



REPORT ARAB POLITICS BEYOND THE UPRISINGS

Reforming Justice

The Failure of Politics and Rule-of-Law Reform in Egypt and Tunisia

MARCH 7, 2017 — NATHAN J. BROWN AND BENJAMIN HELFAND

Despite high expectations at the onset of the uprisings, the disconnect of judicial and legal institutions from the political process left them unable to push for reform (or sometimes even uninterested or hostile to it). This disconnect and its consequences were especially pronounced in the trajectory of Egypt's judiciary since 2011, and in the politics that engulfed Tunisia's truth commission. As a result, calls for rule of law and legal reform proved broad but shallow, and have largely been pushed aside. For different reasons, Egypt and Tunisia were considered especially promising testing grounds for constitutional and legal reform, so their medium-term failure provides a particularly daunting precedent for the Arab region.

Introduction

In 2011, uprisings throughout the Arab world garnered attention and admiration not only for what they were against—they called for the fall of the “regime” even though the regime being targeted varied—but also what they were for. There were, of course, many agendas at work in the upheavals, but in all countries there was a diffuse demand for a different kind of politics—one in which the holders of authority were accountable to those whose lives they ruled. Thus there was an early focus by activists leading the uprisings on constitutional reform, transitional justice, and the rule of law. For anybody who had been following political debates in the societies for the previous decade or two, the support for such ideas was no surprise; they had been the focus of growing discussion for years. The only surprise was their transformation from diffuse hopes to mass demands.¹

Yet more than five years later, few of those demands have been met. And the problem may be precisely in the fact that they were diffuse hopes: diffuse in the sense that they were everybody's wish but nobody's priority; and hopes in the sense that they were aspirations that did not cohere around a specific program or agenda. In the initial enthusiasm of the uprisings, it was not yet clear how widely the various camps diverged or how disparate some demands were. And as post-uprising politics unfolded, various groups were able to pursue their own visions of how the state and regime should be reshaped, often forgetting their earlier commitment to reforming the rule of law, or pursuing only those parts of reform that were consistent with their partisan or short-term objectives.

The diffuse hopes were not extinguished, however. Their ability to attract diverse supporters may have been shattered and their mass appeal lost in the disillusioning political environment in the Arab world today, but pockets of support for reform remain. The inability of those pockets to find political traction will likely mean that issues connected with the rule of law will continue to fester unaddressed, with comprehensive reform proposals the province of perceptive but politically isolated specialists.

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Such appears to be the case in Egypt, where demands for justice have given way to renewed forms of repression. And it is even true in Tunisia, where efforts at transitional justice have stalled due to fierce political opposition and a lack of widespread citizen engagement with the transitional justice process. Political opposition has impeded Tunisia's transitional justice efforts at every step of the process, from the design phase to the truth-telling and investigation efforts of the Truth and Dignity Commission.

Prior to 2011, it was possible to develop general ideas about how to build the rule of law that could attract principled support. But after 2011, the various political forces at work did not feel they had the luxury of acting on such a principled consensus. These forces prioritized their own vision of reform, sometimes leading them to postpone any attempts at reform and sometimes leading them to pursue only those aspects that served their partisan or institutional interests. This was not necessarily an indication that verbal support for reform was a cynical ruse. Instead, it was much more a sign that the cause of reform must be pursued through—and not outside of—a political process. That process did lead to some changes in both countries. But in Egypt, it led to a renewed authoritarianism in which the judiciary won some concessions to its vision of reform but only because it was a part of the resurgent authoritarianism; in Tunisia it led to the development of a legal and institutional framework to support transitional justice but one that has since been orphaned and may not have the political support it needs to pursue the task.

Egypt: Judges Win but Reform Loses

Perhaps the most promising ground for a real reform wave was in Egypt, where in the decade prior to the 2011 uprising a group of judges had developed some concrete proposals and intellectuals and opposition movements had begun to develop parallel ideas. Those ideas were ready-made for the wide array of political parties, intellectuals and leaders active during the period of revolutionary politics that peaked from 2011–12. As Egyptian political forces availed themselves of this legalistic reform agenda, judges, lawyers, and watchdog groups played direct roles in establishing or advising a shifting array of political parties and revolutionary groups. The existence of a broad set of actors advocating rule-of-law reform appeared to give the uprising itself a legalistic voice.

The proposals combined the platitudinous (an end to corruption), the backward-looking (trials of old regime figures), and the highly specific (strengthening of the Supreme Judicial Council), depending on the speaker. But they were all cast in legal language. And they did not lack sincerity. Many showed deep sophistication. But while many of these elements could have been unified into a reform program that was comprehensive, the polarizing politics of the post-uprising period dissolved the apparent consensus into warring factions. As the struggle among factions grew bitterer, Egypt's judiciary emerged as an interest group clearly distinct from the other political constituencies empowered by the fall of Hosni Mubarak. Judges boasted real accomplishments in the tumultuous environment but their victories can hardly be seen as triumphs for accountability and the rule of law.

Seeking Independence Prior to 2011



KEFAYA ACTIVISTS CHEER DURING DEMONSTRATIONS ON JUDICIAL INDEPENDENCE, MAY 25, 2006, IN CAIRO. SOURCE: HOSSAM EL-HAMALAWY FROM FLICKR

The Egyptian judiciary had always retained some degree of autonomy; Egyptian regimes anxious for specific legal rulings tended to operate through writing authoritarian laws and setting up special courts rather than completely subduing the regular judiciary. Of course, this autonomy was very much incomplete: there were ways in which the judiciary was kept under a watchful eye, through key appointments (such as the head of the public prosecution or the presidency of the Supreme Constitutional Court). But after a full frontal assault on the judiciary in the waning days of Gamal Abdel Nasser's presidency (1956–70), his successors Anwar Sadat (1970–81) and Mubarak (1981–2011) backed off, allowing the judiciary considerable autonomy over internal affairs. And while court judgments rarely affected core regime interests,

in the 1980s and especially the 1990s, they began to touch sensitive terrain, forcing the registration of opposition parties, placing balloting under judicial supervision, revamping the electoral system, and throwing out charges against torture victims. The verdicts were sometimes deeply inconvenient for a security-conscious and authoritarian regime. They were made possible by a growing—if quite incomplete—institutional autonomy of large parts of the judicial apparatus. But the rulings were not more than inconvenient. In all these cases, there was generally an alternative for the executive to implement its preferences (for instance, the regime found new ways to manipulate elections beyond the reach of judicial oversight, and it transferred some cases to military courts to get the verdicts it wanted).²

Yet elements within the judiciary resented the limitations on judicial independence, both formal and informal, and chafed at the ways in which the executive branch doled out benefits (such as lucrative non-judicial work) to co-opt individual judges and, it seemed at times, the judiciary as a whole. Some judges spoke out publicly; others worked through the Judges Club, an organization that began as a social club in the 1930s but evolved into something like a professional association, to express their unhappiness and draft reform proposals.

In 2005, a reformist wing within the Judges Club came out on top in internal elections and resolved to take up issues that it regarded as unresolved for decades. It focused its attention on a new law of judicial organization that would remove what it saw as the strong fetters on judicial independence. Many of the demands were not new—some had been developed in the 1980s when the reformist wing also had the upper hand. But whereas that earlier effort took place at a time at which the judges could count on intellectual support from some circles. But this new effort took place just as some opposition movements (of various leftist, nationalist, liberal, and Islamist coloration) became bolder. The Kifaya movement, a coalition of opposition forces, was willing to move to street demonstrations and public confrontations. This challenged the Brotherhood to show its own willingness to challenge the regime. The opposition groups, often deeply divided and mutually suspicious, competed to embrace the judicial demands and rallied in support of the judges.

A period of cross-fertilization began in which opposition movements and intellectuals across the spectrum picked up on some of the judicial demands, most of which focused on a new law of judicial organization, one that would place judicial matters even more squarely in the hands of judicial bodies. The way in which this would render the judicial apparatus a virtually self-perpetuating body attracted judicial support and provoked nearly no discussion among regime critics, anxious as they were to support a body of actors pushing for reform within the state. Eager to buttress any tool that could limit the domination of the presidency and the security apparatus and hold them accountable to clear legal standards, the opposition movements embraced the judicial agenda with enthusiasm.

The judges were themselves hardly a unified camp. Some of the reformists had Islamist inclinations; others were more liberal or nationalist. Such differences were submerged for the moment. Indeed, with a strong professional ethos barring partisan affiliation, most judges avoided parading their loyalties. Only much later did the extent of the divisions within the reformist camp become clear. And while the reformists had the upper hand in the middle of the decade, its thrust was soon blunted. Some judges did view the reformist wing of the judiciary as excessively political, and the regime itself stonewalled the demands, with the result that the reform wave generated much attention but was able to show few results.

A Moment of Triumph?

But the alliances forged in the middle of the first decade of the twenty-first century did have lasting impact that was not immediately apparent. When the popular uprising of 2011 quickly snowballed and brought down Mubarak, some of the judicial reformers were prominent. And their ideas informed more general calls for various aspects of the rule of law, including accountability of senior officials, ending executive interference in judicial affairs, and constitutional reform. In the enthusiastic atmosphere of 2011, many of those who participated in overthrowing the regime spoke a recognizably legal language when pressing for political reform.

In that heady atmosphere, reforming judges pressed ahead. The Judicial Council and the Judges Club both dusted off the idea of a comprehensive new law of judicial organization and set to work on their separate but similar drafts. The Supreme Constitutional Court managed to convince the governing military council (the body that succeeded Mubarak on an interim basis while a new constitution was drafted) to modify its own law to allow the court to select one of its own senior members as chief justice, writing the president of the republic out of the process. While Mubarak had been willing to allow many state institutions considerable autonomy, he generally kept top appointments within his reach.

Administrative courts acted quickly to dissolve the ruling party of the old regime, the National Democratic Party, and reverse some unpopular economic measures.

Demands to try Mubarak and former regime officials were accompanied by a judicial insistence that any measures be taken in the regular court system. Egyptian judges were accustomed to seeing special court systems established when rule changed hands. Thus suspicious of what those in other societies (including, as we shall see, Tunisia) term “transitional justice,” they viewed existing courts as the best body to deal with offenses committed under the old regime.

While upset at a deteriorating security situation that left courtrooms exposed (and sometimes attacked by relatives of those placed on trial), judges seemed poised to get what they wanted, supported by a diverse coalition of revolutionary

and reformist actors.

However, the revolutionary coalition's unity proved to be extremely shallow. As it broke apart within months of Mubarak's fall, it robbed judges of any political support for reform—and the chasms opening up in the Egyptian polity infected the judiciary as well.

The Victory of the Judiciary, but Not of Reform

In the two and a half years after Mubarak's overthrow, Egypt passed through a period of political tumult. A series of referenda and elections delivered an interim constitution, an elected parliament, and an elected president. The country took these steps uncertainly and sometimes haphazardly in an atmosphere of political mobilization, growing polarization between Islamist and non-Islamist forces, deteriorating internal security, and disarray and discontent in state institutions.³

In elections, Egyptian politics seemed to be veering in an Islamist direction, with the Muslim Brotherhood winning a plurality of seats in the parliament as well as the presidency. Constitution drafting was assigned to an assembly selected by the Islamist-dominated parliament. Some judges from the earlier reform movement made clear their support for the country's Islamist political direction, with a few accepting leading positions (such as vice president, minister of justice, and chair of the Constituent Assembly, which headed the drafting of a new constitution).

But while some prominent judges sided with the Islamists, important judicial bodies were aligning against them. A judiciary that had seemed divided between reformist and status quo wings soon began fracturing and then coalescing in new ways, with some of the reformists backing the Islamists but others swinging into opposition to the emerging order, sometimes even joining hands with old-regime elements.

In April 2012, the administrative courts dissolved the Constituent Assembly for being insufficiently representative of Egyptian society. The parliament promptly selected a similar body—just in time, it turned out, since the Supreme Constitutional Court dissolved the lower house of the parliament shortly afterwards (on the grounds that the parliamentary election law had unconstitutionally discriminated against independent candidates). The Islamists readied a counterattack by leading demonstrations outside court buildings, increasing presidential powers by decree and pushing the law of judicial organization—but now in a form that would require most senior judges to retire. As Egyptians voted in their country's first genuinely contested presidential election, battle lines had already been drawn between the elected branches of the government, dominated by Islamists, and the unelected judiciary, which styled itself the defender of the Egyptian state against the Islamist intrusion. The anti-Islamist tenor of much judicial politics owed its origin to a

number of factors—lingering loyalties to the old regime; fear that the Islamists would be majoritarian in a manner that ran roughshod over legal procedures; resentment that a middle-class movement from outside of the state seemed to be instructing state bodies with their own sense of mission; and some fears of Islamist ideology and agendas.

By 2013, the diffuse consensus of 2011 had completely dissolved. A general support for strengthening the rule of law and judicial independence—and a more specific set of proposals for a new law of judicial organization—had not disappeared but had instead sparked as much disagreement as agreement. The reasons were purely political. As the Egyptian polity fractured, all actors emphasized short-term political maneuvers over more long-term or structural concerns. Thus “judicial reform” became a tool in Islamist hands to subdue recalcitrant courts; their opponents in turn used the issue to claim that Islamists were acting in a dictatorial fashion. Any discussion of institutional change got lost in the crossfire.

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Opponents of the Islamists, backed by state actors (including the military and security forces as well as some judges), sponsored massive countrywide demonstrations on June 30, 2013. On July 3 the military moved in to depose the president and suspend the constitution. It installed the chief justice of the Supreme Constitutional Court as interim president while the constitution was revised and new parliamentary and presidential elections were held.

As a result of the coup, judges as individuals and the judiciary as a body emerged in a very powerful position. On an individual level, the interim president was a senior judge; as a new regime slowly formed, judges were assigned to a number of influential positions. Judges had powerful roles in revising the constitution. The speaker of the parliament was a judge. The minister of justice—himself a former judge—emerged as a powerful voice for the new order. On an institutional level, the judiciary received guarantees of independence in the revised constitution, some of which they had sought for a generation (such as authority over the selection of the head of the public prosecution). The agenda judges followed was an Egyptian one; in the xenophobic atmosphere of 2013, few were interested in examining international models of building the rule of law.

But the result was something quite different from what the advocates of judicial reform had long sought. What judges had achieved was not a triumph for general principles related to the rule of law so much as a set of concessions for the judiciary's corporate interests. In the post-coup political environment, a consortium of state institutions—the military, the security services, the judiciary, the religious establishments, and other parts of the bureaucracy—dominated the political environment and recast the state apparatus to vitiate mechanisms of democratic accountability and insulate themselves from external pressures. This explains the odd pattern of clauses in the country's 2014 constitution—while the regular judiciary was given greater independence, the military courts were also given strong autonomy that left them virtually unaccountable to any civilian actor. The military, police, and religious establishments were similarly walled off from any kind of effective oversight. While a parliament was eventually elected, the political environment was so constricted and the electoral law so tilted against political parties that it proved to be a noisy but largely toothless body.



KEFAYA ACTIVISTS DEMONSTRATING IN SOLIDARITY WITH EGYPTIAN JUDGES DURING JUDICIAL INDEPENDENCE PROTEST ON MAY 25, 2006, IN CAIRO. SOURCE: HOSSAM EL-HAMALAWY FROM FLICKR

Courts were enthusiastic participants in the new order. Unlike previous episodes of political repression in Egypt, when leaders had to resort to special courts when they needed rapid convictions in large numbers, this time the normal judicial bodies willingly joined in. Terrorism circuits were created by presidential decree but staffed by regular judges and attached to regular courts (a different pattern than the one that emerged under the pre-2011 order in which such cases were divvied up among a group of exceptional courts in order to deliver them to more reliable judges than the ones who staffed the regular courts).

There was no clearer sign that, as much as observers spoke of the new regime in personalized terms (as “Sisi’s regime,” referring to the president, Abdel Fattah el-Sisi), something much broader was at work. It was the Egyptian state—a set of institutions guided by the presidency and the various parts of the security apparatus to be sure, but also characterized by islands of autonomy, fiefdoms, and stolid structures of authority—that was reasserting itself, not simply a single strongman. The judiciary received clear signals from the presidency but it did not need them to act.

The terrorism courts began delivering a staggering series of mass verdicts against the Brotherhood and its alleged supporters, on occasion even sentencing dead people to execution. And they did so long before Sisi could exercise the presidential tools. Dissidents were hauled in for questioning. Security forces operated with impunity. Courts credulously accepted the flimsy evidence produced by abusive security bodies. And judges who had backed the Islamists were dismissed by other judges.

Egyptian judges generally have a very strong sense of loyalty to the Egyptian state and supporters of the political and social order. As suspicious as they may sometimes be of executive influence, Egyptian judges tend not to behave as freestanding actors mediating between the state and the society or among various social entities, but rather as enforcers of the law and interests of the state, standing above and guiding the society in what they see as a principled fashion. The judiciary as a body shows real willingness to distance itself from the executive, but little interest or willingness to distance itself from the state. And as far as many judges are concerned, that state has just come under severe attack by an alien force. The invaders managed to temporarily seize the presidency; for a while key institutions of state—including, most shockingly to judges, courts themselves—were quite literally besieged by these outsiders.

Of course, not all judges feel this way, but many do seem to share the sense of crisis that has led perhaps to some of the brutal efficiency displayed when trying some cases. And while judges varied in their enthusiasm for the new order—with senior judges often overturning some of the most egregious judgments and courts continuing to issue occasional verdicts that clearly defied regime wishes—the judiciary as a body made its overall orientation clear. In this respect, it pays to note that it makes far more sense to speak of the partial independence of the Egyptian judiciary than to speak of the independence of an individual judge: Judges are responsible not only to the law and their own consciences but also to each other. While judges may have full authority to reach their own decisions, the frequency of multiple-judge panels, extensive rights of appeal, judicial control over matters of appointments and promotion, and the fact that the judiciary is a lifetime career—and one that is often passed from father to son—combine to give the judiciary a very strong sense of corporate identity.

The movement for judicial reform that had attracted such broad backing revealed itself to be a very weak if broad coalition. Islamists, liberalists, nationalists, leftists, and judges had all called for judicial reform. All agreed that meant an end to executive control over the judiciary. But some sought this independence because the executive was in hands other than their own, while others sought to end torture, abuse, and corruption through stronger legal mechanisms. Some judges in the reformist camp sympathized with these rule-of-law goals but most wished above all to realize corporate autonomy and secure professional goals.

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The diversity of the proreform coalition was scarcely visible as long as the Mubarak regime was the main adversary. But it became rapidly clear after Mubarak fell. It was not that the demand for reform was insincere or shallow but that the word reform meant different things to different people. This can be seen most clearly in the matter of judicial personnel. For judges, reform meant that they would be able to staff, police, and patrol their own ranks, without a meddling executive branch using its various tools to create a pliant judicial body. In the period before Mubarak, this vision was one that opposition forces were willing to support. But after 2011, Islamists in particular came to feel that reform must also include purging senior judges too close to the old regime or too resistant to the democratic (and Islamist) order they saw emerging. Some non-Islamist revolutionaries saw the judiciary as a bastion of privilege and conservative thinking. Their reform ideas were rarely developed into concrete proposals, but they likely would have included a purge of a different sort.

These various orientations made for a coherent set of demands but a very disparate coalition that politics soon pulled sharply apart. The judges, part of a resurgent state apparatus, got much of what they desired. Their conception of the rule of law was one in which they, as legal professionals and specialists, were allowed to operate without the kibitzing of other institutions and forces, much like a heart surgeon is able to operate without an anxious family gathered around his or her side. Such an analogy would not have resonated with those who wanted state structures to be more accountable to the people rather than to their corporate sense of mission, but for the time being at least, those who voice alternative orientations have been silenced.

Tunisia: Transitional Justice Struggles to Find Supporters

In Tunisia, the ground appeared to offer a more promising basis for genuine legal reform, since there was something

approaching a democratic transition and the question of judicial reform was wrested out of the judiciary's hands. Unlike Egypt's transitional leadership, Tunisia's transitional politicians and domestic civil society groups did not reject study of other nations' transitional experience. These groups were responsible for the establishment of Tunisia's transitional justice project and its engine, the Truth and Dignity Commission (TDC), in December 2013.⁴ The completion in June 2016 of the TDC's truth-telling collection project (the first of five components), which included the collection of more than sixty-five thousand files related to human rights abuses, marked a major milestone for the commission as it continued to pursue its duties.



SOURCE: TUNISIA TRUTH & DIGNITY COMMISSION FACEBOOK PAGE

Despite this seeming success, however, intense political opposition has plagued the TDC, which compounded by a failure to construct a broad-based constituency in the Tunisian public. Although the commission initially enjoyed the political backing of Tunisia's transitional government, that support was quickly eroded following Tunisia's 2014 parliamentary elections, as political forces expressly opposed to the TDC's work took power. Simultaneously, a series of commissioner resignations rocked the TDC, further damaging the commission's legitimacy, which was already suffering from an inability to meet the high expectations of the Tunisian public. Facing strong political opposition and on the verge of a crisis of legitimacy, the TDC failed to win buy-in from many Tunisians because it did not engage in an effective public outreach campaign. This aggregation of factors has pushed Tunisia's transitional justice process to the verge of collapse in just two short years, as the country's dominant political actors have little interest in pursuing any form of revolutionary accountability.

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Many transitional justice processes take decades before the full effect of their work comes to fruition. For example, the aims of Argentina's truth commission, which investigated the abuses of the country's 1976–83 military dictatorship, were only realized more than a decade after the commission published its final report in 1984.⁵ Yet even slow-moving processes such as Argentina's tend to creep decidedly forward from their inception. In Tunisia, however, the transitional justice project seems to be crashing against the shoals of politics just two years after it got started, in large part because it has political support from neither the government nor the Tunisian public at large. Such support would be crucial, especially now, for the commission's efforts to pursue any measures aimed at achieving accountability, justice, and rule of law reform.

Transitional Justice in Theory

The phrase "transitional justice" has come to have a particular set of meanings in international parlance about governance and the rule of law: "the array of processes designed to address past human rights violations following periods of political turmoil, state repression, or armed conflict" as well as the advancement of the rule of law.⁶ Although lacking any single agreed-upon definition, "rule of law" is generally understood to involve adherence to well-known rules or laws that restrict arbitrary government action.⁷ Transitional justice processes are inherently political: they seek to transform how a society understands what constitutes justice, and to present a particular conception of what the state and its institutions should look like. Transitional justice gained currency as a paradigm during Latin America's transitions from dictatorship to democracy in the 1980s, and played a prominent role in South Africa's post-Apartheid transition. Following the fall of the Soviet Union, transitional justice was at the forefront of Eastern Europe's transitions to democracy and has continued to play an important role in the transitional efforts of Burundi, Ivory Coast, Kenya, and Sierra Leone. It is because transitional justice efforts are intended to redefine a society's conception of justice that they are inherently political processes.⁸

Tunisia's transitional justice agenda developed through the joint efforts of international organizations and Tunisian civil society groups including the International Center for Transitional Justice (ICTJ), an organization that specializes in assisting countries in implementing transitional justice measures.⁹ This agenda grew out of an international conference convened in Tunis in April 2011 to determine the most suitable transitional justice mechanisms for addressing the past in Tunisia.¹⁰ Many of the Tunisian civil society participants in this conference later contributed to the work of the National Transitional Justice Consultation process in 2012, with several of these organizations sitting on the technical committee that authored the first draft of Tunisia's transitional justice law, the Organic Law on the Organization of Transitional Justice Foundations and Area of Competence.¹¹ From its conception in late 2011, Tunisia's civil-society-driven transitional justice process was an ambitious project broadly consisting of five components: truth telling, the provision of reparations to victims, criminal accountability for the perpetrators of serious crimes, institutional reform, and reconciliation.¹² Notably, prior to the 2011 revolution, Tunisians had little faith in their legal system and understood the judiciary to function as an instrument of the regime.¹³ According to Mohamed Salah Ben Aissa, Tunisian Minister of Justice in both the post-2011 interim government and for a period of eight months in the government of the current president, Beji Caid Essebsi, the Tunisian legal system by the end of the Zine El Abidine Ben Ali's presidency (1987–2011) "did not enjoy the public's trust and the judiciary was in a state of crisis."¹⁴

At its core the TDC seeks to build the rule of law and restore citizen faith in state institutions, serve as a mechanism to transform how Tunisians conceive the rule of law, and demonstrate that the law can protect rights and freedoms.¹⁵ Mostapha Bazaoui, president of the TDC's committee on Functional Review and Institutional Reform, described the primary aim of Tunisia's transitional justice project as the establishment of "a culture of forgiveness without forgetting the past...by seeking reconciliation and not revenge."¹⁶ Similarly, Salwa El-Gantri, the head of the Tunis office of the ICTJ, described to us Tunisia's transitional justice project as a rule-of-law initiative, at the center of which must be the trials of individuals accused of committing gross violations of human rights before and during the revolution.¹⁷ Yet rather than being the cornerstone of a new order, the TDC supporters and critics have clashed over everything from the appointment of commissioners to the commission's economic corruption component.

Centrist and leftist political groups have characterized the TDC as Islamist-dominated, even as other critics say the commission is too motivated by those same parties—including the ruling party, Nidaa Tounes—and civil society groups engaged in transitional justice efforts. Along with the current government's efforts to dismantle the commission's economic corruption component project, this all threatened to derail the transitional process entirely.

The TDC's struggle to fulfill its mandate can be understood as a product of three factors. First, the TDC has failed to generate broad public engagement. Second, the circumstances of the TDC's creation allowed critics to portray it as politically motivated. And third, Nidaa, a political party that draws some of its membership from old-regime figures,

views the TDC as a threat, and has used its control of the government to stymie the commission.

A Disconnect between the Tunisian Public and the Truth and Dignity Commission

The TDC was established by a group of Tunisian civil society organizations with the support of the Tunisian legal community, and international nongovernmental organizations including the ICTJ, the Tunisian Center for Transitional Justice, and the Tunisian Network for Transitional Justice. As the creation of several specialized organizations, the TDC initially struggled to present the important nature of its work to the Tunisian public in a convincing manner. This allowed the Tunisian public and the commission to grow disconnected. The disconnect has been exacerbated by the difficulty the TDC has had in mobilizing the Tunisian public and civil society organizations to support its work and is directly responsible for transitional justice fading from the mainstream view in Tunisia.¹⁸ Initially, many Tunisians expressed high hopes for what the TDC would be able to achieve, expecting the commission to pursue prosecutions of former regime officials responsible for committing rights violations, establishing unrealistic expectations for what the commission would be able to accomplish in its early years. The TDC received three thousand complaints in its first month of operations and twelve thousand complaints between December 2014 and May 2015. But as the TDC became embroiled in turmoil following an opaque commissioner appointment process and the resignation of four commissioners—just a year after its inauguration—its legitimacy came under threat. Tunisians began to lose faith in the TDC because of its sluggish pace and its failure to combat corruption.¹⁹

Political projects require constituencies if they are to be successful. The TDC's failure to generate such a constituency originated with the opaque nature of the commissioner selection process, which lacked significant public involvement. The commission also did not obtain the formal support of civil society groups during the appointment process, because the Troika—the coalition of two secularist parties and the Islamist Ennahda, which governed from mid-2011 until 2014—had politicized it.²⁰ All of this created an environment where transitional justice faded from view for many Tunisians.²¹

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The TDC's insufficient engagement with the public has created a situation where many Tunisians, especially those living in more remote parts of the country, do not fully understand its purpose. For instance, some Tunisians mistakenly believe

that the commission has prosecutorial powers, when its mandate is essentially to document the past, creating unrealistic expectations of what the TDC is capable of achieving.²² Although the commission did travel throughout Tunisia to gather testimonies from individuals who suffered abuse at the hands of the former regime, it lacked a robust communication and public outreach program, and confusion grew about its function. And even more broadly, the TDC lacks the broad-based constituency, among individuals in government and in the public at large, required for its efforts to expose the truth about past human rights violations, institutionally reform components of Tunisia's governmental structure, and to lay the foundation for the eventual prosecution of serious human rights violators. The TDC also suffers from a severe lack of support amongst the current government. Nidaa's membership is connected to the former regime and has little desire to disturb the economic status quo, or pursue accountability for economic and political crimes committed during the dictatorship.

The Politicization of the TDC

The original legislative design for the TDC was based on a model that sought to be nonpolitical, and included an appointment procedure allowing each political bloc in the Chamber of Deputies to appoint one member to the TDC's commissioner selection panel.²³ However, when the draft transitional justice law was presented to the Ennahda-led government in December 2013, the appointment procedure was altered to allow membership on the selection panel to be determined via proportional representation in the Chamber of Deputies.²⁴ This was in part a result of the positions of Ennahda's Troika partners, the two secular parties Ettakatol and the Congress for the Republic (CPR), the latter being the most pro-revolutionary party in the National Constituent Assembly (NCA). Ettakatol and CPR fought hard in December 2014 for the inclusion of an electoral lustration provision in the transitional justice law, which would have prohibited politicians affiliated with the old regime from becoming candidates for office. Many Ennahda parliamentarians originally supported the lustration provision, though the party's leaders ultimately prevented its inclusion.²⁵

Still, Ennahda supported a proportional appointment procedure for the TDC because, like its Troika partners, it wanted to capture the transitional justice process by appointing individuals with close ties.²⁶ It is also possible that Ennahda was attempting to improve the likelihood that Islamists targeted under the regime would receive reparations, many of whom were potential constituents.²⁷ Ennahda's politicization of the TDC appointment procedure was a last attempt by the Troika to influence the transitional justice process before ceding power following the 2014 parliamentary elections, in which Nidaa won a plurality running on an explicitly anti-Islamist platform. In practice this change allowed Ennahda to appoint a plurality of the members on the Commissioner selection panel, reinforcing civil society groups' fear that Ennahda would dominate the transitional justice process and that the TDC would be an Islamist project.²⁸ Ennahda and

its coalition partners in the NCA viewed this revised legislative design as an opportunity to exert greater influence over the commissioner appointment process. Instead, the effect of this legislative change was to alienate a number of civil society groups and deprive the TDC of their support and partnership, precisely because these groups felt the TDC would be an Islamist-dominated venture. To understand Ennahda's posturing during the debate over Tunisia's transitional justice law, it is necessary to know something of Ennahda's history of persecution by the former regime, and its desire to seek revolutionary justice—while simultaneously fending off secularist fears that Ennahda was nothing more than Tunisia's rendition of Egypt's Muslim Brotherhood.



SOURCE: TUNISIA TRUTH & DIGNITY COMMISSION FACEBOOK PAGE

Furthermore, Tunisia's transitional justice law was promulgated following the political assassinations of Chokri Belaid, a prominent lawyer and leftist politician, and Mohamed Brahmi, a member of the NCA. This political violence damaged an already tense relationship between the secular and Islamist members of the NCA. The appointment of a former deputy in the Ben Ali regime to serve as a commissioner on the TDC only further enraged civil society groups, prompting the Tunisian Network of Transitional Justice and two other transitional justice NGOs to challenge the appointment process before Tunisia's administrative court.²⁹ The court rejected their petition, prompting several civil society groups to express opposition to the construction and establishment of the Truth and Dignity Commission.³⁰

Political Opposition

The TDC has faced significant political opposition to its work since Nidaa came to power in Tunisia's 2014 elections. In a campaign that focused on the Ennahda-led government's political shortcomings, Nidaa promoted itself to Tunisian voters as the competent, secular alternative. Despite Ennahda's electoral success in the 2011 elections for the NCA, many Tunisians blamed the party for the country's fragile security and faltering economy. Following the overthrow of the Muslim Brotherhood-led government in Egypt and the assassination of Belaid and Brahmi—both prominent Tunisian leftist politicians—Ennahda willingly moderated its support for revolutionary reforms. But in taking a more conciliatory posture to remain politically viable, Ennahda allowed transitional justice to entirely fade from its political agenda. Things became even more complicated, however, after Nidaa took power and the fragile coalition upon which it was founded began to fragment over ideological differences, particularly Nidaa's decision to form a coalition government with Ennahda.³¹

Prior to the 2014 elections, Nidaa united various secular groups on the basis of their joint opposition to the Troika. Following the Troika's collapse, Nidaa itself began to fracture due to ideological differences and internal power dynamics. In January 2016, tensions within the secular Nidaa party culminated with the resignation of more than two-dozen legislators and cost Nidaa its plurality in parliament. This shift in political power, combined with Tunisia's struggling economy, and a slew of terrorist attacks in sum drained the political momentum from the transitional justice agenda.³²

Furthermore, Essebsi and TDC president Sihem Bensedrine have clashed over the TDC's investigatory powers. In December 2015, Bensedrine attempted to collect the presidential archives from the presidential palace. A contingent of armed police prevented her entry to the palace compound. This failed attempt only amplified the animosity between the TDC and Essebsi, who viewed Bensedrine's efforts as an assault on the presidency. The blocking of the TDC's investigation also caused many Tunisians to feel that there was a wider effort by some figures—including Nidaa and Essebsi—to bury their past involvement in the regimes of Habib Bourguiba (president from 1956 to 1987) and Ben Ali. (Essebsi was once the director of national security and later minister of the interior under Bourguiba.)³³

And Nidaa's opposition to the TDC was indeed partly an attempt to insulate members of the economic and political elite from legal repercussions for their former connections to the Ben Ali regime. But this is not the whole picture. Nidaa is a coalition of secular groups, many of which were divided before the revolution and continue to be divided as the unifying threat posed by Ennahda has subsided.

In an interview with *The Guardian*, Bensedrine lamented that while "Truth commissions around the world [have] the state on their side...We may be the one case where the state is going against us; it is a paradox."³⁴ Bensedrine's comments encapsulate the lack of political support that exists for Tunisia's transitional justice project. Nidaa has worked to impede the ability of the TDC to conduct its mission, attempting to quash its budget and stifle the political will required for

significant systemic change.³⁵ In July 2015, the Essebsi government proposed a draft economic reconciliation law that would have directly undermined the TDC's economic corruption component by precluding the TDC from acting as a mediator in cases of economic crimes. The TDC's mediation process authorizes the TDC to draft arbitration agreements between individuals responsible for economic crimes and their victims. In return for reparation payments and publication of the settlement, the perpetrator is granted amnesty for any related criminal charges.³⁶ The law would supersede the commission's mandate, establishing an opaque process controlled by the presidency to provide amnesty to former public servants and businessmen involved in the embezzlement of state funds.³⁷ Although this draft economic reconciliation bill has not yet become law (and was shelved as of November 2016), it demonstrates the fierce political resistance the TDC faces from the Essebsi government.



TUNISIA TRUTH & DIGNITY COMMISSION FACEBOOK PAGE

Ennahda, which currently holds a plurality in the Tunisian Parliament, has thus far declined to support the work of the TDC, siding with Nidaa against the commission. Ennahda's leadership perceives the party's place as being within the current coalition government, and has adopted a consensus-seeking agenda aimed at maintaining the status quo. Ennahda has pursued this consensus-oriented strategy on the basis that it is necessary for a successful democratic transition.³⁸ In line with this stance, Ennahda has supported draconian new anti-terror legislation as well as the Nidaa-backed economic reconciliation law, which is aimed at undermining the TDC. Ennahda's leadership appears to view inclusion in the current coalition government as the best protection against the risk of a return to oppression, and thus far the party has supported policy in line with this vision. Simply put, it appears that the current government has little interest in pursuing accountability for serious human rights violations and economic crimes committed under the Bourguiba and Ben Ali regimes in the immediate future.³⁹

It appears that the current government has little interest in pursuing accountability for serious human rights violations and economic crimes committed under the Bourguiba and Ben Ali regimes in the immediate future.

On paper, Tunisia has established a robust transitional justice project designed with the intention of bringing about serious political, economic, and institutional reform. Yet in practice this process and the institution central to its success, the TDC, has been hampered by an internal failure to cultivate widespread public support and intense political opposition by the very political forces responsible for its development. Following the revolution, the Troika's transitional government engaged in a sincere effort to pursue rule-of-law reform, as well as revolutionary justice and accountability. They adopted one of the most progressive constitutions in the Arab world and established a robust transitional justice initiative. These two accomplishments, combined with Tunisia's general success at transitioning to a more inclusive and democratic system of government, distinguished the country's experience from that of Egypt. But as the realities of post-revolutionary governance set in and Tunisia's transition came under threat from a series of terror attacks, the quest for accountability was one of the first revolutionary demands jettisoned by Ennahda as it sought to remain politically salient and stave off the potential for a soft coup (as happened in Egypt). The fear of a resurgence in support for authoritarianism further quieted any calls for accountability and transitional justice as Tunisia's political elites sought to protect their already established democratic gains and maintain the status quo.

For Ennahda the status quo meant retaining its political relevance, whereas for Nidaa the status quo entailed protecting the perceived legitimacy and economic supremacy of its membership. These distinct agendas fostered a political environment where transitional justice, rule of law, and accountability were shelved in favor of policies intended to induce stability and economic recovery.

However, if Tunisia's nascent democratic order evolves into a stable, full-fledged democracy, the TDC's efforts could have a broader impact than what observers have predicted. And there are some positive indicators of the potential for future reform. In October 2016, Tunisia transformed its Supreme Judicial Council, the country's highest judicial authority, into a body elected by members of the legal profession. The election of the council's members is intended to insulate it from executive control, while preventing the judiciary from exercising exclusive control over its domain, as is the case in Egypt. However, the council's full impact on rule-of-law reform efforts remain to be seen and will likely not be felt until it appoints the members of Tunisia's Constitutional Court.

Although the TDC has faced significant political challenges since its inauguration, it is important to remember that it can take decades for a truth commission's work to bear fruit for transitioning societies. But unless Tunisia's leading political forces make justice, rule-of-law reform, and accountability for past crimes the focal point of their vision for the future—a dubious outcome given the current political climate—the TDC is unlikely to achieve its lofty ambitions of revolutionary justice and accountability.

Conclusion

The Arab uprisings of 2011 were remarkable for their legalistic overtones and their demands for the rule of law and official accountability. Yet the disparity between the initial calls for reform and the eventual outcomes tells an important story of how reform movements can be co-opted and deflected by political actors who pursue their own political ends. It also shows how even widespread demands can be subject to the political winds of the societies in which they operate. Most of all, it shows that “reform” is not a single thing but instead a cause championed by those with disparate agendas. Similarly, “rule of law” is not a readily identifiable way of doing things, but rather an umbrella term for a host of ideas on the role that law and courts should play in society.

To be sure, there is at the core of the “rule of law” an idea that authority must articulate clear and fair standards, that it should do so in terms that are publicly expressed in legal form, that it should not discriminate or serve partisan interests, and that officials exercising authority are themselves accountable to legal standards that they cannot manipulate for their own ends.

Few would quarrel with such an idea, but the various forces at work in Egypt and Tunisia seized on to various parts of it rather than the whole. For Egyptian judges, reform has come to mean a decrease in interference from outside forces (whether from other state institutions or political or social groups). For Egyptian Islamists and some revolutionaries, the rule of law came to mean that state officials (including judges) need to follow the will and interests of the people (or the instructions of God, which for many Islamists are the same). For the leaders of the Egyptian state, it means that law must serve those who provide order for the society. For Tunisian political forces, the rule of law is a desirable long-term goal, but one that has been overtaken by short-term concerns. For their part, Tunisian advocates of transitional justice do understand that the rule of law is a goal that needs to be achieved in full, and that it requires patient long-term work.

The coalition supporting legal reform in Egypt had a well-articulated agenda before 2011, but the opportunity to implement that agenda after Mubarak fell was squandered as the coalition came apart in a suspicious and polarized environment. In Tunisia as in Egypt, efforts at rule-of-law reform have been largely compromised and deflected by

political actors seeking to secure their personal, partisan, or institutional interests. However, unlike Egypt, the political space in Tunisia was initially more conducive to at least starting real reform, and resulted in the promulgation of a progressive constitution and a transitional justice project driven by the rule of law. But as that political space evolved and the Islamist-led transitional government lost power, reform initiatives that had appeared to have widespread support were no longer able to maintain political traction, reducing their constituencies to the isolated policy specialists responsible for their development. The frustration of transitional efforts in Tunisia is a prime example of what happens when expert-driven rule-of-law reforms fail to gain the political support of those in power, while also having little pull with recalcitrant officials.

Reform initiatives that focus on the rule of law are inherently political. In both Egypt and Tunisia, the influential forces that emerged following each country's uprising were able to latch on to the idea of rule of law, both out of a real desire to see such reforms implemented but also for their political expediency. Yet once these reforms were no longer politically advantageous to the emerging leadership, attempts to implement them faltered. Both countries illustrate the stark reality that such political support is immensely difficult to cultivate and sustain.

About This Project

This policy report is part of “Arab Politics beyond the Uprisings: Experiments in an Era of Resurgent Authoritarianism,” a multi-year TCF project supported by the Carnegie Corporation of New York. Studies in this series explore attempts to build institutions and ideologies during a period of resurgent authoritarianism, and at times amidst violent conflict and state collapse. The project documents some of the spaces where change is still emerging, as well as the dynamic forces arrayed against it. The collected essays will be published by TCF Press in June 2017.

Notes

1. Nathan J. Brown, “Constitutional Revolutions and the Public Sphere,” in *The Arab Uprisings Explained: New Contentious Politics in the Middle East*, ed. Marc Lynch (New York: Columbia University Press, 2014), 296–312.
2. For explorations of judicial politics in Egypt, see James Rosberg, “Roads to the Rule of Law: The Emergence of an Independent Judiciary in Contemporary Egypt” (PhD. diss., Massachusetts Institute of Technology, 1995); Nathan J. Brown, *The Rule of Law in the Arab World: Courts in Egypt and the Gulf* (Cambridge: Cambridge University Press, 1997); Mona El-Ghobashy, “Taming the Leviathan: Constitutionalist Contention in Contemporary Egypt” (PhD. diss., Columbia University, 2006); Tamir Moustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt* (Cambridge: Cambridge University Press, 2007); Mahmoud Hamad, “When the Gavel Speaks: Judicial Politics in Modern

Egypt” (PhD. Diss., University of Utah, 2008); Bruce K. Rutherford, *Egypt after Mubarak* (Princeton: Princeton University Press, 2008); and Nathalie Bernard-Maugiron, ed., *Judges and Political Reform in Egypt*, (Cairo: American University in Cairo Press, 2009).

3. See the collection of essays in Emile Hoyakem and Hebatalla Taha, eds., *Egypt After the Spring: Revolt and Reaction* (New York: Routledge, 2016).

4. See Republic of Tunisia, “Organic Law on Establishing and Organizing Transitional Justice,” unofficial translation by the International Center for Transitional Justice, accessed November 29, 2016.

5. See Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter, “The Justice Balance: When Transitional Justice Improves Human Rights and Democracy,” *Human Rights Quarterly* 32(2010): 980–1007; Ruti Teitel, ed., *Globalizing Transitional Justice*, (Oxford: Oxford University Press, 2015); and Brigitte Weiffen, “The Forgotten factor—the Impact of Transitional Justice on the Development of the Rule of Law in Processes of Democratization,” *Zeitschrift für Vergleichende Politikwissenschaft* 6.S2 (2012): 125–47.

6. Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter. “The Justice Balance: When Transitional Justice Improves Human Rights and Democracy,” *Human Rights Quarterly*, 32, no.4, November 2010: 980–1007.

7. For a more detailed discussion of the “rule of law” concept see Ruti Teitel, “Transitional Jurisprudence: The Role of Law in Political Transformation,” *Yale Law Journal*, 106(1997): 2009–80. See also, Eva Bellin, “Building Rule of Law in the Arab World: Paths to Realization,” in *Building Rule of Law in the Arab World: Tunisia, Egypt, and Beyond* ed. Eva Bellin and Hedi E. Lane (Colorado: Lynne Rienner Publishers, 2016), 1–8.

8. Teitel, “Transitional Jurisprudence.”

9. International and regional organizations involved in the development of Tunisia’s transitional justice process included the International Center for Transitional Justice (ICTJ), the UN Office of the High Commissioner for Human Rights (OHCHR), the Arab Institute for Human Rights, and the Al-Kwakibi Democracy Center. Tunisian organizations involved in the process included the Tunisian League for Human Rights, the Tunisian Center for Transitional Justice, and the Tunisian Network for Transitional Justice. (This list is not exhaustive but meant to identify the kinds of organizations involved in the development of Tunisia’s transitional justice process.)

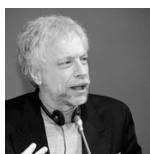
10. This conference, convened by the ICTJ in partnership with the Arab Institute for Human Rights, the Tunisian League for Human Rights, and the UN OHCHR, explored transitional justice measures related to five substantive areas that included criminal accountability for past human rights violations, security sector reform, truth-seeking, gender justice, and reparations. See ICTJ, “Addressing the Past, Building the Future: Justice in Times of Transition,” April 14–15, 2011.

11. Also translated as “Organic Law on Establishing and Organizing Transitional Justice.”

12. Article 1 of Tunisia’s law on establishing transitional justice defines the scope of the country’s transitional justice process: “In this law, transitional justice shall mean an integrated process of mechanisms and methods used to understand and deal with past human rights violations by revealing their truths, and holding those responsible accountable, providing reparations for victims, and restituting them in order to achieve national reconciliation, preserve and document that collective memory, guarantee the non-recurrence of such violations, and transition from an authoritarian state to a democratic system which contributes to consolidating the system of human rights.”

13. Mohamed Salah Ben Aissa, "What Independence? Judicial Power in Tunisia," in *Building Rule of Law in the Arab World: Tunisia, Egypt, and Beyond*, ed. Eva Bellin and Hedi E. Lane (Colorado: Lynne Rienner Publishers, 2016), 53-66.
14. Ben Aissa, "Judicial Power in Tunisia."
15. See Articles 2-15 of Tunisia's law on establishing transitional justice.
16. Mostapha Bazaoui, interview with Benjamin Helfand, Tunis, January 11, 2016.
17. Sawa El Gantri, who was a program officer at the time we interviewed her, believes that trials, specifically fair trials that lead to the truth, are crucial for restoring citizen trust in a judiciary and legal system that lacks the trust of the majority of the Tunisian citizenry. Salwa El Gantri, interview with Benjamin Helfand, Tunis, January 11, 2016. The centrality of prosecution for transitional justice is somewhat controversial in the field.
18. Amine Ghali (program director for the Al-Kawakibi Center for Democratic Transition), interview with Benjamin Helfand, Tunis, January 10, 2016.
19. Judge Ahmed Ouerfelli (Juridical Advisor to President Moncef Marzouki from 2011 to 2013), interview with Benjamin Helfand, Tunis, January 10, 2016.
20. Rim El Gantri, "Tunisia in Transition: One Year after the creation of the Truth and Dignity Commission," ICTJ Briefing, 2015.
21. Ibid.
22. Salwa El Gantri, interview.
23. The original legislative proposal for the establishment of Tunisia's transitional justice project was drafted by a technical committee made up of five civil society organizations: the Tunisian Center for Transitional Justice, the Al-Kawakibi Democracy Transition Center, the Tunisian Network for Transitional Justice, the Tunis Center for Human Rights and Transitional Justice, and the National Coordination on Transitional Justice. Salwa El Gantri, "The Role of Lawyers as Transitional Actors in Tunisia," *Lawyer, Conflict, and Transition Project*, August 2015.
24. Salwa El Gantri, interview. See Article 23 of Tunisia's law on establishing transitional justice which outlines the representation of parliamentary blocs and parliament members who do not belong to a parliamentary bloc on the special committee to select members of the TDC.
25. Monica Marks, "Tunisia's Ennahda: Rethinking Islamism in the Context of ISIS and the Egyptian Coup," Rethinking Political Islam series working paper, Brookings Institution, 2015.
26. These individuals included Sihem Bensedrine who is currently president of the TDC and closely linked to Ettakatol. Ghali, interview.
27. Ghali, interview.
28. Salwa El Gantri, interview.
29. El Gantri, "Tunisia in Transition."
30. Although Article 22 of the Transitional Justice law explicitly states that members of the TDC may not have held a position in the Tunisian government in the period from July 1, 1955 nor have held a partisan responsibility in the dissolved Constitutional Democratic Rally (Ben Ali's political party), the administrative court ultimately rejected the petitions. "The Organic Law on Establishing and Organizing Transitional Justice,"

31. See Scott Williamson, "A Silver Lining in the Nidaa Tounes Split," *Sada Journal*, The Carnegie Endowment for International Peace, 2016.
32. See Rim El Gantri, "Tunisia in Transition."
33. See Christ Stephen, "Attacks by 'Deep State' Leave Tunisia Truth Commission in Crisis," *The Guardian*, September 11, 2015. Salwa El Gantri, interview. The Tunisian Committee for the Defense of Victims of Torture filed a lawsuit against Essebsi in March 2012 for his involvement in the repression of the followers of a political rival of then President Bourguiba. In an attempt to insulate members of Nidaa Tounes with connections to the regime, on October 22, 2011, one day before Tunisians elected a National Constituent Assembly to form a new government, the interim government left behind by Ben Ali altered the statute of limitations on torture crimes to fifteen years: enough to consign any wrongdoings on Essebsi's part to the history books. See Mischa Benoit-Lavelle, "Former Prime Minister Beji Caid Essebsi Charged with Torture," *Tunisia Live*, (March 2012).
34. Stephen, "Attacks by 'Deep State.'"
35. Alex Djerassi (non-resident associate, Middle East Program, Carnegie Endowment for International Peace), interview with Benjamin Helfand, Washington, DC, March 10, 2016.
36. As of July 1, 2016 the TDC had received 685 requests for economic reconciliation related to government corruption. For a more detailed discussion of the TDC's economic corruption component see "Tunisia: Amnesty Bill Would Set Back Transition," *Human Rights Watch*, July 14, 2016.
37. Rim El Gantri, "Tunisia in Transition," 1; and Scott Williamson, "Transitional Justice Falters in Tunisia," *Sada Journal*, Carnegie Endowment for International Peace, September 22, 2015.
38. Rory McCarthy, "How Tunisia's Ennahda Party Turned From its Islamist Roots," *The Monkey Cage*, May 23, 2016.
39. See Rim El Gantri, "Tunisia in Transition."



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