



**DEFUSING THE TICKING "JIHADIST" TIME-BOMB:  
Can Transitional Justice help counter the trend of  
radicalisation in Tunisia?**

**by Houda Mzioudet and Rhiannon Smith**

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## Executive Summary

Following the “Jasmine Revolution” in 2011, Tunisia held free and fair elections, ratified a new constitution and established new democratic institutions. As other post Arab Spring societies struggled to overcome varying legacies of divisive conflict, weakened economies and ineffectual state institutions, Tunisia was hailed as a thriving democratic model for the Arab world. Tunisia has initiated a transitional justice process which has been supported and implemented by successive governments since Zine al-Abidine Ben Ali was ousted from power in 2011. The transitional justice process aims to support Tunisia’s transition towards democracy by providing mechanisms to redress grievances and human rights abuses carried out under the Ben Ali and Habib Bourguiba regimes. The Truth and Dignity Commission (TDC) was established in 2014 and since late 2016, several public hearing sessions have been held where victims have given testimonials describing the atrocities committed against them by the various security apparatuses of the former regimes. Other public hearings have focused on financial corruption under the Ben Ali regime. Yet despite Tunisia’s democratic successes, the country has become the largest single source of foreign jihadists fighting for the Islamic State (ISIS) in Syria, Iraq and Libya, while several high profile terrorist attacks have rocked Tunisia in recent years.

There are several plausible explanations for the phenomenon of relatively widespread radicalisation among Tunisians. Firstly, the staunchly secular regimes of Bourguiba and Ben Ali relied on police repression and brutality to maintain stability. Ben Ali conducted a number of crackdowns on Islamist groups throughout the 1990s and 2000s and it is likely that human rights violations committed by state authorities against citizens fuelled radical ideas among some Tunisians. Secondly, there was a significant erosion of religious education and identity under Bourguiba and Ben Ali, creating an environment in which many young Tunisians felt that the only way to seek spiritual fulfilment was to travel abroad to find alternative means of religious education or join radical Islamist groups. For some Islamists, the continued existence of the Tunisian state as a civil entity, as opposed to a religious one, is a significant grievance. Finally, poverty, marginalisation, lack of education and unemployment appear to be key drivers of extremism among many Tunisians. Since the fall of the Ben Ali regime, jihadist groups have directly targeted vulnerable youth whose dire economic and social circumstances often made them willing recruits to fight or launch attacks overseas.

While it is important not to over-generalize what is driving radicalisation in Tunisia, it is clear that a climate of repression, brutality and marginalisation had a part to play. There is rising concern in the country about how to prevent this radicalisation trend and deal with the impact of returning jihadists on Tunisian society. This report looks at the role that Tunisia’s transitional justice process can play both in identifying some of the grievances and concerns that potentially drive radicalisation and in seeking to address them through transitional justice mechanisms. It concludes that transitional justice mechanisms cannot provide

easy solutions to these challenges and represent only one part of what must be a multi-faceted solution to the problem of radicalisation. However, by allowing past and current grievances to be aired, redressing abuses against communities vulnerable to radicalisation, seeking justice for acts of terrorism, and highlighting systemic inequalities, there is a chance that transitional justice mechanisms can help to recognise and tackle some of Tunisia's deeply embedded grievances, laying the groundwork for a more comprehensive de-radicalisation process in the future.

## Key Findings

- **Transitional Justice Allows Grievances To Be Aired, But Justice Must Also Be Seen To Be Done**

*If the perpetrators of human rights violations made public through the TDC hearings are not prosecuted or held accountable in some form, there is a risk that the process of publically airing human rights abuses and grievances will actually reinvigorate public anger and frustration, potentially radicalising a new cohort of disenfranchised Tunisians.*

- **Transitional Justice Can Help Redress Past Abuses Against Islamists But Not At The Cost Of Justice For Other Victims**

*By introducing reforms and establishing justice mechanism which appear to favour one section of society over another, the legitimacy and effectiveness of transitional justice mechanisms is likely to be undermined and could create a backlash which reignites tensions. There is a danger that a zero-sum approach to justice will lead to a cycle of repression and retribution which is likely to facilitate further radicalisation rather than preventing it.*

- **Transitional Justice Mechanisms Can Help Seek Justice For Terrorism But Should Not Be Used As An Excuse For An Arbitrary Crackdown On Islamists**

*Excessive use of violence by the state legitimises the use of violence by those opposed to it, facilitating radicalisation. Transitional justice mechanisms should aim to create wide reaching institutional and systemic reforms which can tackle the root causes of the systemic grievances that led to the 2011 revolution and have also contributed to elevated levels of radicalisation among Tunisian youth.*

- **Transitional Justice Mechanisms Can Help Bridge The Gap Between The Citizen And The State But Face Challenges In Implementation**

*Many of the grievances that sparked both the Tunisian revolution and the apparent acceleration of young Tunisians joining jihadist groups have their roots in the corruption and inequality that is endemic at an institutional level in Tunisia. Institutional change is by its very nature both excruciatingly slow and difficult to achieve. Transitional justice mechanisms have the potential to begin the process of reforming*

*institutions and bridging the gap between the citizen and the state thereby treating, or at the very least recognising, the underlying cause of some of the country's current problems. However, this is dependent on the state not obstructing or undermining the transitional justice process.*

## 1. The Tunisian Paradox: Beacon of Democracy, Exporter of Jihadists

A hotspot for Western tourists, history buffs and filmmakers alike, Tunisia has long been considered the most secular country in the Arab world. When widespread protests led to the ousting of President Zine al-Abidine Ben Ali in 2011, Tunisia also secured its status as one of the most democratic countries in the region. Tunisia's "Jasmine Revolution" sparked the so-called Arab Spring uprisings that swept a raft of aging autocrats from power across the Middle East and North Africa (MENA). In the years following Ben Ali's fall, the North African country held free and fair elections, ratified a new constitution and established new democratic institutions. As other post Arab Spring societies struggled to overcome varying legacies of divisive conflict, weakened economies and ineffectual state institutions, Tunisia was hailed as a thriving democratic model for the Arab world; a country with a relatively developed, diversified economy, high literacy rates and a strong civil society.

Yet Tunisia is also the largest single source of foreign jihadists<sup>1</sup> fighting for Abu Bakr al-Baghdadi's Islamic State of Iraq and al-Sham (ISIS) in Syria, Iraq and Libya. The United Nations and other government intelligence sources estimate that at least 5,000 Tunisians have left to fight for ISIS since the group's formation.<sup>2</sup> Data published in May 2017 asserts that in 2014-2015, there were 545 ISIS fighters for every million residents of Tunisia, the highest ratio of any country in the world.<sup>3</sup> Several high profile terrorist attacks have rocked Tunisia in recent years, most notably in 2015 when 21 people were killed in a terrorist attack at the Bardo National Museum in Tunis and a few months later, when 38 foreign tourists were killed near Sousse. Tunisians have also been involved in several terrorist attacks on European soil. There is a rising concern in the country about how to prevent this radicalisation trend and deal with the impact of the returning jihadists on Tunisian society, especially as ISIS loses its key strongholds in Mosul and Raqqa.<sup>4</sup>

Since the fall of Ben Ali's regime, Tunisia has adopted a Transitional Justice Law and established a Truth and Dignity Commission (TDC) with the aim of seeking

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<sup>1</sup> For the purposes of this report, jihadism or jihadist will be used to refer to Islamists who advocate the use of violent struggle to implement their interpretation of Islamic practices. In this report, Islamism refers to any form of social or political activism advocating that public and political life should be guided by Islamic principles, including calling for the implementation of Islamic law. Islamists can be violent or non-violent.

<sup>2</sup> Christian Caryl, "Why does Tunisia produce so many terrorists", *Foreign Policy*, 15 July 2016, <http://foreignpolicy.com/2016/07/15/why-does-tunisia-produce-so-many-terrorists-nice-france-truck-terrorist-attack/>

<sup>3</sup> Efraim Benmelech and Esteban F. Klor, "What Explains the Flow of Foreign Fighters to ISIS?," *NBER Working Paper* 22190, May 2017, <https://scholars.huji.ac.il/sites/default/files/eklor/files/w22190.pdf>

<sup>4</sup> Tarek Kahlaoui, "Tunisia needs a deradicalisation strategy for returning 'terrorists'", *Middle East Eye*, 15 December 2016, <http://www.middleeasteye.net/columns/deradicalisation-strategy-face-tunisian-terrorists-returnees-2155969>

facts, reparations and justice for human rights abuses and grievances committed for over half a century. These transitional justice mechanisms do not focus specifically on Islamists or socio-political grievances that may encourage radicalisation. However, given that Islamists comprise a significant number of those whose rights and beliefs were severely and often ruthlessly suppressed under the staunchly secularist regimes of presidents Habib Bourguiba (1956–1987) and Ben Ali (1987–2011), these transitional justice processes are likely to reveal and potentially address some of the underlying currents that have led to Tunisia becoming the world’s largest exporter of jihadist fighters.<sup>5</sup>

As Arab Spring states across the MENA region struggle with the rise of militant jihadism, prolonged conflict and the re-emergence of autocratic strongmen, democratic institutions and values are often touted as a social and political panacea. Yet Western democracies have not escaped this trend of radicalisation, with many countries experiencing a surge of white extremism, neo-Nazism, and jihadism against a back drop of increasingly autocratic, populist leaderships. With its status as one of the region’s most secular and democratic nations, can Tunisia be used as a case study on how to identify and potentially address some of the underlying causes of increasingly globalised radicalisation trends?

This report will look at the role that Tunisia’s transitional justice process can play both in identifying some of the grievances and concerns that potentially drive radicalisation and in seeking to address them through transitional justice mechanisms. Our research draws on first author attendance at recent TDC hearings and interviews with key figures involved in Tunisia’s transitional justice process, as well as drawing on existing literature and lessons from other countries in the region such as Morocco and Algeria.

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<sup>5</sup> Sarah Mersch, “Tunisia's ticking time bomb”, *Qantara*, 23 January 2017, <https://en.qantara.de/content/hamza-meddeb-on-the-no-future-generation-tunisias-ticking-time-bomb>

## 2. The Jihadist Temptation: Why Are Tunisians Lured By Violent Radicalism?

Post-Ben Ali Tunisia presents a juxtaposition of two extremes: it is both a thriving democratic model for the Arab world and the home country of thousands of jihadists fighting overseas. The trend of radicalisation among Tunisians is not a post-revolutionary phenomenon. Tunisians have been joining the jihadist ranks for many decades, travelling overseas to fight for such extremist groups as al-Qaeda and more recently, ISIS. There are several plausible explanations for this phenomenon of relatively widespread radicalisation among Tunisians.

### 2.1. Tunisian Secularism and Regime Brutality

While secularism in Europe was generally born of the need to separate state and religion, secularism in post-independence Tunisia was largely established as a way to ingratiate and align the country with Western powers by adopting similar political, religious and civic norms. Many Tunisians saw such secular norms as alien to Tunisian society and felt threatened by the perceived erosion of local culture, history and identity. In order to enforce this brand of secularism and maintain security and stability within the country, Bourguiba, the first president of independent Tunisia, established a sophisticated and intricate security apparatus, the tendrils of which reached into every level of society.

The police repression and brutality instigated under Bourguiba was intensified under Ben Ali as he sought to strengthen his control over the country. Between 1991 and 1992, Ben Ali's government arrested upwards of 8,000 members of the Islamist Ennahdha Movement.<sup>6</sup> Following the 11 September attacks on the World Trade Centre in New York in 2001, Ben Ali intensified his anti-Islamist policies and stoked fears of Islamic extremism as a way of crushing any and all opponents to his regime, whether Islamist or non-Islamist. In 2003, a catchall Terrorism Law was introduced. The law criminalized inciting hatred, glorifying terrorism, disturbing the public order and criticising security forces. In practice, the law allowed security forces to act with impunity, detaining and often torturing anyone who opposed the regime or who regularly went to a mosque, even if there was no evidence of involvement in terrorist activities. According to Mondher Cherni, Secretary General of Organisation Contre la Torture en Tunisie (OCTT), human rights violations committed by state authorities instilled a grudge against the state among some Tunisians, possibly fuelling their radical ideas.<sup>7</sup>

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<sup>6</sup> Sarah R. Loudon, "Political Islamism in Tunisia: A History of Repression and a Complex Forum for Potential Change", *University of Illinois at Chicago*, 2015, <http://ir.uiowa.edu/cgi/viewcontent.cgi?article=1060&context=mathal>

<sup>7</sup> Interview with Mondher Cherni, Secretary General of Organisation Contre la Torture en Tunisie (OCTT) at OCTT office in Tunis, 9 January 2017.



Figure 1: Map of Tunisia. Source: Ezlion.com

## 2.2. Erosion of Religious Education and Identity

The policy of enforced secularism was manifested in many ways and materialized under both Bourguiba and Ben Ali. Key examples include Decree 180 of 1981, which enforced a de facto ban on the headscarf, allowed monitoring of mosque activities including prayers, and barred beards from public institutions. Both regimes also targeted sources of religious education and authority in Tunisia by removing religious references from school curriculums, books and the media, and undermining the University of al-Zaytuna – Tunisia’s historic centre of Islamic scholarship that was once on a par with Morocco’s University of al-Qarawiyyine or Egypt’s al-Azhar University – by withholding funding and disrupting its work.<sup>8</sup>

This drying up of religious education meant Tunisia lacked an independent religious authority or centre of Islamic scholarship, creating an environment in which many young Tunisians felt that the only way to seek spiritual fulfilment was to travel abroad to find alternative means of religious education. In many cases, this meant joining radical Islamist groups. Many Tunisians travelled to Saudi Arabia, Pakistan and Afghanistan. This trend intensified in the wake of the 9/11 attacks and US President George W. Bush’s “War on Terror” which led to heightened anti-Muslim rhetoric and a corresponding assertion of Islamic identity among many Muslims. One of the assassins of Ahmad Shah Masood, an influential Afghani military commander who fought against the Soviets in the 1980s and later against the Taliban, was a Tunisian, and Abu Musab al-Zarqawi, the Jordanian leader of al-Qaeda in Iraq, once praised the Tunisian town of Ben Guerdane as a bulwark of jihad in North Africa. This pool of disaffected Tunisian youth became a valuable source of recruits for jihadist activities in many of the world’s conflict zones, including Iraq, Afghanistan, Syria, Yemen, Somalia, Libya and Mali.<sup>9</sup>

## 2.3. Regional Marginalization and Siren Song of Jihad

Poverty, lack of education, marginalization and unemployment were the roots of extremism for many Tunisians under the Ben Ali regime, according to Mondher Cherni.<sup>10</sup> This is a view shared by many researchers studying Tunisia’s radicalisation phenomenon. There was a practice of institutional marginalisation that neglected Tunisia’s interior hinterland regions, creating pockets of impoverished communities in the northwest, central west and the south of the

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<sup>8</sup> Sami-Joe Abboud, “Tunisia’s Al-Zaytuna Mosque to Reclaim Islamic Leadership Role”, *Al Monitor*, 21 July 2012, <http://www.al-monitor.com/pulse/culture/2012/07/like-al-azhar-al-najaf-and-al-ga.html#ixzz4fXpQWDHV>

<sup>9</sup> Tarek Kahlaoui “Revolution helped unleash jihadism in Tunisia. Democracy can resolve it”, *Middle East Eye*, 20 January 2017, <http://www.middleeasteye.net/columns/tunisians-are-leading-numbers-operative-terrorists-how-and-why-81198027>

<sup>10</sup> Interview by first author with Mondher Cherni, Secretary General of Organisation Contre la Torture en Tunisie (OCTT) at OCTT office in Tunis (9 January 2017)

country. The cronyism and corruption ruthlessly promoted by Ben Ali's family and the upper echelons of the regime further undermined the economic opportunities and political participation for these communities.<sup>11</sup> The Tunisian revolution itself was sparked by a desperate protest against such inequality: Mohamed Bouazizi, a 26-year-old street vendor from the marginalized town of Sidi Bouzid in central Tunisia, set himself on fire in protest at his treatment by the authoritarian regime.<sup>12</sup>

It is perhaps no surprise that in the years leading up to the 2011 uprising, around 10 per cent of the Tunisian population were living abroad while over 75 per cent of young Tunisians were considering emigration, according to one study.<sup>13</sup> It is estimated that in 2009, nearly 100,000 Tunisians lived in Libya alone.<sup>14</sup> When protests erupted against the regime of Muammar Gaddafi in February 2011, Tunisians who wanted to support the Libyan revolution discovered that it was the more radical Islamist groups that were often the most welcoming and open to foreign fighters. The regional proximity of the war in Libya, and later the uprisings in Syria, acted as a magnet for disaffected young Tunisians, with thousands joining the ranks of extremist groups including al-Qaeda, Ansar al-Sharia and ISIS in order to fight corrupt, secular dictators across the MENA region.<sup>15</sup>

There were individuals and groups in Libya that facilitated training and travel for Tunisian foreign fighters through Libya to Syria, taking advantage of Libya's security vacuum to operate with relative freedom.<sup>16</sup> Indeed, there has been coordination between Libyan and Tunisian jihadist fighters for decades, laying the groundwork for strong coordination between Ansar al-Sharia in Tunisia and its branches in Libya, and later between ISIS fighters from Tunisia and Libya.<sup>17</sup> Weapons and ammunition were also transited through Tunisia to anti-Gaddafi Libyan fighters in 2011 using well-established smuggling routes between the neighbouring countries. Intelligence sources from the Tunisian Ministries of Interior and Defence, as well as other analysts on the ground, have speculated

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11 Geoffrey Macdonald and Luke Waggoner, "Why are so many Tunisians joining the Islamic State", *Washington Post*, 27 January 2017, [https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/27/why-are-so-many-tunisians-joining-the-islamic-state/?utm\\_term=.e56bb5bec5bf](https://www.washingtonpost.com/news/monkey-cage/wp/2017/01/27/why-are-so-many-tunisians-joining-the-islamic-state/?utm_term=.e56bb5bec5bf)

12 Elizabeth Day, "The slap that sparked a revolution", *The Guardian*, 15 May 2011, <https://www.theguardian.com/world/2011/may/15/arab-spring-tunisia-the-slap>

13 "Migrants caught in crisis : the IOM experience in Libya", *IOM*, 2012, [http://publications.iom.int/system/files/pdf/migrationcaughtincrisis\\_forweb.pdf](http://publications.iom.int/system/files/pdf/migrationcaughtincrisis_forweb.pdf)

14 "Migration Policy: Tunisia", *Migration Policy Centre*, June 2013, [http://www.migrationpolicycentre.eu/docs/migration\\_profiles/Tunisia.pdf](http://www.migrationpolicycentre.eu/docs/migration_profiles/Tunisia.pdf)

15 Christian Caryl, "Why does Tunisia produce so many terrorists", *Foreign Policy*, 15 July 2016, <http://foreignpolicy.com/2016/07/15/why-does-tunisia-produce-so-many-terrorists-nice-france-truck-terrorist-attack/>

16 Alessandria Masi and Hanna Sender, "How Foreign Fighters Joining ISIS Travel to The Islamic State Group's Caliphate", *International Business Times*, 3 March 2015, <http://www.ibtimes.com/how-foreign-fighters-joining-isis-travel-islamic-state-groups-caliphate-1833812>.

17 Aaron Y. Zelin, "The Tunisian-Libyan Jihadi Connection", *The Washington Institute for Near East Policy*, 6 July 2015, <http://www.washingtoninstitute.org/policy-analysis/view/the-tunisian-libyan-jihadi-connection>.

that weapon caches recently found in southern Tunisia near the Libyan border were likely stored there during the Libyan uprisings. The Tunisian Ministry of Interior has also confirmed that the Bardo Museum attack in March 2015, the attack at Sousse beach in June 2015, and the failed ISIS attack on Ben Guerdane in March 2016 were carried out using weapons smuggled across the border by Tunisians who had received jihadist training in Libya.<sup>18</sup>

By December 2013, Tunisia and Libya were among the top five countries in terms of the number of their nationals who went to Syria to fight.<sup>19</sup> When Abu Bakr al-Baghdadi, the “emir” of ISIS, declared the establishment of three ISIS “emirates” in Libya in late 2014, a wave of recruitment videos began to emerge aimed directly at Tunisian foreign fighters, calling on them to join the jihad in Libya as a precursor to jihad at home.<sup>20</sup> As the political situation in Libya deteriorated and conflict between rival factions escalated, the Libyan connection became Tunisia’s Achilles Heel.

In the chaos that followed the 2011 uprisings, both in Tunisia and across the wider region, many young Tunisians left the country and travelled illegally to Europe in search of better economic prospects, often by smuggling themselves across the Mediterranean. In Europe, those arriving illegally were held in detention centres and some were radicalised in prisons there. Anis Amri, the Tunisian man who hijacked a truck and drove it into crowds at a Berlin Christmas market in December 2016, killing 12 people and injuring over 50, is an example of this trend. Amri was smuggled into Italy shortly after the 2011 revolution, reportedly to escape a five-year prison sentence for theft in Tunisia, but then spent over three years in various Italian prisons after being arrested for arson. It is believed he was radicalised while in detention in Italy.<sup>21</sup>

Mondher Cherni believes that the extremist rhetoric used by some preachers in certain mosques in Tunisia after the fall of the Ben Ali regime directly targeted vulnerable youth whose dire economic and social circumstances made them willing recruits for jihadist groups fighting in Libya, Syria and Iraq.<sup>22</sup> For some Islamists, the continued existence of the Tunisian state as a civil entity, as opposed to a religious one, was a significant grievance about post-revolution Tunisia. However, social marginalization, disaffection and unemployment are not

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<sup>18</sup> Rahma Guettari, “Machine Gun, Missile and Grenade Caches Discovered in Ben Guerdane”, *Tunisia Live*, 15 November 2016, <http://www.tunisia-live.net/2016/11/15/machine-gun-missile-grenade-caches-discovered-ben-guerdane/>

<sup>19</sup> Aaron Y. Zelin, “ICSR Insight: Up to 11,000 Foreign Fighters in Syria; Steep Rise among Western Europeans”, *International Centre for the Study of Radicalisation, King’s College London*, 17 December 2013, <http://icsr.info/2013/12/icsr-insight-11000-foreign-fighters-syria-steep-rise-among-western-europeans/>

<sup>20</sup> “ISIS in Action”, *Eye on ISIS*, 19 January 2016, <http://eyeonisisinlibya.com/isis-in-action/action-jan-19-2016/>

<sup>21</sup> Kate Connolly, “Anis Amri: from young drifter to Europe’s most wanted man”, *The Guardian*, 23 December 2016, <https://www.theguardian.com/world/2016/dec/23/anis-amri-from-young-drifter-to-europes-most-wanted-man>

<sup>22</sup> Interview by first author with Mondher Cherni, Secretary General of Organisation Contre la Torture en Tunisie (OCTT) at OCTT office in Tunis (9 January 2017)

the only factors driving the radicalisation of young Tunisians. Some Tunisians who joined jihadist organizations belong to wealthy families, and had no record of crimes or being from families that embraced extremism.

### 3. Transitional Justice in Tunisia

While it is important not to over-generalize what is driving radicalisation in Tunisia, it is clear that the climate of repression, brutality and marginalization had a part to play. Tunisia's transitional justice process was initiated jointly by local civil society organizations, politicians, and legal professionals, as well as international non-governmental organizations (NGOs), and has been supported and implemented by successive governments since Ben Ali was ousted in 2011. The transitional justice process aims to support Tunisia's transition towards democracy by providing mechanisms to redress grievances and human rights abuses carried out under the Ben Ali and Habib Bourguiba regimes.

#### 3.1. The Tunisian Revolution: Calls for Democracy and Rights

In late January 2011, following Ben Ali's departure from Tunisia on 14 January, protests took place across the country and, most significantly, in front of the prime minister's office on the Kasbah, a plaza in the old quarter of Tunis. Protesters called for the Tunisian revolution to be protected from the former regime through the dissolution of the former ruling party, the Rassemblement Constitutionnel Démocratique, or Democratic Constitutional Rally, (RCD). These protests continued into late February with demands for social and economic rights, including compensation for the victims of the revolution. The Kasbah 1 and 2 sit-ins, as they became known, laid the foundations for the establishment of transitional justice mechanisms in Tunisia.

The term "transitional justice" was coined in the 1990s by American academics to describe "the ways countries emerging from periods of conflict and repression address large scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response."<sup>23</sup> Transitional justice mechanisms often involve criminal prosecutions for those responsible for the most serious crimes, "truth-seeking" or "fact-finding" investigations into human rights abuses by non-judicial bodies, reparations for abuses, whether individual, collective, material or symbolic, and reform of laws and institutions. The Nuremberg trials of the late 1940s, where key figures in the German Nazi party were tried by an international court for war crimes committed during the Second World War, are considered to be the first historical application of transitional justice principles. The concept gained momentum in the 1980s and 1990s as countries across Europe, Latin America and Africa transitioned from dictatorship to democracy. In Central and Eastern Europe, transitional justice involved the establishment of truth commissions and lustration programs,<sup>24</sup> while in others such as Northern Ireland and Uganda,

<sup>23</sup> "What is transitional justice?" *ICTJ*, <https://www.ictj.org/about/transitional-justice>

<sup>24</sup> Lustration is the process of 'cleansing' the remnants of a previous regime from the new regime or political system. This usually takes the form of government-sanctioned policies that disqualify all

transitional justice involved amnesties, reconciliation, and memorialisation. In Tunisia's case, institutional reform was a key part of post-Ben Ali transitional justice.



*Figure 2: NCA adopt new constitution in January 2014. Photo: UNDP*

Tunisia held its first free and democratic elections in October 2011 and established the National Constituent Assembly (NCA), an elected body with a mandate to draft a new Tunisian constitution.

The Ennahdha political party, which had been banned under Ben Ali due to its Islamist ideology, won the majority of seats in the 2011 NCA elections and formed a coalition government with two secularist parties, the Congress for the Republic (CPR) and Ettakatol. The Islamist – secularist NCA collaborated with Tunisian civil society, political parties and other opposition forces to produce a draft constitution which was officially adopted as the new Tunisian constitution in early 2014. The NCA's three-year term concluded in late 2014.

### **3.2. Tunisia's Transitional Justice Law and the Truth and Dignity Commission**

The Organic Law on the Establishment and Organisation of Transitional Justice was adopted at the end of 2013, following months of national dialogue to ensure broad consultation about the best way to deal with the Ben Ali legacy.<sup>25</sup> The law outlines Tunisia's understanding of and commitment to transitional justice mechanisms and addresses human rights abuses, reparations, accountability,

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of those who held official positions under the former regime, or are associated with the abuses of the previous system, from holding public office or positions of power.

<sup>25</sup> "Unofficial translation of the Organic Law on Establishing and Organizing Transitional Justice", ICTJ, <http://www.ohchr.org/Documents/Countries/TN/TransitionalJusticeTunisia.pdf>

institutional reform, vetting, and national reconciliation. The law also established the Truth and Dignity Commission (TDC) and enshrined it in the 2014 Tunisian constitution as an independent authority to be made up of 15 independent members with a four-year term. The members were selected from a pool of 380 nominated candidates by the NCA in May 2014. Most of the TDC members are lawyers or human rights practitioners. Some were chosen on the basis of their representation of victims' association or their records as human rights defenders, while others were chosen for their competence in fields with a bearing on transitional justice, including judicial, legal, religious and financial expertise. By June 2016, the TDC claimed over 62,000 complaint files had been submitted to its various offices across the country.<sup>26</sup>

The TDC's main objective is to address political, social and economic crimes committed between 1 July 1955 and the end of 2013, including the unlawful killings of protesters during the Tunisian revolution. In particular, the law covers abuses committed against opponents of both the Bourguiba and Ben Ali regimes, including Islamists, secularists and those with leftist political affiliations. Its work encompasses both "informal" transitional justice processes like "truth-telling" and recognition of victims of human rights violations, which seek to bring about societal-level reconciliation, and more "formal" aspects such as reparations to be paid from the Commission's Victims Fund created under the Transitional Justice Law.<sup>27</sup>

Tunisians and international figures welcomed the TDC for striving to deliver justice for human rights abuses and setting a precedent in the region for a successful democratic transition. The TDC's president Sihem Ben Sedrine (who was previously the president of the Tunis Centre for Transitional Justice) was hailed as the first woman to ever head a truth-seeking or truth-telling commission in a country undergoing a process of democratisation. Victims' rights and anti-torture groups in particular supported the TDC as they sought accountability for human rights abuses committed by the state and campaigned for the implementation of rule of law and transparency.

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<sup>26</sup> "Tunisia Events of 2016", *Human Rights Watch*, December 2016, <https://www.hrw.org/world-report/2017/country-chapters/tunisia>

<sup>27</sup> "Unofficial translation of the Organic Law on Establishing and Organizing Transitional Justice", *ICTJ*, <http://www.ohchr.org/Documents/Countries/TN/TransitionalJusticeTunisia.pdf>

## 4. Can Transitional Justice Tackle the Root Causes of Radicalisation Among Tunisian Youth?

Taming the underground current of radicalisation that rose to the surface in the climate of freedom and liberty following the fall of the Ben Ali regime in 2011 has proved to be one of Tunisia's biggest post-revolution challenges. Tunisia's sometimes tortuous yet relatively successful democratisation process opened a Pandora's Box of hope and bitter disappointment. A generation of young Tunisians who grew up under Ben Ali revelled in the promise of new freedoms yet quickly became disillusioned with the Tunisian state, leading some to seek fulfilment instead among the ranks of jihadist groups overseas.

The inclusion of the word "Dignity" in the title of Tunisia's Truth and Dignity Commission (TDC) is significant because it positions the TDC as an inheritor and defender of the values of the Tunisian revolution, namely employment, freedom, and national dignity.<sup>28</sup> Is it possible that the TDC and its raft of transitional justice mechanisms could also help address some of the root causes of radicalisation in Tunisia as well as helping to establish fair processes for dealing with Tunisian jihadist fighters returning from overseas?

### 4.1. Transitional Justice Allows Grievances To Be Aired, But Justice Must Also Be Seen To Be Done

The TDC held its first six public hearing sessions between 17 November 2016 and 26 January 2017. The sessions were attended by several Tunisian political figures, including former Tunisian president Moncef Marzouki who is often credited as a staunch supporter of the TDC, as well as officials from countries that have also established transitional justice mechanism including South Africa, Argentina and Morocco to name but a few. The TDC sought to redress events in Tunisian modern history including the Bread Riots of 1984, the Black Thursday events of 1978 and the Youssefist Movement confrontation with the Bourguiba regime in the 1960s. Interestingly, the TDC also looked at cases where whole communities had allegedly been victims of marginalization under the former regimes, particularly in the Tunisian hinterland, the interior region away from the coast.

During the sessions, victims of the former regimes gave testimonials that were broadcast live on the Tunisian public broadcaster *Wataniya 1*. They described atrocities committed against them by the various security apparatuses of the former regimes. These included torture, systematic rape, arbitrary dismissal and invasive monitoring of their activities. The victims were mainly Islamists but also included leftist political activists, former army officials and former diplomats.

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<sup>28</sup> Heather McRobbie, "Will Tunisia's Truth and Dignity Commission Heal the Wounds of the authoritarian Past?" *Transitional Justice*, 20 February 2015, <https://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2015/08/Chapter15.pdf>

Individuals wounded during the Tunisian revolution also testified.<sup>29</sup>

In a much publicized public hearing session on 19 May 2017, Imed Trabelsi, the nephew of Ben Ali's wife Leila Trabelsi, provided testimonial about the complex network of corruption under the Ben Ali regime which allowed him to get rich. He also accused his former associates of still being involved in fraudulent practices. Trabelsi has been in prison since the 2011 uprising after receiving multiple sentences, many related to corruption.<sup>30</sup> A session on election-rigging was held on 21 July. Another session was supposed to be held to investigate an incident which happened in the marginalized interior town of Siliana in 2012 when police opened fire on protestors with buckshot, reportedly injuring over 300 people. However, this session has so far been suspended due in part to objections from the military who believe the issue should be dealt with by a martial court.<sup>31</sup>

It is hoped that "truth-telling" through victims' testimonies can lead to a re-examining of painful events in Tunisia's recent post-independence history and help heal the wounds of the past. This is particularly relevant for Islamists, whose persecution was often justified and trivialized in the name of secularism, not only by ardent supporters of the Ben Ali regime but also by some of the regime's leftist-leaning opponents. The silence of some members of Association Tunisienne des Femmes Démocrates (the Tunisian Association of Democratic Women) about the brutality of the Ben Ali regime towards Tunisian women who wore headscarves is an example of this.<sup>32</sup> Mondher Cherni believes that achieving justice for the myriad victims of Tunisia's dictatorship is paramount in order for society to regain faith in the state. Cherni stressed that public hearing sessions represented a cathartic moment for Tunisians, both victims and observers, especially given that Tunisians who did not personally experience the previous regimes' brutality were often unaware of the horrific treatment that was doled out to opponents and dissenters.<sup>33</sup>

However, many critics argue that the absence of perpetrators during the public hearing sessions, and the failure to prosecute those accused of crimes, limits the TDC's ability to seek justice and redress for the victims. Many of the perpetrators remain at liberty, including Ben Ali and members of his family, while others still hold key positions in the current state apparatus.<sup>34</sup> Furthermore, the TDC itself

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<sup>29</sup> The first author attended these hearings in person. Recordings of these sessions can be accessed on the TDC's website <http://www.ivd.tn/fr/?cat=85>

<sup>30</sup> "Ben Ali nephew apologises to Tunisia for corruption," *The Independent*, 20 May 2017, <https://www.independent.co.uk/ben-ali-nephew-apologises-tunisia-corruption/>

<sup>31</sup> "Union calls off strike in Tunisian town wracked by clashes after getting local governor ousted," *The Record*, 2 December 2012, <https://www.therecord.com/news-story/2618388-union-calls-off-strike-in-tunisian-town-wracked-by-clashes-after-getting-local-governor-ousted/>

<sup>32</sup> Vincent Geisser and Éric Gobe, "La question de 'l'authenticité tunisienne': valeur refuge d'un régime à bout de souffle?", *L'année du Maghreb*, 2007, <https://anneemaghreb.revues.org/387#tocto1n1>

<sup>33</sup> Interview by first author with Mondher Cherni, Secretary General of Organisation Contre la Torture en Tunisie (OCTT) at OCTT office in Tunis (9 January 2017)

<sup>34</sup> Kora Andrieu, Ahmed Aloui, Wahid Ferchichi, Hager Ben Hamza, Simon Robins, "Victim participation in Tunisia's transitional justice process", *Baromètre de la Justice Transitionnelle*, October 2015

has been marred with controversies in recent months, including alleged scandals involving two employees who were laid off for having leaked internal files to discredit the Commission in early September, and allegations of corruption against the TDC president from former employees.<sup>35</sup>

This trend is present in other countries that have gone through transitional processes. In Rwanda, controversial Tutsi leader Paul Kagame became president despite accusations that he was responsible for crimes against humanity committed against Hutus in 1994. In Spain, an amnesty for past crimes meant that officials who had served under the dictatorship of General Francisco Franco continued to hold positions in government, particularly in the security sector. This was part of a



pacification process that sought to move the country towards reconciliation.

*Figure 3: Public Session of the Truth and Dignity Commission*

Morocco's Equity and Reconciliation Commission (ERC), created by King Mohammed VI in 2004, faced similar problems. The ERC had a mandate to investigate forced disappearances and arbitrary detentions carried out between 1956 and 1999, and to recommend forms of compensation and reparation for the victims. However, there was no provision for criminal proceedings and the ERC could not name those found guilty of committing human right abuses, even though many of the perpetrators remained in office. This is perhaps unsurprising given that Morocco's transitional justice process was established by the same government responsible for the violations being investigated, yet it highlights the danger of transitional justice mechanisms being used as propaganda showcases for demonstrating reform without addressing the impunity and lack of accountability that allowed such abuses to occur in the first place.<sup>36</sup>

[http://www.impunitywatch.org/docs/6.Victim\\_participation\\_report\\_ENG\\_SR\\_131015\\_FINAL.pdf](http://www.impunitywatch.org/docs/6.Victim_participation_report_ENG_SR_131015_FINAL.pdf)

<sup>35</sup> "Instance Vérité & Dignité," <https://www.facebook.com/IVDTN/>

<sup>36</sup> "Morocco's Truth Commission", *Human Rights Watch*, November 2005, <https://www.hrw.org/sites/default/files/reports/morocco1105wcover.pdf>

*If the perpetrators of the human rights violations made public through the TDC hearings are not prosecuted or held accountable in some form, there is a risk that the process of publically airing human rights abuses and grievances will actually reinvigorate public anger and frustration, potentially radicalizing a new cohort of disenfranchised Tunisians.*

#### **4.2. Transitional Justice Can Help Redress Past Abuses Against Islamists But Not At The Cost Of Justice For Other Victims**

The victory of the Islamist Ennahdha party in Tunisia's elections in 2011 allowed for a raft of measures to be introduced which sought to redress some of the anti-Islamist policies of the Ben Ali regime. One of the first decisions taken by Tunisia's interim government following the fall of Ben Ali was to issue a decree on 19 February 2011 granting amnesty to all those who were imprisoned or prosecuted for crimes as a result of their political or trade union activities prior to 14 January 2011. While this applied to all opposition members who had been prosecuted under Ben Ali, members of Islamist organizations constituted the majority of those released. This included many radical Islamists who had fought with al-Qaeda and other jihadist groups in Afghanistan and Iraq. Among these was Seifallah Ben Hassine, better known as Abu Iyadh al-Tunisi, a hardline Salafist militant who was one of Osama Bin Laden's lieutenants in the early 2000s and who founded the jihadist group Ansar al-Sharia shortly after his release from prison.<sup>37</sup> Abu Iyadh is accused of orchestrating the attack on the US embassy in Tunis in September 2012 and is alleged to have links to ISIS cells in Libya. He fled Tunisia in 2013 after Ansar al-Sharia was designated a terrorist group by Ennahdha and is believed to have been killed during a US-led airstrike against an ISIS training camp in Libya in 2015.

Some argue this blanket release of prisoners was not in line with the type of amnesty laws usually issued under transitional justice processes as its intent seems to have been to provide reparations to victims of the regime, rather than reconcile victims and perpetrators of gross violations. Tensions around this subject have only heightened since it has become evident that some of those released in the amnesty went on to commit or support acts of terrorism in Tunisia and overseas. Indeed, the perceived leniency of Ennahdha towards groups like Ansar al-Sharia led to the collapse of the Ennahdha government in 2014 and the return of former regime officials.

This issue is directly linked with current discussions in Tunisia over how to deal with jihadists returning from fighting with ISIS and what type of justice they will receive. In an atmosphere currently characterised by fear and public outrage regarding the return of Tunisian jihadists, many of whom are regarded as unrepentant militants, a transitional justice process that aims to encompass all

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<sup>37</sup> Carlotta Gall and Eric Schmitt, "Jihadist from Tunisia dies in Libya, US officials say", *The New York Times*, 2 July 2015, [https://www.nytimes.com/2015/07/03/world/africa/jihadist-from-tunisia-died-in-strike-in-libya-us-official-says.html?\\_r=0](https://www.nytimes.com/2015/07/03/world/africa/jihadist-from-tunisia-died-in-strike-in-libya-us-official-says.html?_r=0)

Tunisians, including those involved in terrorism, remains contentious. Earlier this year, the Tunisian parliament, with the support of civil society organizations and politicians, set up a committee to investigate networks of Tunisian jihadists and the people facilitating their travel to conflict zones in an attempt to gather more information about the issue. However, establishing a just way to deal with returning jihadists is likely to be challenging given the emotive nature of this issue.

The Ennahdha-led government created the Ministry of Human Rights and Transitional Justice (MoTJ) in 2011, appointing Samir Dilou – a lawyer and former Ennahdha militant who spent several years in prison – as the minister. The MoTJ was responsible for the files relating to individuals wounded during the 2011 revolution and oversaw the process of drafting the Transitional Justice Law, which was approved in late 2013. Islamist activists campaigned for the TDC’s mandate to start in 1955 in order to ensure the suffering of the “Youssefistes”, who opposed Bourguiba’s strict secularism and were severely repressed as a result, would be included within its scope.<sup>38</sup> Under the law, a range of grave human rights violations was covered, including deliberate killings, rape, torture, and enforced disappearances. However, election fraud and forced exile, political acts which mainly affected Islamist Ennahdha members under Ben Ali, are also covered, yet these offenses are not criminalized under Tunisia’s penal code or by international law.<sup>39</sup>

These actions led to the perception that the mandate of the TDC was designed to redress the specific abuses suffered by Islamists and does not truly seek to address the broader abuses and violations suffered by secularists and members of the leftist opposition. Although Cherni stressed the longevity and brutality of the Bourguiba and Ben Ali regimes’ oppression of Tunisian Islamists, he noted that the all political currents, including leftists, Islamists, civil society activists, trade unionists and ordinary depoliticized Tunisians were victims of the authoritarian regime’s repressive machine. The TDC has received files from victims and victims’ groups representing all walks of life including Tunisian Jews, M’nemty (a black Tunisians association), Tunisian Amazigh (Berbers), members of the Youssefist movement, businessmen, army officials, veterans of Tunisia’s war of independence, and trade unionist, as well as people affected by specific events such as the Gafsa Mining Basin revolt in 2008.

In Algeria, the Charter for National Reconciliation and Peace, which was introduced in 2005 as a means to deal with the legacy of the country’s bitter civil war, granted some compensations to victims but also provided amnesty to armed rebels, exonerated state security forces, and didn’t include a truth-seeking mechanism nor measures to reform state institutions in order to prevent

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<sup>38</sup> Kora Andrieu, “Confronting the dictatorial past in Tunisia: The politicization of transitional justice”, Justice Info, 31 August 2015, <http://www.justiceinfo.net/en/oxford-research/confronting-the-dictatorial-past-in-tunisia-the-politicization-of-transitional-justice.html>

<sup>39</sup> “Tunisia: Hope for Justice on Past Abuses”, *Human Rights Watch*, 22 May 2014, <https://www.hrw.org/news/2014/05/22/tunisia-hope-justice-past-abuses>

repetition of past violations.<sup>40</sup> As a result, some Algerians felt that short-term peace and security had been put before longer-term justice and accountability and that this consequently contributed to the perpetuation of radicalisation. There is a serious risk of the same thing happening in Tunisia, especially concerning returning jihadist fighters. If fighters are prevented from returning, or not given a fair trial upon their return, then this could lead to further radicalisation among those who believe these individuals have been mistreated. On the other hand, if an amnesty is issued effectively exonerating jihadists of any wrongdoing, then this will create outrage and discontent among a different swathe of the population. Tunisia's current government should not support mechanisms that favour Islamists over secularists or vice versa, nor should amnesties be granted to certain groups purely to maintain short-term stability.

*By introducing reforms and establishing justice mechanism which appear to favour one section of society over another, the legitimacy and effectiveness of transitional justice mechanisms is likely to be undermined and could create a backlash which reignites tensions. There is a danger that a zero-sum approach to justice will lead to a cycle of repression and retribution which is likely to facilitate further radicalisation rather than preventing it.*

#### **4.3. Transitional Justice Mechanisms Can Help Seek Justice For Terrorism But Should Not Be Used As An Excuse For An Arbitrary Crackdown On Islamists**

When the Islamist Ennahdha party came to power in 2011, it was keen to reverse the secularization of the previous regime and to reintegrate Islamic customs and traditions into Tunisian society and politics. In March 2011, a Tunisian court issued a decision allowing for the resumption of education at al-Zaytuna Mosque, with the curricula being developed in coordination with the Ministry of Religious Affairs and the Ministry of Higher Education. Although Rached Ghannouchi, head of Ennahdha, promised that ideology and politics would be kept away from al-Zaytuna,<sup>41</sup> the Islamist government soon came under fire from Tunisian civil society activists. They accused Ennahdha of facilitating the radicalisation of young Tunisians by turning a blind eye to the extremist rhetoric adopted in some Tunisian mosques by radical preachers, both from Tunisia and further afield. Between 2012 and 2014, a number of radical preachers visited Tunisia. These included Egyptian cleric Wajdi Ghoneim in February 2012 and Sheikh Yusuf Qaradhwai, a controversial Egyptian scholar based in Qatar, in May 2012. In August 2012, thousands of people protested in Tunis against moves by the government to reduce women's rights in the draft constitution. The Association Tunisienne des Femmes Démocrates was the main organization leading the protests, with other civil society organizations, women's rights organizations, and members of prominent secular and leftist political parties taking part. The

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<sup>40</sup> "Algeria", ICTJ, <https://www.ictj.org/our-work/regions-and-countries/algeria>

<sup>41</sup> Sami-Joe Abboud, "Tunisia's Al-Zaytuna Mosque to Reclaim Islamic Leadership Role", *Al Monitor*, 21 July 2012, <http://www.al-monitor.com/pulse/culture/2012/07/like-al-azhar-al-najaf-and-al-qa.html#ixzz4fXpQWDHV>

protests took place on Tunis' main thoroughfare Avenue Bourguiba and in front of the National Constituent Assembly where the constitution was being drafted.



Figure 4: Tunisian women protest in Tunis in 2012. Photo: Euronews

Between late 2011 and 2013, Ennahdha and its allies were accused of failing to address the rising influence of radical groups in Tunisia, especially Ansar al-Sharia, or to curb jihadist tendencies among Tunisian youth. The assassinations in 2013 of Chokri Belaid and then Mohamed Brahmi, leftist politicians who were vocal critics of Ennahdha, represented the height of influence for radical Islamists in Tunisia. Ansar al-Sharia's capacity to galvanize and organize crowds of disaffected youth eventually prompted Ennahdha to declare the group a terrorist organization. However, Ennahdha could not shake off accusations that it had tried to co-opt and appease the jihadists in order to gain their sympathy and support, and as a regional resurgence of secular strongmen swept the region, epitomized by Abdel Fattah al-Sissi's coup d'état against Islamist leader Mohamed Morsi in Egypt in July 2013, the Ennahdha-led government collapsed in early 2014. The 'Islamist first' perception of Tunisia's transitional justice mechanisms also contributed to this political backlash against Ennahdha. Nevertheless, the TDC has also investigated terrorist attacks where the perpetrators were more likely to be Islamists rather than members of the former regime, such as the 1987 Sousse and Monastir bombings, and the 2002 Djerba Synagogue bombing.

However, some fear that the TDC and other transitional justice mechanisms are now being used by the current government to look after its own interests in the same way that Ennahdha was perceived to be doing when it was in power. There are concerns that the reinstatement of the Terrorism Law of 2003, following the Bardo Museum and Sousse beach attacks in 2015, is being used to justify the

arbitrary detention of anyone who criticizes the Tunisian authorities.<sup>42</sup> The lack of security reform in the police sector also threatens to undermine the transitional justice process as it has created a climate of impunity among security officials, sparking fears of the return of former regime practices including torture and secret detention. Likewise, reforming and depoliticising Tunisia's judicial system is essential for rebuilding trust in state institutions.

*Excessive use of violence by the state legitimises the use of violence by those opposed to it, facilitating radicalisation. Transitional justice mechanisms should aim to create wide reaching institutional and systemic reforms which can tackle the root causes of the systemic grievances that led to the 2011 revolution and have also contributed to elevated levels of radicalisation among Tunisian youth.*

#### **4.4. Transitional Justice Mechanisms Can Help Bridge The Gap Between The Citizen And The State But Face Challenges in Implementation**

Human rights activists, including human rights organizations such as Human Rights Watch and Ligue Tunisienne des Droits de l'Homme, along with some members of lawyers' and judges association, anti-torture associations, and anti-corruption associations such as Bawsala, Manich Msamah and iWatch, are concerned that several individuals who currently hold high-level political office in Tunisia previously held senior governmental posts under Bourguiba and Ben Ali. This could make them less inclined to support the spirit of transitional justice due to the fear of personally being implicated in its investigations. Tunisian President Béji Caid-Essebsi, who was elected in late 2014 following the collapse of the Ennahdha-led government, is a particular concern since he held various security, defence and foreign affairs-related posts under both Bourguiba and Ben Ali, as well as becoming speaker of the Chamber of Deputies in 1990.<sup>43</sup> Other examples include Kamel Morjane, Mohamed Jegham, and Ahmed Friaa who all served under Ben Ali in key ministerial positions and now have their own political parties which ran for elections in 2011 and 2014.

The passing of the "Administrative Reconciliation Law" on 13 September 2017 has created another significant barrier to implementing transitional justice mechanisms and is likely to erode public trust in the state's commitment to reconciliation. The law was originally proposed in 2016 as the "Economic Reconciliation Law" which had a mandate to investigate "public officials and state employees for acts related to financial corruption and misuse of public funds" and to establish a mechanism whereby corrupt officials could self-declare illicit gains and return a portion of them to the state in exchange for a sort of immunity.<sup>44</sup>

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<sup>42</sup> "Tunisia: Uphold Rights While Fighting Terrorism", *Human Rights Watch*, 28 April 2016, <https://www.hrw.org/news/2016/04/28/tunisia-uphold-rights-while-fighting-terrorism>

<sup>43</sup> "Tunisia profile – leaders", *BBC*, 30 June 2015, <http://www.bbc.co.uk/news/world-africa-14107555>

However, the law that was eventually passed in September distinguishes between civil servants who allegedly committed acts of corruption without personally benefiting, and those who embezzled public funds for their own gain. This was intended to punish people acting on their own volition and to protect civil servants who had followed illegal orders given by the president or members of his inner circle. The new law prevents prosecution of those deemed to be acting on orders from higher up and compensates them for any fines they may have already paid. The law has been decried by civil society activists, human rights organizations and international organisation alike as it creates the conditions for corruption to continue unpunished, allowing civil servants who participated in corruption to redeem themselves without paying damages or disclosing facts about others involved in corruption.<sup>45</sup> Critics of the law say that it will not help achieve the goals of social justice and equality and that it will directly undermine the TDC's mandate to "mediate cases relating to corruption and economic crimes at the request of an accused person, someone harmed by corruption or the government."<sup>46</sup> Proponents of the law claim it will allow the Tunisian economy to recover and bring back investment in the country.

The controversial law is set to become even more divisive in Tunisian society in light of the country's first post-revolution municipal elections being postponed from December 2017 until sometime in 2018.<sup>47</sup> This postponement has been seen by some international observers and organizations as threatening Tunisian democratic transition. Furthermore, while the 2014 constitution protects the existence of the TDC, the government has kept tight control over the TDC's budget, constraining the body's ability to act independently and to allocate the necessary time and resources to fully process and investigate the thousands of cases submitted. There are fears that some serious human rights violations have not been addressed during the public hearings due to this lack of resources.<sup>48</sup>

Ali Grab, a member of the TDC, stressed the imperative of mending the broken relationship between some groups of society and the state by reviewing "educational programmes, media and cultural programmes in schools, and rationalizing the political debate" in order to treat the root causes of human

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<sup>44</sup> "Tunisia: Amnesty Bill Would Set Back Transition", *Human Rights Watch*, 14 July 2016, <https://www.hrw.org/news/2016/07/14/tunisia-amnesty-bill-would-set-back-transition>

<sup>45</sup> Amna Guellali, "New Reconciliation Law Threatens Tunisia's Democracy," *Human Rights Watch*, 2 October 2017, <https://www.hrw.org/news/2017/10/02/new-reconciliation-law-threatens-tunisia-democracy>

<sup>46</sup> Eliis Goldberg, "Arab Transitions and old élites", *Washington Post*, 9 December 2014, [https://www.washingtonpost.com/news/monkey-cage/wp/2014/12/09/arab-transitions-and-the-old-elite/?utm\\_term=.356553e78c39](https://www.washingtonpost.com/news/monkey-cage/wp/2014/12/09/arab-transitions-and-the-old-elite/?utm_term=.356553e78c39)

<sup>47</sup> "Tunisia's Ennahda party says municipal polls postponed," *Middle East Eye*, 17 September 2017, <http://www.middleeasteye.net/news/tunisia-islamist-party-says-municipal-polls-postponed-1766771666>

<sup>48</sup> Heather McRobbie, "Will Tunisia's Truth and Dignity Commission Heal the Wounds of the authoritarian Past?" *Transitional Justice*, 20 February 2015, <https://ohrh.law.ox.ac.uk/wordpress/wp-content/uploads/2015/08/Chapter15.pdf>

rights violations and abuses.<sup>49</sup> Restoring faith for disenfranchised Tunisian youth who have lost their sense of belonging and citizenship is a prerogative of the Tunisian state. The state has the moral duty to provide the proper climate of social and psychological support for youth by anticipating extremist ideologies that can attract them, especially those who are “socially fragile”, according to Grab. Tunisia’s various transitional justice mechanisms, including the TDC, should take up the role of “reform and prevention” to prevent these vulnerable people from being attracted by extremist ideologies and the promise of a different life.

There is also a growing trend of Tunisian youth migrating to Europe by sea, following in the footsteps of those who became disillusioned and left in the early days of the Tunisian revolution. Many young Tunisians are braving the dangerous sea crossing from Tunisia to Sicily to seek a better life in Europe, with hundreds currently making this journey every week.<sup>50</sup> The Italian authorities in Sicily have expressed concern at this trend and urged the Tunisian authorities to increase patrols. According to the Forum Tunisien des Droits Economiques et Sociaux, or Tunisian Forum for Economic and Social Rights, (FTDES), a Tunisian NGO that defends social and economic rights, disengagement from politics and poor socio-economic conditions are significant push factors for young Tunisians making this journey.<sup>51</sup> FTDES lays the blame squarely at the feet of Tunisian state officials because they have ignored the demands of their citizens, in particular the youth, for more transparency and accountability. The NGO argues that an absence of opportunity and alternative perspectives for life may drive some Tunisian youth to join extremist groups.

While it is premature to predict the fate of those who have successfully made the journey to Europe, some are alarmed that those who do reach Europe may fall into the same vicious circle of petty crime, chronic unemployment and radicalisation (particularly for those who end up in European jails) that constitutes a fertile ground for producing future jihadists. The cases of Anis Amri and Ahmed Hannachi, who were responsible for the Berlin Christmas Market attack in December 2016 and the stabbing of two women in Marseille<sup>52</sup> in October 2017 respectively, are examples of two Tunisian youths who showed early signs of radicalisation in Italian jails. Such cases are symptomatic of the failure of both Tunisian and European policy makers in remedying the root causes of their marginalisation and frustration with the social-economic situation in both their original and host countries. Hence, there is a need for concerted efforts between the Tunisian state on the one hand, and its European counterparts on

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<sup>49</sup> Interview by first author with Mr Ali Grab at the TDC office in Tunis (29 December 2016).

<sup>50</sup> “Smugglers offer new routes to Europe for jobless Tunisians,” *Reuters*, 18 October 2017, <http://af.reuters.com/article/commoditiesNews/idAFL8N1MN47K>

<sup>51</sup> “Plus de 40% des Tunisiennes souhaitent rejoindre l'Europe clandestinement selon la FTDES,” *HuffPost Tunisie*, 10 October 2017, [http://www.huffpostmaghreb.com/2017/10/09/ftdes-immigration\\_n\\_18224506.html](http://www.huffpostmaghreb.com/2017/10/09/ftdes-immigration_n_18224506.html); “Collision entre un bateau de migrants et un navire de la Marine nationale: Bilan et déclarations,” *HuffPost Tunisie*, 12 October 2017, [http://www.huffpostmaghreb.com/2017/10/12/collision-dun-bateau-de-m\\_n\\_18247492.html](http://www.huffpostmaghreb.com/2017/10/12/collision-dun-bateau-de-m_n_18247492.html)

<sup>52</sup> “Marseille attacker probably radicalised by brother: police,” *Reuters*, 9 October 2017, <https://www.reuters.com/article/us-france-security-marseille-italy/marseille-attacker-probably-radicalised-by-brother-police-idUSKBN1CE1N1>

the other, in devising effective strategies that could work hand in hand with the solutions and strategies offered by transitional justice in the de-radicalisation process. The continued obstruction and non-cooperation of the Tunisian state towards the transitional justice process is likely to threaten its survival as a mechanism that could ensure the sustainability of Tunisian democracy as the sole success story of the Arab Spring.

*Many of the grievances that sparked both the Tunisian revolution and the apparent acceleration of young Tunisians joining jihadist groups have their roots in the corruption and inequality that is endemic at an institutional level in Tunisia. Institutional change is by its very nature both excruciatingly slow and difficult to achieve. Transitional justice mechanisms have the potential to begin the process of reforming institutions and bridging the gap between the citizen and the state thereby treating, or at the very least recognising, the underlying cause of some of the country's current problems. However, this is dependent on the state not obstructing or undermining the transitional justice process.*

## **5. The Pandora's Box of Democracy and Radicalisation**

It may be that Tunisia's relative success in protecting the democratic principles and institutions established following the 2011 uprising is also in part what is driving the apparent surge in young Tunisians joining jihadist groups. The 2011 uprisings led to greater freedom of expression for all, and thus grievances against years of state-imposed secularism is leading to a cultural and ideological revival of Islamism, with radical jihadists at its fringes.

The successive failures of post-Ben Ali governments to honour their promises to create more job opportunities, tackle the systemic marginalisation of certain communities, and address popular concerns about growing police brutality and corruption has led to growing anger among many Tunisians. Jihadist groups have effectively channelled this anger as a means to increase recruitment among disaffected youth, and this trend is likely to continue unless Tunisia is able to address some of these systemic drivers of radicalisation.

Transitional justice mechanisms cannot provide easy solutions to these challenges and represent only one part of what must be a multi-faceted solution to the problem of radicalisation. However, if successfully implemented, such mechanisms have the potential to allow past and current grievances to be aired, redress abuses against communities vulnerable to radicalisation, seek justice for acts of terrorism without resorting to arbitrary crackdowns, and highlight systemic inequalities that may lead some Tunisians to join radical groups. If this can begin to be achieved, there is a chance that transitional justice mechanisms can help to recognize and tackle some of Tunisia's deeply embedded grievances, laying the groundwork for future efforts to de-radicalise the disaffected section of the country's population.