Transitional justice in post-revolutionary Tunisia: what ‘justice’ means in the Tunisian context of dealing with the past

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Introduction

In December 2010, a young Tunisian man set himself on fire in front of the municipality of Sidi Bouzid. This act, understood as an act of protest against the regime of Ben Ali, inspired people from all over the country, rich and poor, men and women, to go out in the streets to call for work, freedom and justice (‘Shughl, huriyya, adala wataniya’). Contrary to everyone’s expectations, this resulted in the departure of president Ben Ali on 14 January 2011. What followed was a period of ‘transition’ from the Ben Ali era to the ‘new’ Tunisia.

While the Tunisian revolution was characterised by a strong unity, soon after 14 January ‘the Tunisian people’ split over a number of issues. An important issue is of course the role of religion in the Tunisian public, political and legal sphere. But other schisms can be witnessed as well, such as disagreements over how to deal with the crimes committed by the previous regime.

This paper examines Tunisian discourses on dealing with the crimes of the previous regime(s), or ‘transitional justice’. I aim to show how the definitions of ‘crime’, ‘perpetrator’, ‘victim’, and ‘trial’, and thus, of ‘justice’ in the sense of ‘transitional justice’ are the subject of disagreement among Tunisian actors who take part in the TJ-debates.

Approach

In their article entitled ‘Justice discourses in transition’, Bell, Campbell and Ni Aoláin underline that transitional justice is itself a discourse. Indeed, as these authors put it, ‘International law increasingly articulates a seemingly inflexible demand for trials of those responsible for major violations.’ This was also true with regard to Tunisia, where international organisations such as the International Center for Transitional Justice (ICTJ) were soon involved in TJ discourses. These international initiatives seemed to be based on presumptions of how a country like Tunisia should deal with its past violations. For example, the Arab Institute for Human Rights took the statement that there is ‘No democracy without justice’ as their starting point for involvement in Tunisia, neglecting the possibility that TJ is no issue in the Tunisian national debate on democratic transition. In the same vein the International Center for Transitional Justice (ICTJ) provides advice on initiatives ‘to address human rights violations from the reign of Ben Ali’, neglecting the possibility that other acts such as corruption are at the court of the Tunisian TJ-debate. Also, the United States Institute

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1 For general introductory works on the notion of TJ, see for example Andrieu (s.d.), Kritz, 1995, and Teitel, 2002
2 Bell, Campbell and Ni Aoláin, 2004
3 Bell, Campbell and Ni Aoláin, 2004, pp. 314-315
4 This was the slogan of the conference on TJ in Tunisia, entitled ‘Addressing the past, building the future’. See: http://aihr-iadh.org/?lang=en (accessed on 25 December 2011)
of Peace examines to what extent Islamic law can accompany post-conflict justice,\(^6\) neglecting the possibility that Islamic law does not play any role whatsoever in Tunisian debates on TJ.

Thus, international initiatives do not take Tunisian national understandings of TJ into account. This is true despite the wide consensus in academic writings that local understandings of and wishes with regard to ‘dealing with past violations’ should be the starting point for TJ initiatives for TJ and democratic transition to be ‘effective’? However, there is probably not one debate, but there are several, which is also underlined by Bell, Campbell and Ní Aoláin in their article on TJ discourses. Here, they state that apart from being a discourse in itself, transitional justice is the object of discourse as well, and indeed, of several opposing discourses. Thus, actors can have differences of opinion on the definition of a ‘crime’, ‘offender’, ‘victim’ and the institution that should carry out the trials.

**Background**

Tunisia has a long history of violations. Habib Bourguiba, the Tunisian president from Tunisia’s independence in 1956 until 1987, installed a politics of ‘modernisation’, characterised by for example the most progressive family law of the region (introduced in 1956) and a constitution that makes no mention of the sharia (1959). But Bourguiba’s regime was also characterised by severe repression of political opponents, such as the communists and later also Islamists. Khiari and Lamloum write: ‘The repression and monopolization of political activities by the party in power [Neo-Dustour, later Parti Socialiste Destourien, dubbed Rassemblement Démocratique Constitutionnel, RCD, by Ben Ali] are a permanent given of Bourguiba’s reign.’\(^8\)

In 1987, Ben Ali took over. In order to legitimise his reign, Ben Ali took several measures: he released political prisoners and introduced a system of political pluralism and legalized the ‘Islamist’ party Ennahda (formerly Mouvement de Tendance Islamique). However, this system did not endure: in the first elections, Ennahda gained a significant amount of the votes, and the party was again prohibited. The RCD continued to be the only governing party, except from the symbolic presence of a handful of representatives from other parties (PDP, Ettajdid and Ettakatol) in parliament. In the same vein, there were hardly any non-governmental organisations,\(^9\) and a complete lack of freedom of the press, as all media belonged to the government and the internet was under strict surveillance. Repression against Islamists and all other political opponents intensified, leading to a total lack of political freedom. The power was in the hands of the security forces, which fell within the authority of the feared Ministry of the Interior. Khiari and Lamloum speak of a ‘perfect Panoptical system’.\(^10\) In the meantime, Ben Ali and his family in law, as well as some other high ranks abused their positions to make money.\(^11\) Tunisia turned into a mafia state.

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\(^7\) For a call for the bottom-up study of TJ, see for example the collection edited by McEvoy and McGregor, 2008

\(^8\) Khiari and Lamloum, 1998, p. 377

\(^9\) The only people who survived Ben Ali’s repressive regime in the sense that they were non-governmental but nevertheless legal were the Association tunisienne des femmes démocrates (ATFD) and the Association des femmes tunisiennes pour la recherche et le développement (AFTURD)

\(^10\) Khiari and Lamloum, 1998, p. 393

\(^11\) Bayart, Ellis and Hibou, 1997, p. 43
On 14 January 2011, Ben Ali fled the country and since this moment, Tunisia has been going through a period of transition on many levels. On the political level, (an) interim government(s) accompanied Tunisia to its first free elections, held on 23 October 2011, when an assembly was elected that shall govern the country in principle for a year and that shall draft a new constitution. On the level of civil society, a bulk of civil society actors were set up and a large number of new newspapers came into being, to mention just a few issues. But also on the legal level, Tunisia’s transition has begun. There have been efforts to enhance judicial independence, for example by electing a new Conseil Supérieur de la Magistrature, the body that is in charge of the appointment and, even more importantly, sanctioning of judges and that used to belong to the government. Also, a syndicate for judges has been set up, in order to defend the judiciary’s independence from the government.12

I shall now turn to the topic of transitional justice, which shall be treated in the following order. First, I shall give a short overview of the actors involved in the debate on TJ. Next, I shall describe their discourses. In a third stage, I aim to unpick the differences in the discourses concerning the definition of the notions of ‘crime’, ‘perpetrator’, ‘victim’ and ‘trial’, and finally ‘justice’.

Actors

When studying the Tunisian public debates on transitional justice, we should distinguish between the civil society on the one hand, and the government on the other.

With regard to NGOs, the following actors cannot remain unmentioned. The one that is most talked about at the moment is without doubt the Centre de Tunis pour la justice transitionnelle. This NGO is headed by the famous journalist and human rights activist Sihême Ben Sedrine and organised an important conference on TJ in December 2011,13 that brought together national and international knowledge on TJ. Other NGOs that focus on TJ are two NGOs that carry the name of Association pour la justice transitionnelle, both initiatives of small groups of lawyers.14 But many other NGOs deal with this issue as well. The most prominent are the Ligue Tunisienne de la citoyenneté, the Observatoire tunisien de la transition démocratique, the Ligue Tunisien de la citoyenneté, the Coordination nationale indépendante pour la justice, the Conseil National pour la liberté en Tunisie and the Réseau national anti-corruption. Besides these national organisations, there are regional ones as well, such as the Association des avocats contre la corruption de Sousse. The Association Tunisienne des Femmes Démocrates, the Tunisian women’s rights organisation, is also involved in transitional justice discourses, focusing on women in the interior.15

Less organised individuals who are taking part in discourses on TJ are first and for all the ‘Groupe de 25’, a group of lawyers that shortly after the revolution started to put files together in order to have people from the previous regime prosecuted. Also, victims of the shootings that took place in December 2010 and January 2011 as well as their families are less

12 As the Constitutional Assembly is still drafting the constitution and a code on the division of the political powers, judicial independence has not yet been institutionalised.
13 ‘Assises de la justice transitionnelle en Tunisie’, conference held at the Cité de sciences de Tunis, 12 and 13 December 2011
14 Fakher Gafsi and Houcine Bardi, among others. See Hamouda (s.d.), and Fakher Gafsi, 2012
15 See Domenica Preysing, 2012
united, but nevertheless very present in the debate. Also, former political prisoners are taking an increasing part in the debate on TJ, either in small organisations (such as Amel Tounsi, a leftist organisation that was prohibited under Ben Ali) or individually. Also victims of other repressive measures besides imprisonment and torture are increasingly taking part in the debate, such as Bouchra Bel Haj Hamida and Sihème Ben Sedrine, and bloggers such as Yassine Ayari and others, who focus on the harassment under Ben Ali, the cases of defamation in the press of political opponents, and the censorship.

On the governmental level, the first institution that was occupied with TJ issues was ironically installed by Ben Ali himself, on the eve of his departure; it concerns the Commission nationale des enquêtes sur les abus et les violations des droits de l’homme, that was principally erected to establish who were firing on the peaceful demonstrators in December 2011 and January 2011; in this way, Ben Ali was arguing that these were not people from the government but ‘criminals’. Another TJ commission was installed shortly afterwards, the commission for the investigation of corruption cases. Both committees are formally independent from the government. But the government is getting more and more involved in TJ issues. For example, the Ministry of Human Rights was dubbed ‘the Ministry of human rights and TJ’ after the conference in December 2011 mentioned above. Also, a committee within the Constitutional Assembly is drafting a law on TJ. This development is criticised by some, who argue that the government is trying to lay its hand on the process, taking it away from civil society.

Of course, other government officials can also be considered as actors in the public debate on TJ, in the sense that their practices in the field of TJ cases are also discourses. The most important actors in this respect are the Public Prosecution and the judiciary.

The Public Prosecution decides which cases are brought before the court, be it cases they investigated on their own initiative or cases presented by the commissions/NGOs/individual actors, and therefore has an enormous influence on the TJ process, as it decides which cases are brought before the court and which are not. There is critique on the Public Prosecution for shelving cases, as we shall see below.

The judiciary also plays an important role in TJ discourses: when the Public Prosecution has decided that a person shall be prosecuted, the judiciary decides whether or not this person should be convicted. This is done by civil courts (mainly when financial cases are concerned) and military courts (with regard to crimes where the security forces are involved). However, not many cases have been decided by the judiciary yet. The judiciary is also criticised by several actors, as we shall see below.

But many decisions in the field of TJ were taken outside the formal legal system. High ranks in governmental institutions, but also of large enterprises have simply been suspended by their own employees. For example, the employees at the Ministry of Tourism came together in their syndicate and voted who were to leave, because of their connections with Ben Ali’s political party, the RCD. This shows that the syndicates play a significant role in TJ discourses as well.

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16 Hafidha Chékir, (s.d.).
17 Since the judiciary is until this day the only institution that can trial TJ cases; the commissions do not have adjudicative powers.
18 Interview with an employee from this ministry, 12 December 2011
Discourses

When studying the discourses on TJ in Tunisia, it becomes immediately clear that indeed, the term ‘transitional justice’ is employed as such in the public debate; actors invoke the term *adala intiqaliyya* and *justice transitionnelle*. Another interesting feature of the debate is the focus on corruption, both in the general definition of abuse of public office for private gain (unjustified enrichment and clientelism) and ‘legal corruption’ (see below). But human rights violations are also a matter that TJ discourses are dealing with at the moment.

Financial crimes

In 2008, Geisser and Gobe stated that Ben Ali’s regime was weak. It faced several difficulties in that year, such as the revolts in the south (Gafsa), an ‘Islamist uprising’ (Soleiman), and last but nor least, ‘persistent rumours on the excesses of the presidential family-in-law (the Trabelsis, sisters and brothers of Leila Ben Ali).’ An example is the case of an estate in Sidi Bou Saïd, that belonged to the national cultural heritage being an archaeological site. Ben Ali’s daughter Nesrine and her husband Sakhr Materi obtained the estate from the national cultural heritage for almost nothing, while it was worth around 26 million DT (13 million euros).

Part of these ‘crimes’ did not violate the law and thus were not crimes in the strict sense of the law. In these cases, one could speak of ‘legal corruption’, as the politicians involved changed the law so that their previous illegal practices were reclassified as legal at the time. Indeed, in the case mentioned above, a presidential decree issued in 2005 changed the status of the estate in Sidi Bou Saïd from a public archaeological domain to an estate belonging to the state as private property. This involved a transfer of the estate from the *Ministère des domaines de l’état* to the *Agence foncière de l’état*, in exchange for 104.850 DT (€ 52.000). The *Agence* then sold the estate to Sakhr Materi, Ben Ali’s son in law, for the same price. In this way, Materi obtained an archaeological site with a value of € 12.000.000 for a little over € 50.000, less than 1/200 of the value, which cost the Tunisian state € 11.950.000.

These types of cases form a prominent part in the public debates on TJ. The main actors in these debates are the anti-corruption commission, the *Groupe de 25*, the Public Prosecution, the judiciary, and Ennahda. These actors employ the following discourse: it is important that people who enriched themselves in an unjustified way, should pay this money back to the state. However, they are focusing on large amounts of money; simple bribery of police officers, court clerks and the like is not addressed.

But there is a difference between the discourses of these actors when it concerns the question of who should be prosecuted, the ‘perpetrators’. While the Commission prepared over 100 cases, and the *Groupe de 25* over 40, the Public Prosecution is only prosecuting ‘les symboles de l’ancien régime’, namely Ben Ali and his family and family-in-law, and maybe a handful of other high ranks. Thus, Ben Ali has been condemned, albeit *in absentia*, for a large

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19 Vincent Geisser and Eric Gobe, 2008, p. 347
20 *La Presse*, 28 September 2011
21 Haller and Shore, 2005, Kaufmann and Vicente, 2005
22 *La Presse*, 28 September 2011
number of years of imprisonment, a number that is still increasing. The cases concerning other ‘perpetrators’ however have been shelved.

For this reason, and because the Public Prosecution does not investigate any corruption case on its own initiative, this actor is highly criticised by the Groupe and the Commission.\(^{23}\) The judiciary is criticised as well, as it is considered to have been highly involved in corruption cases under Ben Ali. Therefore, the Groupe de 25 and the Commission propose the instalment of a specific adjudicative institution that should treat these cases.\(^{24}\) It is interesting to note in this respect that also the Minister of Human Rights and TJ, the naâdaoui Samir Dilou, addressed the instalment of a separate judicial institution.\(^{25}\)

It should be noted in this respect that there is not only critique on the Public Prosecution and the judiciary, but also on Ennahda. This party was very explicit on the importance it attached to the persecution of all corruption cases.\(^{26}\) However, since the elections, Ennahda is also focusing on the ‘symboles’. There are rumours that Ennahda is concluding deals under the table with the (corrupt) financial elite, promising to leave them alone in order to obtain their support.\(^ {27}\)

Besides the cases of high ranks and wealthy businessmen involved in unjustified enrichment, some actors in the TJ debate address other types of corruption, namely the more low profile act of bribery. The interim government addressed this topic by raising the salary of the police force\(^ {28}\), and by controlling state exams, such as the Capes (the concours recent university graduates have to pass to enter the educational system).\(^ {29}\) In this way, the focus is more on prevention than on punishment, and I did not come across disparate discourses where punishment of corrupt government employees is called for. Nevertheless, it is quite

\(^{23}\) Moreover, the Public Prosecution is signalling that it is not on the same side as the Commission, which can be seen in the treatment of defamation cases presented by and against the Commission. Indeed, a lot of harm has been done to the reputation of their late president, Abdelfattah Amor, as people argued that as he received a state price for the best lawyer, he was also involved in the previous regime; Amor filed a number of complaints for defamation, but none have been investigated by the Public Prosecution. On the other hand, people whose practices are being investigated by the commission also filed petitions for defamation, and apparently, these are being investigated.

\(^{24}\) The Groupe de 25 talks about a pôle judiciaire, a special judicial institution that applies the Penal Code, and underlines that it is reluctant to await the purification of the judiciary. The anti-corruption commission on the other hand is less explicit on its distrust in the judiciary, but did indicate that it wishes to extent their powers to adjudicative ones, which enables them to impose financial punishments, followed by exception of prosecution in accordance with the ne bis in idem principle. See Mohamed Hamouda (s.d.).

\(^{25}\) However, he made clear that the main reason is that it would take too much time and cost too much money for the normal judicial system to carry out these trials. Interview with Samir Dilou in La Presse, 1 February 2012.

\(^{26}\) In the month before the elections of 23 October 2011, I interviewed a number of people asking them what party they voted and why. A majority of the people who indicated that they intended to vote Ennahda, said that this was because this party would abolish corruption (instead of, for example, because it would introduce Islamic law in Tunisia).

\(^{27}\) Interview with a member of the anti-corruption commission who wishes to remain anonymous.

\(^{28}\) Kapitalis, 11 August 2011

\(^{29}\) Concours d’aptitude au professorat de l’enseignement supérieur.
possible that these persons are dealt with on a more informal level, with reprimands or suspensions.\textsuperscript{30}

Human rights violations

Before the revolution, Amin Allal described the Tunisia of Ben Ali as a ‘political landscape characterised by repression of the opposition, carefully bolted civil society, controlled administration of justice, and muzzled media.’\textsuperscript{31} A famous example is the case of a Tunisian comedian, who made too many jokes about Ben Ali. This comedian had been very popular for some time, was broadcasted on the national television and had even been invited to the presidential palace in Carthage. The success had given the man much self esteem, and probably took away all his fear. One day, when he was doing a show on the television, he made jokes about Ben Ali. Not long afterwards, the police investigated his car and ‘found’ drugs in the door. The comedian was convicted for drug possession. There are plenty of other examples of people convicted for drug possession just after having insulted the regime.\textsuperscript{32}

After the revolution, Tunisians unanimously made use of the freedoms they did not have before. NGOs were set up, over 100 political parties were legalized, and individuals simply stood on chairs in the streets to say what they thought about ‘Ali Baba and the 40 thieves.’ In this context, the discourse of TJ has an important role as well, in the sense that it is referred to as a means to deal with these past civil and political rights violations.

As stated above, the first institution involved in civil and political rights abuse investigations was the commission that investigates the shootings that took place during the revolution, mainly in Sidi Bouzid, Thala, Kasserine, Menzel Bouzaiane and the capital (specifically Hayy Ettadhamun). They are to draw up a report list of people who qualify as ‘victims of the revolution’ and of those who should be held responsible. This investigation is crucial as this event is a huge trauma for the Tunisian population as a whole. Indeed, people did (and still do) not understand how it was possible that guns were being fired at groups of people who were peacefully protesting. Although the commission was set up by Ben Ali to blame the shootings on so-called ‘militia’, the fact that it is still in place shows that the government has a discourse that people should be held accountable for the shootings. Nevertheless, the commission is highly criticized for continuingly delaying the submission of the report\textsuperscript{33}, and it is argued by some that the delay is the result of power struggles within the Ministry of the Interior, making it impossible for the new government to prosecute the security forces. Indeed, it is argued that the Ministry, that was once the instrument of Ben Ali’s suppressive regime, has remained entirely in place, as to this day, no purification has been undertaken.

\textsuperscript{30} However, it is striking to what extent small bribery practices still govern almost all contacts with government officials. On this issue, see Amin Allal, 12 April 2011.

\textsuperscript{31} Amin Allal, 2010

\textsuperscript{32} It is argued that the recent arrest of three Tunisian rappers for the possession of cannabis has the same political background.

\textsuperscript{33} In April 2011, Sihème Ben Sedrine already argued that the commission ‘has not done a thing until this day except postponing the prosecution of the persons who fired during the revolution. After three months, the criminals who obtained the order to shoot on civilians have not been prosecuted. It is not normal that they have not been arrested. This commission is investigating, but it does not result in any complaint or arrest.’ (\textit{GlobalNet}, 5 April 2011).
This is said although the Minister himself, the nahdaoui Ali Laaridh, seems to be trying to purify the ministry, which became clear when Laaridh suspended Moncef Lajimi, thus holding this high rank responsible for the shootings in Thala (Lajimi went to Thala to instruct the security forces, who started shooting on the crowds half an hour after Lajimi had left the city). However, the power struggle has not ended yet, which seems to be preventing a clear discourse on TJ in the light of the shootings.

The officers themselves who fired on the crowds during the revolution do have a clear discourse on TJ. Several demonstrations took place where these people argued that they had simply been acting out orders, and therefore cannot be held responsible. Also, they call for the installment of a special institution carries out their trials should they nevertheless be held accountable, but the minister Ali Laaridh refused this.

The victims of the shootings during the revolution and their families are also important actors in the TJ-debate. Each family received 20.000 DT from the new government and free health care for the wounded, but their discourses display nonetheless a fierce critique on the current practices, as they demand that the officers who fired those guns are arrested. People reach out to the press to tell that they regularly see their attackers or the killer of their child in the streets, as the person lives in the same city or village. They point out that they cannot bear the fact that these ‘criminals’ are not being punished and even retained their jobs. One of the victims said: ‘We don’t want that money, they are trying to humiliate us once again. We just want the persons who fired those guns to be arrested.’

But with all the stories in mind that I used to hear before the revolution about human rights violations (I lived in Tunis from July 2008 -September 2009 for my PhD on Tunisian judicial practices), I found it striking that these violations come clearly on the third rank when it concerns debates on TJ, behind corruption and the shootings during the revolution. This can have several reasons. One possible reason is that the victims of human rights offenses such as torture need more time to come out in the open. Another explanation is that human rights offenses concerned much less people directly than corruption practices did: although everyone’s behaviour was influenced by the fear for the authoritarian government, there was only a faction of society that was actually imprisoned or in another way personally confronted with human rights violations. Corruption on the other hand, touches every Tunisian directly, in the sense that today, people feel that one of the principal reasons of poverty and unemployment is unjustified enrichment and clientelism.

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34 Lajimi refused to leave and has publicly threatened the government, saying that he is still the one in power and that they will regret it if they put him aside. Next, a video of Laaridh appeared on the internet, on which this nahdaoui minister is filmed in prison while having sex with another prisoner. It is not clear whether there is a connection, but it is quite possible that this video was issued as a means to silence Laaridh. See شغر, 30 January 2012

35 *Tunisie Numérique*, 27 November 2011

36 *Agence Tunis Afrique Presse*, 16 January 2012

37 Monia Ben Jemia, 2012

38 *GlobalNet*, 5 April 2011

39 Amine Ghaly, Kawakibi, interview 16 January 2012
reason could be that the Ministry of the Interior is still in charge and does not wish to take responsibility for human rights violations committed in the past.

But even if the emphasis is clearly on corruption and the shootings, some actors address (other) human rights violations in their TJ discourse. On 26 January, the Tunisian syndicate, UGTT, held a memorial for the day, 26 January 1978, when a number of syndicalists were murdered. The spokesperson, Hassine Abbassi, invited the government to include these martyrs (estimated at 1.200) on the list of the ‘martyrs of the revolution’.\(^{40}\) In this way, the killings that occurred 34 years ago, under president Bourguiba instead of Ben Ali, are considered by this actor as a crime that should be dealt with at this moment in time. This invitation has not yet been picked up by the government.

Besides the killings (of 2010/2011 as well as 26 January 1978), more and more actors are paying attention to torture. Tunisian media published lists of the political prisoners who died from torture\(^{41}\), and accounts from former political prisoners appear of what life was like in prison.\(^{42}\) In the meantime, more and more victims of torture have been seeking the press to tell their personal history. In this way, the media are employing a discourse in which torture is understood as a ‘crime’. The people whose stories are told in the media have diverse backgrounds: some of them were imprisoned for their ‘Islamist’ sympathies, others for being ‘leftist’. This indicates that the press, that is generally quite anti-Islamist, does nevertheless include these people as ‘victims’ of the Ben Ali regime in its TJ discourse.

In the same vein, the Public Prosecution is prosecuting and trialing high ranks who are held responsible for torture practices.\(^{43}\) The most mediatised affair is the one named Baraket Essahel, a case where army officers were arrested and tortured for preparing a coup d’état.\(^{44}\) In this case, the Public Prosecution is prosecuting the former Minister of the Interior, Abdallah Kallel, and the former Minister of Defence, Habib Boularès, among others, displaying a discourse that high ranks involved in torture cases should be punished.\(^{45}\) The Military Court convicted the defendants to 5 and 4 years imprisonment, adopting the same discourse.\(^{46}\)

But also violation of the right to fair trial has been accepted as being a human rights violation that should be addressed in the light of TJ. This is indicated by the fact that soon after the revolution, the interim government released political prisoners.\(^{47}\) Besides, the

\(^{40}\) *La Presse*, 27 January 2012

\(^{41}\) See for example Ahmed Sahraoui, 24 March 2011. This list was established by the *Association internationale de soutien aux prisonniers politiques*.

\(^{42}\) See for example Wafa Sdiri, 22 December 2011

\(^{43}\) See for example *Tunisie numérique*, 7 October 2011

\(^{44}\) Politicians involved are Abdallah Kallel and Mohamed Ali Ganzoui. The case is treated by the military court. See *La Presse*, 9 November 2011

\(^{45}\) See for example Sihème Ben Sedrine’s letter [online]. URL: http://membres.multimania.fr/polprisoners/communiques/lettresihem.htm (accessed on 25 February 2012)

\(^{46}\) However, Ben Ali was not condemned in this case. Jean Pierre Séréni, 25 January 2012. The defendants went in appeal, but the Military Court of Appeal (installed after the revolution) has adjourned the case to 14 March 2012.

\(^{47}\) Sadok Sayedi, 2 March 2011. On 2 March 2011, the *Association internationale de soutien aux prisonniers politiques* declared that all political prisoners were set free.
interim government promised former political prisoners a financial compensation. In this way, the interim government displayed a discourse in which imprisoning someone for political convictions is defined as a crime. However, this discourse is criticised by former leftist political prisoners (adherents of the communist party Amel Tounsi) who were convicted by the Security Court in 1968, 1974 and 1975 (a period of strong repression against communists by Bourguiba), as unlike people who were convicted after 1987, they did not receive any damages.

Individuals also start to draw attention to other forms of human rights violations, on another level than killings, torture and imprisonment, such as harassment, defamation and censorship. For example, the lawyer and women’s rights activist Bouchra Bel Haj Hamida stressed how the people working for the Association Tunisienne des Femmes Démocrates were confronted on a daily basis with patrolling in front of their houses and their children’s schools, taking pictures of them, etc. Also, the director of the Centre de Tunis pour la justice transitionnelle, Sihème Ben Sedrine, filed a complaint against three journalists who published articles about her in the state press to give her a bad image.

With regard to media censorship, it was the interim government that immediately took a stance by appointing the blogger Slim Amamou, who had been imprisoned during the last days of Ben Ali’s reign, as secrétaire d’état for media and youth. In this way, the interim government acknowledged that bloggers were a victim of the previous regime, that censorship is a crime, and that people have a right to information. In the same vein, on a more informal level, several journals suspended ex-RCD colleagues. In this way, RCD journalists are considered ‘perpetrators’, but so are the Ministry of Communication (which has now been abolished) and the Tunisian national internet (Agence tunisienne d’internet) company that made internet surveillance possible. However, it is not clear what censorship is considered a crime in the light of TJ, as some people seem to think that the Tunisian media, once it obtained freedom, went too far in several instances.

Conclusion

While the Tunisian revolution was characterised by a strong unity, soon after 14 January ‘the Tunisian people’ split over a number of issues, such as the question of how to deal with the crimes committed by the previous regime, and therefore how ‘justice’ should be done in the name of political transition.

It comes forward from the above that there is consensus that corruption and the shootings during the revolution are considered a ‘crime’ that people should be held accountable for. Also, torture in prison as well as imprisonment for one’s political

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48 Declaration of Nizar Barkouti, representative of the interim prime ministry, in the TV show ‘Le site Tunisie’, 6 October 2011
49 La Presse, 18 October 2011
50 In : Leila Mefarej (s.d.)
51 Webdo, 13 May 2011
52 At the moment, there is a struggle going on in front of the judiciary to decide. For example, a group of over 100 lawyers filed a complaint against Nessma TV who broadcasted the film Persepolis, showing life of a young woman in the Islamic Republic of Iran. The channel is being prosecuted for provocation, as the film shows an image of God, which is forbidden according to these lawyers, who are most probably acting on behalf of Ennahda.
sympathies is considered a crime, and so is harassment, defamation and censorship. In the same vein, there is consensus that high ranks should be held responsible for corruption and the shootings, and that a special body should be installed to trial TJ cases. At the same time however, there is difference of opinion over some important issues as well. Are other people besides Ben Ali, his family and the people closest to him accountable for corruption cases? Who should be held responsible for the shootings of the revolution? ‘The Tunisian people’ seems to split over these and other questions.

The differences of opinion culminate in a different understanding of ‘justice’ in the light of ‘transitional justice’. Bell, Campbell and Ni Aoláin give several explanations for such differences, focusing on TJ in Northern Ireland. Firstly, the authors point at a lack of a shared narrative of what happened. Indeed, although the Tunisian people seems united on the narrative of corruption by high ranks and the shootings during the revolution, only part of the population seems to share the narrative of the killings of 1978. Secondly, difference of opinion on the involvement of state institutions. The authors describe how in Northern Ireland, ‘the institutions of the state are viewed as having “done a good job in difficult circumstances”‘ by some, while according to others, there has been ‘enormous institutional failing’.53 This is witnessed by the difference of opinion on the responsibility of the security forces for their involvement in the shootings of the revolution. But there is an important third factor that I would like to add as explaining the differences of opinion, namely the power relations in a country that is going through political transition. That the Public Prosecution is shelving corruption cases, and the Human Rights Commission is delaying the submission of its report, seems to be subject by power struggles that do not yet have a clear outcome, and that reflect on TJ discourses. In short, as Bell, Campbell and Ni Aoláin put it, tensions in society lead to disagreements over issues such as TJ, and vice versa. And according to these authors, a context of disagreement over what ‘justice’ means in the light of TJ necessarily leads to compromises with regard to ‘justice’ settlements.54

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