



Bullet points on Transitional Justice in Tunisia

List of objectives Transitional Justice mechanisms can achieve

- Establish the truth and build a comprehensive historical narrative of what happened
- Acknowledge the wrongs committed
- Bring accountability for past violations and abuses
- Achieve reconciliation
- Guarantee non-repetition of human rights abuses, including through institutional reform
- Deterrence of future violations
- Restore trust in State institutions
- Reinforce the rule of law
- Provide reparations to victims

1- Accountability and the role of the judiciary

Domestic Prosecutions

- Reform and strengthening of the judiciary - A reform of the judiciary can be necessary to clear any doubt on its independence. The strengthening of the judiciary, also through capacity building, can help reinforcing its role.
- Adherence to due process and fair trial.
- Defining transparent prosecutorial strategy, which clearly establishes the focus of judicial prosecutions, and communicating it effectively to the population.
- Investigations should be designed to take into account the systemic nature of the crimes.

Institutional reform: Anti corruption and human rights protection mechanisms

- Administrative purge - The purge is aimed at individual members of an institution to identify those who were corrupted and committed human rights violations, but in fact is the very institution that is targeted thereby such a process can also contribute building the trust of Tunisians in State institutions.
- Purge through identification-census-“vetting” (registration, evaluation and certification) respecting due process and non-discrimination principles - People should be informed of the charges against them, and they have the right to challenge them before the institution of vetting. They have the right to appeal on the decision to an impartial organ and be informed of their rights within a reasonable time.
- Transform the military, police, customs, judiciary and related state institutions from instruments of repression and corruption into instruments of public service and integrity.
- Training of administrative and security institutions (military, police, justice, administration).

The national fact-finding Commission to investigate human rights abuses (Commission on Abuses) and the Commission to investigate embezzlement and corruption (the Anti-corruption Commission) (together, the Commissions)

- Most important innovations in Tunisia – components of transitional justice.



- Defining clearly the relationship between the Commissions, domestic prosecutions and other accountability mechanisms that can be established
 - Evidence collected
 - Establishment of an Anti-corruption permanent institution
 - Expansion of the Commissions' mandate?
 - Establishment of a National Truth Commission?
- Ensure technical capacity of the Commissions is preserved and used in other processes.

National Truth Commission to inquire past human rights violations and corruption

- Define clearly and effectively communicate the Commission's mandate, specifying its relationship with state and government institutions, including the Ministry of Human Rights and Transitional Justice.
- Ensure independence of the Commissions, including through transparency in the Commissioners' selection and credible leadership.
- Investigative power and expertise securing adequate resources and technical capacity.
- Protective measures for witnesses and victims.
- Report with recommendations to remedy abuses and to prevent their recurrence.
- Using public hearings to engage a broad public and explore patterns of abuse.
- Provide cooperation with the Commissions.

Reconciliation

- Promote national unity by creating lasting reconciliation of the society as a whole.
- Centrality of accountability and transitional justice mechanisms in achieving reconciliation.
- Need to clarify that reconciliation does not mean forgiveness for past abuses and crimes.

Participation of Victims

- Ensure close consultation with victims and communities most affected by human rights violations to build their views and expectations into the fabric of transitional justice and reparations processes.
- Promote their participation in such processes.
- Challenge in defining victims: any definition of victims relevant for transitional justice and reparations processes will most likely exclude some victims groups.
- Need to use effective outreach and communication strategies (see also in paragraph 3 below).

Marginalised groups access' to justice and redress for human rights violations

- Transitional justice mechanisms need to provide for adequate procedures to ensure participation of marginalised groups, including people living in rural areas, poor, women and children.
- Transitional justice can reveal specific patterns of abuse affecting marginalised groups and assist activists in challenging structural causes of inequality.



- Recommendations made by truth commissions and reparations programs can challenge discriminatory practices that contribute to marginalised groups' vulnerability.
- While in Tunisia children as a group were not the target of violations, they have suffered harm as a result of the crimes committed against their parents or other members of their family and in some cases their rights were directly violated. Children are the greatest hope in laying the foundations for a more just and democratic society and they have a right for their interests and perspectives to be taken into account in designing the transitional justice process and a right to participate, according to their best interests and in light of their evolving capacities. They must be particularly protected to avoid re-victimisation due to the participation in the transitional justice process.

Amnesty law

- *De facto* amnesties and legislation that provide for prescription (i.e. prescription of torture cases that took place more than 15 years ago).
- Violation of the rights of victims to reparations.
- Erosion of the rule of law and undermining deterrence.
- Politicisation of criminal justice.

2- Reparations

- Material and symbolic redress to victims, combining compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.
- Linkage with judicial process and truth commission - reparation without steps to ascertain the truth about past violations may be perceived as an effort to buy victims' silence.
- Individual and collective reparations - individual awards can also be coordinated with community-based reparations to expand the reach of reparations.
- Financial compensation
 - Restitution and financial compensation for the wrongs suffered especially for corruption-related cases;
 - Impossibility to afford adequate economic compensations to all victims;
 - Perception of re-victimisation and further resentment;
 - Importance that the process is carried out sensitively and transparently;
 - Financial reparations can be coordinated with other forms of reparations so that no affected community is entirely excluded.
- Symbolic reparations
 - Publication of archives;
 - Public apologies, commemorations and other public acknowledgement of responsibility;
 - Memorialisation efforts, including museums and memorials that preserve public memory of victims (in Paris, for example, a street was given the name of Mohamed Bouazizi, honouring the memory of the first 'martyr' of the revolution). Days of commemoration or/and mourning can also be established.



3- Outreach program and Communication Strategy

- An effective outreach program and communication strategy on the transitional process promote a shared ownership of the process.
- Regular dialogue and training with the population, particularly victims and affected communities, should be part of the transitional justice process.
- Particular attention should be given to specific groups, including women, children and economically disadvantaged people.
- Misconceptions and unrealistic expectations about the transitional justice process risk undermining its credibility and the acceptance of its outcomes.