including 2565 from women and 26572 from men, and documented it through its hearings and the testimonies of victims (IVD, 2018, p. 128). Thus, the most common and systematic violation the victims have suffered under the Tunisian dictatorship is torture, which targeted men, women, and children (IVD, 2018).

The IVD report further revealed that police stations, detention centers, prisons, and the basement of the Interior Ministry in the capital, were the main scenes where acts of torture were committed by state officials. Not only security officers were committing such acts, but psychologists played a big role in torture, particularly in prisons (IVD, 2018, p. 129). The IVD submitted: "torture ... has been used by the [Tunisian] authorities since independence as a systematic tool of subjugating opponents and tightening the grip on all society. Security personnel, doctors, and judges also took part in it. Total impunity resulted in the flourishing of torture ... It spreads like an epidemic, and it has become a standard practice that goes far beyond repressing dissidents to become an expression of state violence" (IVD, 2018, p. 130).

Based on the testimonies of victims included on the IVD final report (2018, p.132), either some of the following forms of torture are experienced:

- a) *Physical torture*: slapping, kicking in different body parts, beating with sticks and sharp instruments
- b) *Psychological torture*: the use of profanity, insults, threats of raping the victims or their female relatives (if the victim is male)

Withal, some of the other infamous torture forms were placing the victim in a humiliating position such as the "roasted chicken" one: the perpetrators would force the victim to strip, hang him/her horizontally by the ropes from his/her legs and hands between two tables than start beating and whipping him/her in different places. The torturers would especially target the back and sex organs until the victim "is ashamed to show it and to hide the effects of violence." Most of these torture sessions end up with the victim raped. One of the most common practices was making male victims sit on a broken glass bottle (IVD, 2018, p. 132).

The implementation of the TARR model by the IVD

The IVD represents an exceptional transitional justice experience since its work covers diverse forms of violations including financial corruption and misuse of public money committed from July 1, 1955, to December 24, 2013. In addition, IVD presented the possibility of arbitration and reconciliation for both victims and perpetrators. Yet, this important measure was not necessarily implemented since most of whom they were accused of committing such violations directly or indirectly



including the state representative – in the person of the public commissioner of state disputes – refrained from benefiting from this scheme (IVD, 2018, p. 25).

Truth

According to Article 67 of TJ Law, the final report of the IVD contains “the truths established after verification and investigation, the determination of responsibilities, the reasons for the violations under this Law and recommendations to ensure that these violations do not recur..., recommendations, proposals, and procedures to strengthen democratic construction and to help build the rule of law, recommendations, and proposals on political, administrative, economic, security and judicial reforms...”. Since its establishment in December 2013, the IVD started by receiving complaints, collecting evidence, and investigating all the alleged violations covered by its mandate. It started by putting in place an inventory categorizing the violations chronically based on the context of the events. The IVD employed this method to facilitate the collection of testimonies and documents and to identify potential sources of information that can provide the elements necessary to establish the truth and to prepare the files of cases that were later referred to the specialized judicial departments (IVD, 2018, p.445). The principal aim of the IVD, like other truth commissions, is to uncover the truth regarding past events as well as acknowledge the harm done to victims (Huyse, 2003; Cunneen, 2008; Herbert et al., 2014).

Of the total 63,000 complaints received, 6398 were about torture. The victims transcend different backgrounds and include left-wing politicians, human rights activists, Islamists amongst others (IVD, 2018, p. 128-130). This revelation confirmed the submissions of Wolf (2017) and Gray (2018) that the list of opponents of the two tyrants included the leftists, members of trade unions or student unions, Youssefites, and the Islamists. This fact was recorded to know the truth about past conflict situations. Naqvi (2006) argues that without accurate knowledge of past human rights violations, it is difficult for societies to prevent them from occurring again. The IVD held 49654 secret hearing sessions that lasted 61,000 hours. Most of them were individual sessions in addition to the group sessions for the victims, which are organized at its central headquarters, regional offices, and victims' homes. It also held 12 public hearings that were broadcasted on television channels and live-streamed on some social media platforms. The public hearings gave the floor for several victims of torture to tell their stories and what they had to endure (IVD, 2018, p. 128-130) may be establishing this truth, according to Naqvi (2006), may assist the victims of torture in their healing process, restore their dignity, and safeguard them against impunity and public denial.

The IVD, after several investigations, also gave a comprehensive list of the torture squads that were responsible for meting out torture on people during the two previous dictatorships and the techniques usually employed. However, the IVD provided lesser details for the acts of torture committed during the colonial era (IVD, 2018, p. 128-130). These investigative works of the IVD conform to the true principle under the TARR model. The International Center for Transitional Justice submits that every victim of gross violations of human rights and serious violations of the international humanitarian law and their families, have the right to know the truth about the abuses they have suffered, including the identity of perpetrators, the causes that gave rise to the violations, and, if appropriate, the fate or whereabouts of the forcibly disappeared persons (ICTJ, 2013). On this premise, the investigation strategy adopted by the Commission (IVD) aimed in particular to disclose senior officials in the chain of command for their mere explicit or implicit participation aside from the identification of other direct/indirect perpetrators whose identity must be known to reveal the truth and prevent impunity.

After a thorough investigation into the truth about past violations and victims of torture, the IVD concluded that torture was a systematic and planned crime by senior security officials who ordered, instigated, agreed, and kept silent about the torture of victims. Among these senior officials named by the IVD were the two former presidents Habib Bourguiba, Zine El Abidine Ben Ali, Interior Minister Tayeb Al Muhairi, and Caid Beji Essebsi, who was president at the time of the publication of the report. The IVD collected incriminating proof showing that senior officials were aware that their subordinates who were working under their effective control and supervision had committed torture and some of these officials even ordered them to conduct such acts. The IVD managed to reveal the truth about the use of torture as a systematic tool by the previous authoritarian regimes and colonial forces to oppress opponents and people who dared to speak out or question the system.

Accountability

Article 42 of the TJ law states that the IVD “shall refer to the Public Prosecution the cases in which commitment of gross human rights violations are proven and shall be notified of all the measures which are subsequently taken by the judiciary. The cases referred shall not be opposed by the principle of *res judicata*.” By the end of its mandate, the IVD has referred the files of 1120 victims (out of which 650 were victims of torture) to the Specialized Criminal Chambers (SCC) in which charges were brought against 1,426 alleged perpetrators of torture (IVD, 2018, p.69). A total of 173 cases investigated by judges and investigators of the IVD were transferred to the 13 chambers covering the whole country, only 18 cases concern the victims of torture. The SCC of Gabes, Southern Tunisia, opened the first hearing of these courts in May 2018 with the case of the enforced disappearance of Kamel Matmati, an Islamist who was murdered under Torture in 1991. To date, nearly 50% of the cases have been examined (Belhassine, 2019).

As against common understanding, the accountability model is indeed far from a straightforward reality (Parmentier et al., 2008). The IVD experienced a lot of difficulties before they could come up with a list of the perpetrators of past violations



and state-led major abuses of human rights. Since its establishment, Tunisian authorities and some other establishments (security unions, media, etc.) have been trying to obstruct its works. Government agencies such as the presidency, interior ministry, and defense ministry refused to allow the IVD access to its archives. The parliament also threatened to cut short the work of the IVD during a highly contested vote. All these combined factors made it hard for the IVD to collect evidence and track perpetrators named in some complaints (IVD, 2018, p.94).

Nevertheless, the IVD still managed to present a comprehensive list of perpetrators; containing the real names and nicknames used by the direct torturers and the names of senior officials such as the previous presidents and ministers and the president who was in office at the time of the publication of the report. The IVD took into consideration the accountability principle condition and submission of some NGOs (Amnesty International, 2007) concerning truth commissions by identifying not only the direct perpetrators but also those who planned and/or ordered the abuses and those who aided and abetted them. In the end, there is an established chain-of-command responsibility as IVD revealed the name of government officials and senior security personnel.

Prosecution and securing accountability for past crimes in the aftermath of conflict is a crucial aspect of justice (Parmentier & Weitekamp, 2007; Kasapas, 2008). Since there cannot be a conviction without evidence (which often comes from victim-witnesses), accountability requires that victims act as witnesses in the criminal justice process (Parmentier & Weitekamp, 2007). Accordingly, the statements from the victims of torture are sufficient to execute compensations for them. In all aspects of its work, a truth commission should reaffirm a state's obligation under international law to combat impunity (Amnesty International, 2007) and dispense justice.

Reparation

The right to restitution, compensation, and rehabilitation denotes all kinds of redress, material and non-material, for victims of human rights violations (Van Boven, 1993). The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law state that the victims of gross violations of international human rights law and serious violations of international humanitarian law must be provided with full and effective reparation in its five (5) forms: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition (Amnesty International, 2007). Guided by this principle, the commission recommended a set of non-material and material reparations for victims. The IVD made a set of recommendations to prevent the repetition of such grave and serious violations. The IVD has also worked on an approach that combines reparation for material and moral damages based on its gravity, concerning the international agreements ratified by the Tunisian Republic (IVD, 2018, p. 361).

Truly, every state must make reparation in case of a violation of the obligation under international law to respect and to ensure respect for basic human rights and fundamental freedoms (Van Boven, 1993). However, some damages such as rape, miscarriage, death, social isolation... are considered to be beyond repair according to a national consultation conducted by the IVD in 2018 (IVD, 2018, p. 360). As soon as it was established in December 2013, the IVD has put in place an emergency aid unit that addressed the 'urgent needs of victims. Many victims of torture were provided with psychological as well as medical help once they submitted their files. This action of the IVD confirms the emphasis of Yogi (2006) that victims who have suffered from torture or other forms of ill-treatment and/or gender-based violence may need, in addition to financial compensation, rehabilitative measures of both a physical and psychological nature.

Under article 11 of the TJ law, "the reparation of prejudice suffered by the victims of violations is a right guaranteed by the law and the State has a responsibility to provide adequate, efficient forms of reparation according to the gravity of the violations and the situation of each victim. The means at the State's disposal at the time of implementation are nevertheless taken into account." As part of the efforts to provide redress for torture victims, the IVD has repeatedly called on the government to create under a decree a fund under the name of "Fund for the Dignity and Rehabilitation for Victims of Tyranny", based on Article 41 of TJ law, to pay reparations for all victims, including victims of torture, in an annual installment not exceeding 6 years since the publication of the lists (IVD, 2018, p. 363). The IVD sets its decisions on reparations based on three (3) categories: (a) resistance to colonization, (b) individual victims, and groups, namely associations, parties, and organizations that were victims of injustices and (c) violations during the dictatorship (IVD, 2018, p. 361).

Reparations should not only respond to victims' basic needs but the real impact of violations in victims' lives. It should be received as sincere efforts on the part of the larger society to admit what happened and to provide some real measure of justice to those harmed (Correa et al., 2009). Val-Garijo (2009) argues that tackling victims' demands and grievances as well as recognizing their expectations and needs are crucial for aiding the transitional justice processes. However, the reparations in Tunisia are facing a halt and nearly 20,000 victims (many of which are victims of torture) who are entitled to financial compensations are waiting for the activation of the Fund by the Tunisian government (Belhassine, 2019). In November 2019, the IVD has sent an official memo to the French presidency requesting the French authorities to pay the compensation they owe to Tunisian victims of GHRV and social violations for which the French state bears responsibility. The IVD received up to



5,052 complaints, including 3 collective complaints, related to violations committed during the exit of French colonialism in 1961. Hundreds (IVD didn't precise the number) of these complaints are related to torture (IVD, 2019, p. 13).

For its part, the IVD has started publishing and distributing decisions on reparations on 12 January 2019 with the lists of the concerned victims published on its official website. But the public lists do not precisely state the violation every victim has experienced. The decisions of reparation were made based on an individual damage assessment and depending on the violations suffered. The compensation unit has been set at 2000 Tunisian Dinars (TD) (about 600 euros). For example, homicide, evaluated as a 100% offense, is compensated up to 200,000 TD (60,000 euros) and rape, evaluated at 75% as an offense against the integrity of the person, 140,000 TD (41,000 euros) (IVD, 2018, p. 362). Working with the submission of Moffet (2015), allocating reparations to victims will be seen as a tool that could help victims heal and remedy the consequences of collective violence in times of transition.

As for the non-financial reparations, the IVD urged all stakeholders involved in the transitional justice process such as ministries, NGOs, and civil society members to help with the inclusion and reintegration of the victims of torture. For example, helping victims who lost their jobs to work and have an independent income, or those who ended up dropping out from school and want to continue their education, the concerned ministry should facilitate administrative procedures for them (IVD, 2018, p. 364). Furthermore, the IVD urged the President of the Republic to offer a public apology in the name of the state to all victims. A public and official apology is an acknowledgment and recognition of the state's responsibility for GHRV that have been proven to be committed by state agencies, groups, or individuals who acted in its name or under its protection. The President should also express the state commitment to ensure the non-repetition of violations and to preserve the dignity of the victims.

This will eventually lead to calling publicly for a "comprehensive national reconciliation to turn the page of the past, preserve the memory, enhance national unity, achieve social justice and peace, build a state of law, restore citizen confidence in state institutions, and focus democracy" (IVD, 2018, p. 365).

The IVD also outlined the importance of rehabilitation via providing medical and psychological rehabilitation for victims of torture as well their families. Studies conducted by experts from the IVD found that many torture victims had suffered physical damage as a result of the torture they were subjected to and still suffer from psychological damages that affected the course of their lives and the lives of their families. The state bears the costs, especially since many of them do not have health coverage (IVD, 2018, p. 365). Reflecting the submission of Van Bowen (1993), reparation serves the purpose of relieving the suffering of and affording justice to victims by removing or redressing, to a considerable extent, the consequences of the wrongful violations committed against them and by preventing and deterring such violations.

Finally, the IVD affirmed in its set of recommendations that the state must take immediate and effective measures to prevent acts of torture and ill-treatment throughout the country, and that it must also take strict steps to end the situation of impunity for alleged perpetrators of these acts. The IVD emphasized that the President of the Republic must issue a public statement confirming, unequivocally, the state's intolerance with torture (IVD, 2018, p. 368). These actions of the IVD were strictly done in conformity with the principle that reparations should respond to all possible (Van Boven, 1993) needs and wishes of the victims.

Reconciliation

Reconciliation is crucial for societies in transition to prevent renewed outbreaks of violence and vengeance (Smeulers & Grünfeld, 2011). One of the main goals of the reconciliation process is promoting intergroup forgiveness which leads to the reduction of anger, the chance of retaliation, feelings of revenge, and suspicion and mistrust towards the perpetrators (Cehajic, Brown & Castano, 2008). However, given the short period under which they worked, the IVD were unable to effectively implement the reconciliation principle. A successful reconciliation would require both a strong will and an absence of political interference. Indeed, the reconciliation process is not a process that can be imposed.

According to Amnesty International (2007), although truth commissions' work on seeking truth can help to promote individual and/or collective reconciliation, neither truth commissions nor any other official institution or procedure could impose reconciliation, both at the individual and at the collective level. The IVD considers that with the end of its mandate, national reconciliation is more accessible to all than ever before since it succeeded to reveal the truth related to GHRV, mainly torture (IVD, 2018, p. 459). However, some bureaucratic challenges and administrative setbacks made impossible the Commission's effort to accomplish concrete steps towards reconciliation (IVD, 2018, p. 94, p. 441).

Sihem Bensedrine seemed to be more confident and hopeful about the TJ process in general and achieving national reconciliation, following the victory of Kaïs Saïed. The former head of IVD said that the 'political back and forth' that Tunisia is seen since the Revolution 'is quite normal'. What usually follows the euphoria of revolution is nostalgia for the old regime that appears to represent security and economic stability. After attempting a return to the old system, people, who are still waiting for change that bears fruit, have corrected their choice. People are convinced that the next government will look much more seriously at the Truth and Dignity Commission's recommendations than the previous ones. Thus, President Kaïs Saïed's promise to apply the law is very significant here (Belhassine, 2019).



Conclusion and Recommendation

By revealing the truth about events, victims are relieved of their pains and sufferings, offenders are made accountable for their misconducts or crimes, and societies can prevent the recurrence of similar events as well as work towards instituting the reconciliation processes. The IVD was established for this purpose as well as other purposes, such as the gathering of evidence for prosecutions, compensation for victims, and national healing. The IVD has managed to present in its final report its main findings of victims of torture. This includes revealing the truth about every circumstance related to the violation, identifying the suspected perpetrators, taking urgent measures to meet the urgent physical, psychological, and financial needs of victims of torture, and establishing a reparation mechanism that still awaits its activation by the state. The IVD also made a set of recommendations to prevent the repetition of such grave violations. Once the aforementioned three TARR elements are established, the fourth element of reconciliation would have the opportunity to be accepted and discussed within the frame of respecting the main goals of TJ and not under the umbrella of initiatives that would only doom the TJ to failure.

Based on the findings of the analysis of the IVD's final report, the IVD has managed to reveal the truth about the use of torture as a systematic tool by previous authoritarian regimes and the colonial forces to oppress opponents from the different political backgrounds who dared to speak out or questioned the system. Besides, the IVD presented a comprehensive list of perpetrators. The list contains the real names and nicknames used by the direct torturers and the names of senior officials such as the previous presidents and ministers and the president who was in office at the time of the publication of the report. Notwithstanding the imperfections of the used structure, without a doubt, the IVD's final report is a milestone not only for the transitional justice process in Tunisia but in the entire region. Despite the political pressure imposed by members of the formal regimes who are still active in the political sphere, including the president of the republic himself and the limited financial resources, the IVD managed to finish its task and conclude its work with an explicit report. Although the report itself exposes decades of violations, torture, in particular, represents a necessary piece of history and a tool for victims to get some sort of justice. The report not only outlines their suffering but also their strength to face the dark past and a key to build their future and continue their lives even if retributive justice is not served yet.

In all honesty, the IVD has succeeded to a certain level in investigating and revealing the truth about the violations victims of torture endured. However, due to the interference of politics, the IVD was only able to establish the basics for the first three elements of the TARR models for the victims of torture. Implementing the fourth TARR element would require a strong political will. The Tunisian people are bent on restoring their human dignity. Every torture victim made it clear in their testimony and during the hearings that they want their rights and demands to be catered for and for the TJ to be processed in a dignified manner and not behind closed doors, controlled by political and economic lobbies. This study, therefore, gives the following recommendations that could provide insights into the policy-making process of the government of Tunisia.

In a bid for the transitional justice process to move forward in Tunisia, the new President and the upcoming government must show the strong political will to engage in the TJ process by implementing the IVD recommendations. This would mean that the President should start by giving a public apology to the victims for the wrongdoings of the state. This small of action would signal strong messages to every stakeholder involved in the TJ process that:

- a) reconciliation and building social peace would only be accomplished by recognizing the rights and demands of the victims and not by giving amnesties to perpetrators
- b) GHRV, namely torture, have to stop immediately and would not be tolerated; perpetrators will have to face criminal prosecution for their acts
- c) respecting Human Rights within state institutions should become the norm and not the exception

If the new President takes such simple steps, he will remove the bureaucracy halt that has been blocking the transitional justice from moving forward and rebuilding the state power. Such steps will allow victims to at least receive their reparations. And most importantly, it will help victims of GHRV (torture in particular) to regain trust in the credibility of state institutions that in the past violated their rights, freedom, and physical integrity. This would also open the door to enabling Tunisia to establish an atmosphere of coherent and lasting social peace and guarantee some sort of stability to implement the most important reforms contained in the IVD final report.

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