



“To participate
is to have hope ...”

Victim participation
in Tunisia's transitional
justice process

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Book :

Size : 21 x 29,7 cm

Volume : 96 pages - paper Offset 80 gr - Cover 350 gr

1st Edition

Graphic Design : Anis Menzli - ALPHAWIN STUDIO anismenzli@hotmail.fr

This study was developed in the frame of a partnership between KADEM, IMPUNITY WATCH and CAHR, University of York

THE UNIVERSITY of York
Centre for Applied Human Rights



impunity watch

Number of copies : 50

ISBN : 978-9938-14-255-6

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Tunis • Octobre 2015

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Preface

The Transitional Justice Barometer is a two year research project, the result of a collaboration between The Centre for Applied Human Rights at the University of York (UK). The Kawakibi Democracy Transition Center (KADEM), Tunis (Tunisia) and Impunity Watch, The Hague (Netherlands). The Barometer is funded by NWO, the Netherland Organisation for Scientific Research.

To ensure that Tunisia's democratic transition is reinforced and the needs of its people are met, transitional justice mechanisms must be put in place that meet the profound aspirations of the Tunisian people. The Transitional Justice Barometer is building a research capacity in Tunisia that will enable Tunisians from a wide range of backgrounds to articulate their aspirations for the transition to the authorities and increase their participation in transitional justice process. The project is creating and training a research unit within KADEM, and will later train peer researchers from among communities most affected by historical violations, such that they can both contribute to knowledge production around the transition and support the participation of their communities in the process. Research made by the Barometer is intended to be citizen-centred, both qualitative and quantitative, focusing on the needs of transition of a wide range of victims, and understanding the impact of unfolding transitional justice mechanisms on the lives of victims and their capacity to participate in them. The project aims to permit a longitudinal understanding of the impact of transitional justice in Tunisia. The research of the Research Unit and peer researchers will be published and shared with authorities, civil society and transitional justice mechanisms, including in forums with affected communities. This is an action research project that seeks both to produce knowledge that can inform global understandings of a victim-centred, participatory transitional justice process, while actively impacting the process in Tunisia.

We are thankful to all the women and men who took part in this study, especially victims, without whom, the study would not been possible

The research of this study was made by Ahmed Aloui and Hajer Ben Hamza, and the research team led by Wahid Ferchichi. The analysis and preparation of the report was done by Kora Andrieu, Wahid Ferchichi and Simon Robins, with the support of Paul Gready, Marlies Stappers and Ralph Sprenkels.

Amine Ghali

Kawakibi Democracy Transition Center

Executive summary

As a direct result of the Tunisian revolution in 2011, efforts to address legacies of human rights violations have moved centre stage. Tunisian transitional justice measures have sought to accommodate both internationally prescribed mechanisms and locally resonant approaches. Initial responses were largely legal, notably through the use of military courts, and the prioritising of a reparations process which gave a general amnesty and vocational rehabilitation and compensation to martyrs and the wounded of the revolution. A number of Commissions of Inquiry, initiated shortly prior to the fall of Ben Ali, also worked with mandates to investigate rights violations committed during the revolution, corruption, and the issue of political reform. The process has continued with a comprehensive law on transitional justice, passed in December 2013, and the creation of a truth commission, the *Instance Vérité et Dignité* (IVD, Truth and Dignity Commission). As with all recent transitional justice processes, the rhetoric of the Tunisian process has put victims at its centre and sees victim participation as ensuring the legitimacy of the process. However, the reality as experienced by victims themselves is often of a process that is remote, poorly understood and unresponsive to their needs. A national dialogue, led by the now defunct Ministry of Human Rights and Transitional Justice, sought to engage with victims in all governorates, but actually accessed only a limited number of victim voices.

The Tunisian process has thus far been characterised by fragmentation and politicisation, reflecting the Islamist-secular divide that has characterised post-revolutionary politics. The Ennadha-led government that won the first post-revolution election was responsible for the implementation of reparations programs adopted by the transitional government and was accused of favouring its own activists, since Islamists constitute a considerable share of victims of historic violations. The benefits made available to victims have fed discourses of ‘fake’ victims, amidst a broader refusal of many secular Tunisians to recognise the nature of the past victimhood of Islamists, too often assumed *en masse* to be ‘terrorists’.

This study sought to interrogate what participation in the process means concretely for a range of Tunisian victims of human rights violations, with the aim of making recommendations to promote the more effective participation of victims in Tunisia’s transitional justice process. Participation in transitional justice has been conceptualised as being able to both inform and improve a process, and potentially empower victims in ways that fundamentally change their relationship to the state. This study sought to empirically inform such understandings at a time when the challenges to effective victim participation in Tunisia’s process can still be addressed. It also seeks to make a broader contribution to scholarship around victim participation in transitional justice processes.

A qualitative approach has been taken, and the views of more than one hundred individuals from around the country sought through interviews and focus groups, representing the most rigorous effort since the transitional justice process began to understand victims’ perceptions of the process, and in particular their specific needs, expectations and understandings of participation. Interviews were recorded, transcribed and the resulting transcripts analysed. The

challenge of hearing all victims was demonstrated by the fact that only 23% of victims interviewed were women. Victims' associations who were a dominant route to accessing interviewees are male dominated, while social taboos and a reluctance of women to speak – particularly in rural areas – enhanced this challenge.

Results of the study

Victims understood that they comprised not only those directly victimised, but also entire families that have been indirectly affected. Women in particular became victims when husbands were imprisoned, but many still fail to perceive of themselves as such. Beyond this, it was also understood that entire communities had become victims of violations, resonating with the concept of marginalised regions as collective victims, as defined in Tunisia's transitional justice law. Indeed social and economic impacts were seen as one of the principle effects of violations where careers and educations were lost. Some rejected the term victim, seeing it as passive while they understand themselves as activists and militants who had been fighting for justice.

The understanding of who was a victim was also reflected through the prism of politicisation, and an understanding that there is an implicit competition between victims, with secular victims perceiving that they had been excluded, relative to Islamists. One victim claimed: "the process was politicized and [...] *ideologized*: sometimes it has a dimension of revenge and sometimes one of blackmail with a logic that profits certain political parties." Such politicization becomes a prime reason for victims not to participate, because they do not think such a process can address their needs.

Victims understood transitional justice as being centred upon recognition and rehabilitation, with accountability perceived not just as punishment but as part of a process of recognition. Concepts such as forgiveness and reconciliation remain problematic for victims, seen as conditional upon perpetrators admitting their guilt. Current efforts at legislating reconciliation for economic crimes confront such expectations. The greatest impression victims have gained from the transitional justice process to date is that it lacks impact and results; some have become cynical and believe it will always be subservient to political interests. People are confused by the multiplicity of bodies that have been created: "The more institutions, the less we get!", one victim said, enhancing perceptions that resources are not devoted to victims. In practical terms, an active engagement with mechanisms appears to demand submitting cases to several bodies and navigating complex bureaucracies.

Victim participation in the transitional justice process

Whilst victims considered any engagement with the official process, such as the national consultation or an institutional mechanism, as a form of participation, they also had a broader understanding. Indirect engagement, such as when victims meet in a group, or attend training or public events, was also perceived as an important part of participation. Victims seem therefore to think that there exists rather an "ecosystem" of transitional justice, including more accessible and supporting elements led by civil society and victims' organizations: an informal space that complements formal institutions. It was thought necessary that victim's voices be heard to impact policy makers, and civil society could act to guarantee the process and to represent victims. Participation defined on victims' terms means their benefitting from the process, in

terms of victims' needs being addressed, not simply in engaging with the relevant institutions. Some victims had positive experiences of the national consultation, having the impression that their suggestions were incorporated into final text of the law. Participation in formal mechanisms inspired hope and offered recognition, and the possibility of rebuilding the relationship between the state and the victim. "The just participation of victims in the process is a compensation for them, both mental and moral."

Given the challenges in ensuring direct participation on a large scale, in practice *indirect participation* through an intermediary is required. Civil society has a huge role to play in this regard to link victims and the process and to share information in both directions. There is however a perception among victims of a gap between them and civil society, seen as an 'industry' with different goals to those of victims. *Representation* is the most obvious route to indirect participation, but this was seen as often problematic, with some asking if it was ever possible for another to represent the unique experience of a victim. Victims saw that human rights activists for example were far more visible than victims and their representatives, and enjoyed greater resources of all sorts.

Victims' associations seem an obvious articulation of such representation, and many victims praised the substantial support that is provided by the few victims' associations which exist in Tunisia. These allow them to better advance their mutual interests and support each other, not only to take part in the process (through legal and social support, and advocacy), but also to confront together the legacy of violations. In many cases these links between victims are longstanding, predating the revolution. The Tunisian victims' movement however remains fragmented and divided, with a range of categories defined by politics and the era and nature of the violation to which they were subject and there was a concern that it was always the leaders – often highly unrepresentative - of such groups whose voice is heard. Some echoed the demand to 'resist representation' and ensure that victims can speak for themselves,.

Challenges to participation

Some victims know very little of the ongoing process, in particular in marginalised regions there is a concern that centralisation in Tunis has resulted in it bypassing some communities. Sensitisation and outreach is seen by victims both as a form of participation in itself and as a prerequisite to a deeper participation. There are great expectations both of the opening of the regional offices of the IVD and that the media will take a greater role in dissemination around the transitional justice process. Just as important is the process of *inreach*, ensuring that victims' views are communicated to the mechanisms. Some international organisations are supporting media work by victims, but most feel they have no way to make their voice heard.

Gender remains a fault line along which participation appears to be failing in Tunisia's process: only 5% of submissions made to the IVD to date are from women. Women are afraid of the stigma of discussing violations such as imprisonment, while sexual violence remains something hugely difficult for most to discuss and in some cases are prevented by husbands from giving testimony. Addressing the substantial challenges to women's participation can not only immeasurably improve the quality of the transitional justice process but can increase broader social participation and empowerment.

Barriers to greater participation include a lack of awareness among victims, the lack of effective and speedy follow-up by formal institutions, and emotional barriers, driven by demonization and shame. All are exacerbated by regional marginalisation and the centralisation of the transitional justice process. The addressing of many of these demands action, notably by the IVD, which must improve its communication strategy, perform better than the institutions it follows in terms of interaction with victims, and put in place forms of engagement that encourage those who face barriers to engaging the Commission. Politicisation has also discouraged some victims to take part in the process, either because it is perceived as favouring Islamists or, on the contrary, because of the continued presence of elites linked to the former regime, especially given that justice and security sector reform remains on hold. Addressing such politicisation demands confronting the fact that transitional justice is itself deeply political, driven by the legitimising and delegitimising of regimes: contestation in Tunisia reflects competing narratives over the nation's future direction.

One innovation of Tunisia's transitional justice law was to define marginalised regions as potential collective victims and this resonates with the needs articulated in this study by victims from such regions. However, there is evidence that such victims feel marginalised from the ongoing process, challenging their ability to participate, demonstrating the challenge of a discriminatory state leading efforts to address such exclusion. There remains a marked regional divide, in particular in the organization of meetings and in access to state institutions. Another challenge is *how* collective victims participate: in most mechanisms, victims participate as individuals: what forms of representation can permit a collective participation? The need for participation to be linked to empowerment emerged from what might be called self-marginalisation, as the least empowered victims excluded themselves from playing any role due to illiteracy and low levels of education. Others who wanted to participate were prevented logistically, since the poor and unemployed simply cannot afford to travel to access mechanisms.

The recommendations that emerge from the study focus on enhancing participation in formal mechanisms, notably the IVD, through improved communication and relations with victims, and a simplifying of procedures. In particular dedicated approaches must be developed to better engage women victims. Civil society can play a role by explicitly seeking to advance victims' associations, supporting victims better, and playing a greater role in awareness raising, particularly outside Tunis. International organisations can support both the mechanisms and civil society through their resources and experience from other contexts, notably in their sensitization and monitoring efforts and to enhance victims' access to justice mechanisms.

This report contains a set of comprehensive recommendations addressing all relevant actors, with the goal of improving the extent and quality of victim participation in Tunisia's transitional justice process.

1. Introduction

1.1 International practice of transitional justice and its implications in Tunisia

Transitional justice has been defined by the Secretary General of the United Nations in 2004 as:

[T]he full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all), and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.¹

It articulates an approach originating in legal principles and leading to pragmatic goals of democratisation and peacebuilding in societies emerging from political violence. Transitional justice relies increasingly on an international legal framework, now reinforced by the existence of the new mandate of a UN Special Rapporteur for "the promotion of truth, justice, reparation and guarantees of non-repetition"² and by a range of international treaties. But the goals of transitional justice go beyond law, seeking also a moral regeneration of individuals ("to heal", "to forgive") and deep political transformation ("democratisation", "peace", "reconciliation"). As such, transitional justice appears an inherently political project, linked to deep issues of identity and memory. By asking the question as to what mechanisms to put in place to confront its past, post-revolutionary Tunisia has raised fundamental questions, in particular inviting a rethinking of the state's relationship to religion, the founding myth of the struggle for independence, and even a rethinking of its basic economic system. It is precisely because it demands a fundamental reflection on identity and memory that transitional justice in Tunisia has generated intense political dispute. Transitional justice is therefore not an effort turned solely towards the past, but rather an exercise in determining the trajectory and identity of post-revolutionary Tunisia, with the power to rewrite the modern history of the country in ways that favour one or other of its dominant political forces. In recognising a particular category of victims, it is always a different story of the country that is told and, therefore, a particular political project that is served. The centrality of the question of reparations, the fragmentation of the transitional justice process into a multiplicity of scattered initiatives (inquiry commissions, reparation orders, the truth commission, ministries etc.), and the challenge posed by its broad temporal mandate, all contribute to this politicisation.

¹ United Nations Security Council (2004) The rule of law and transitional justice in societies in conflict and post-conflict: Report of the Secretary-General, S / 2004/616, 23 August 2004. <http://www.unrol.org/files/2004%20report.pdf>

² Human Rights Council (2011) Human Rights Council Resolution, Special Rapporteur for the Promotion of Truth, Justice, Reparation and Guarantees of Non-Repetition, A / HRC / RES / 18 / 7, October 13, 2011. <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/RES/18/7&Lang=E>

The Tunisian context is unique in many ways, as an example of a non-negotiated transition, unlike the oft-cited models of transitional justice advocates, such as South Africa. The relationship with the old regime will be determined by the same political logic that steers the process of transitional justice as a whole. This is reinforced by the fact that, following the October 2011 elections, it was a political party most affected by historic repression, the Islamists of *Ennahda*, who came to power. Transitional justice would offer a special appeal for them because it permitted a legitimisation of their own discourse of victimisation. There remained a significant risk that transitional justice would be seen by their opponents as a "victors' justice". We see here that transitional justice represents a useful tool to some political actors, as it can be used to establish their hegemony and to highlight contested visions of state identity post-Ben Ali, opposing secular and modernist tradition with a story of martyrdom and redemption reinforced by recent memories of victimisation.

Defining transitional justice: A critique of a legalist approach

The main challenge to the success of transitional justice in Tunisia will be to know how to address all categories of victims, without necessarily accommodating all in a shared narrative, but to be able to at least allow *all victims* to coexist in a relationship of mutual dialogue and recognition. In Tunisia, transitional justice appears no more than the implementation of limited forms of justice for the past, a mechanistic or legalistic approach, rather than as a commitment to a real political struggle to determine the direction, memory and identity of the nation. It is this inherently performative character of transitional justice that explains the intense competition between victims and memories which we see in Tunisia today. Fragmentation of the process and the multiplicity of mechanisms, each dedicated to the victims of a particular event (the struggle for independence, the revolution, the bread rebellion etc.), or a particular group (Perspectivists³, Yousseffistes⁴, trade unionists, political prisoners, the injured of the revolution etc.), or even a particular area (*Barraket Essahel*,⁵ mining area⁶, Kasserine) has encouraged these struggles by increasingly politicising transitional justice, and fragmenting it further. To unify these categories of victims is the first challenge of post-revolutionary Tunisia.

³ Tunisian Perspective is a leftist opposition movement severely repressed by the Bourguiba regime in the 1960s and 1970s. See Bouguerra, Abdeljalil (1993) *De l'histoire de la gauche tunisienne : le mouvement Perspectives. 1963-1975*, Tunis: éd. Cérés.

⁴ The Yousseffistes were a nationalist independence movement led by Salah Ben Youssef and opposed to the Bourguibistes. They were severely repressed, torture and forced to exile after the country's independence and Bourguiba's victory. Ben Youssef was assassinated by the secret services in Frankfurt in 1961.

⁵ In 1991, fearing rumours of a coup prepared by a group of Islamist-leaning military personnel, Ben Ali ordered the arrest and torture of almost 250 soldiers, colonels and generals who were reduced in rank and persecuted,

⁶ In 2008, demonstrations against falsification in the entry exams to work in the mines of the Gafsa region were severely repressed. More than 200 persons were arrested and 5 were killed by the police,

1.2 Victim participation in transitional justice

Overview and developments

Increasingly, victim participation is seen as ensuring the legitimacy of transitional justice, impacting the way programmes are designed and implemented by national and international actors. The lack of participation of victims is often presented as the main cause of the failure of transitional justice processes, seen as too detached from the needs of affected communities. Without consultation, without roots in local communities, it is understood that transitional justice will be unable to meet the needs of victims.

In his first report to the Council of Human Rights, the Special Rapporteur for the promotion of truth, justice, reparation and guarantees of non-repetition, Pablo de Greiff, describes "real participation" of victims as a necessary condition for their recognition and confidence in a process, defending an approach to a "victim-centred" transitional justice to better re-establish the rule of law.⁷ The report states that "none of the proclaimed aims of transitional justice can be achieved without the effective participation of victims". However, while the benefits of the participation of victims appear obvious to the point of becoming a cliché among transitional justice actors, there is still little real analysis of the impact of participation and its implications for victims themselves. The field of transitional justice remains dominated by a legalistic and technical approach that neglects the more human and lived dimension. Furthermore, the potentially negative effects of participation on the lives of victims have yet to be analysed. In the absence of an empirical understanding of the dynamics of victim participation, this central element of any transitional justice policy risks becoming a mere theoretical principle or even an "empty ritual".⁸

Critics of transitional justice processes, including international criminal tribunals and truth processes have been accused of being disconnected from the practical needs of affected populations and of not having done enough to defend the victims they sought to impact. As a result, various steps have led to changes in both the rhetoric and practice of transitional justice, from a state-centred approach to once focusing on the needs of victims and individuals, who become full participants in it. The evolution towards a global standard for victim participation in transitional justice is however not without its shortcomings. It can disguise more complex dynamics, and be used principally to build the legitimacy of the state. Speaking on behalf of the victims, to access their 'voice', may also have the paradoxical effect of exploiting them, or even essentialising them by restricting them within this fixed identity.

⁷ Human Rights Council (2012) Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, UN Doc. A / HRC / 21/46. <http://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/21/46&Lang=E>

⁸ Taylor, D. (2014) *Victim Participation in Transitional Justice Mechanisms: Real Power or Empty Ritual?* Impunity Watch.

Conceptualizing victim participation

Whilst transitional justice is perceived as having legal origins, it is understood as a type of justice peculiar to times of political transition and this has led to the use of the paradigm of *restorative justice* in explicit contrast to a purely retributive legal process. This restorative turn has emerged in parallel with the recognition of victims' rights as of central importance to a transitional justice process, and restorative approaches (typified by truth commissions and reparations processes) are seen as natural complements to the accountability driven process of trials. There is a tension however between the idea of a process centred on the needs of victims, and an increasingly prescriptive global approach to transitional justice. The understanding of victim participation in transitional justice processes is at the heart of this dilemma: as the essential elements of a process have become increasingly standardised, what room is there for these to be impacted in form and implementation by victims' agendas?

Participation in transitional justice processes is understood in a wide variety of ways that can be conceptualised in terms of typologies of the quality and extent of participation. The literature around participation, notably in development, perceives participation as concerned with the expansion of agency and thus with processes of empowerment: the challenging of power relations which exclude certain categories of persons from playing particular roles in a process. Ultimately such participation offers the prospect of transformation for both victims and processes. White⁹ has defined four forms of participation that constitute a *ladder of participation*,¹⁰ representing ascending degrees of participation:

- *Nominal*: Participation that seeks to legitimise a process through its visibility, but delivers little if anything to participants;
- *Instrumental*: Participation that is necessary for a process to occur in which participants welcome the outcome, but have no influence over the process occurring;
- *Representative*: Participation in which groups of people can play a role in determining the nature of a project or process;
- *Transformative*: Participation as empowerment, in which a process is moulded and driven by participants and can transform people's realities.

Nominal and instrumental modes of participation engage victims in transitional justice mechanisms as witnesses or givers of testimony (as in trials and truth commissions), but offer them no agency in determining what mechanisms occur or how they are implemented. An alternative and transformative approach is to ensure that change is made by empowering victims themselves, rather than by others acting on their behalf, permitting victims to engage on their own terms in ways that are empowering, and providing a route to political change driven by victims.

⁹ White, Sarah C. (1996) *Depoliticising development: the uses and abuses of participation*, in Pearce, J., *Development, NGOs, and Civil Society: Selected essays from Development in Practice*. Oxford: Oxfam.

¹⁰ Arnstein, Sherry R. (1969) A Ladder of Citizen Participation. *JAIP*, 35 (4): 216-224.

Forms of participation

What the above forms of participation might mean in a transitional justice process has been articulated in an alternative typology by Impunity Watch, with a legally-based understanding explicitly targeting victim participation in transitional justice mechanisms:¹¹

- *Notification*: A passive form of participation, in which victims are informed of a TJ process in general or of a particular case or file;
- *Collaboration - indirect participation during implementation*: Indirect participation in a process, such as through a lawyer in a trial, or through a victims' representative in other processes;
- *Incidental Expression*: The provision of indirect input to a process, such as through a victim statement.
- *Providing Information*: The provision of information by a victim on the terms of an authority requesting it;
- *Collaboration - direct participation during implementation*: Active participation by victims, such as during a consultation process;
- *Full Empowerment - participation as decision-makers*: Victims participating in every stage of a TJ process, and having control over it.

The challenge of a typology rooted in a criminal justice approach is that it is restricted to institutional approaches and denies that historic violations can be addressed in other ways, for example through community processes and in spaces that are not created and controlled by authorities. Only the final modality ('full empowerment') provides an opportunity for victims to impact the nature of a process, and so all others can be characterised as nominal, instrumental or representative in terms of the agency victims have in any process.

Direct and indirect participation

Victim participation in criminal justice institutions has been most advanced by the practice of civil law systems to afford victims the right to participate as civil parties with basic procedural rights and powers. In Tunisia, the military tribunals that prosecuted a range of offences linked to the revolution, permitted victims to participate as civil parties, due to changes to the longstanding military penal code. Truth Commissions are defined by the participation of victims, whose testimony is the functional heart of the process that drives the production of truth. As such, they are understood as a necessarily victim-centred mechanism with the capacity to "restore and affirm the human and civil dignity of victims".¹² Empirically, the evidence for this is mixed with victims in many contexts deeply dissatisfied with the performance of truth commissions: it is not clear that the victim who is the central performer in the exercise truly

¹¹ Taylor, D. (2014) *Victim Participation in Transitional Justice Mechanisms: Real Power or Empty Ritual?* Impunity Watch.

¹² Aldana, R. (2006) A Victim-Centered Reflection on Truth Commissions and Prosecutions as a Response to Mass Atrocities. *Journal of Human Rights*, 5:107–12.

benefits.¹³ There are also degrees of participation in a Commission: rather few victims will give testimony in public or to Commissioners, with most engaging in the 'incidental expression' of giving a statement.

Reparations processes are (or should be) intrinsically victim-centred, since they seek to address the harms of violations. As such, they can be effective only where the needs of victims are well known, and this will demand participation at least at the level of consultation over victim needs. Reparation however also demands repairing the relationship between the victim and the state, and thus can best be done by changing the power relations between them, precisely the goal of an empowering approach to participation that can be achieved by seeing victims not only as recipients of compensation but as actors in the development and delivery of reparations.

A prerequisite to participation is knowledge that a mechanism exists and that there is a possibility to engage with it. Information and sensitisation is thus a crucial part of the infrastructure of participation, with a role to be played by mechanisms, authorities, civil society and the media. In practice, only a minority of victims can participate directly in institutions of transitional justice and most will engage with formal processes through the submission of information, or through representatives, such as lawyers. An alternative to representation in institutions is mobilisation and representation by peers, as has been demonstrated by victim movements globally. Victims themselves select their representatives from among their peers through their coming together to advance their agenda. This represents a non-institutional approach to participation that can both strongly influence a transitional justice process through advocacy, and serve as a route for information to flow between victims and transitional justice mechanisms.

The role of civil society

Civil society can play a substantial role in supporting participation, since it has resources – financial, technical and intellectual – that victims generally do not, and because many have a mandate to support transitional justice processes in general and victim engagement in particular.¹⁴ The role of NGOs can thus include: data collection and monitoring; sensitisation, representation and advocacy; collaboration, facilitation and consultation with mechanisms. These can all improve the flow of information between victims and mechanisms, supporting indirect participation. Civil society can also play a substitutive role, providing service delivery to victims (such as psychosocial support), and acknowledgement and material support, that complement official mechanisms. As such, where these are a part of the broader process, victim engagement with civil society can also be considered as a form of participation.

¹³ Robins, S. (2012) 'Challenging the therapeutic ethic: A victim-centred evaluation of transitional justice process in Timor-Leste', *Int. Journal of Transitional Justice*, 2012, 1-23.

¹⁴ Backer, D. (2004) Exit, voice and loyalty in transitional justice processes: Evidence on victims' responses to the South African TRC. Presented at the Annual Conference of the American Political Science Association, Chicago, USA. September 4th 2004.

1.3 Research methodology

The project uses a qualitative research approach, allowing a range of victims' views to be the primary prism through which the impact of the violations and the needs they generate of the transitional justice processes will be analysed. The views expressed by respondents are collected by making the fewest possible external assumptions, and so best reflect the social worlds of victims. The participation study adopted a mixed approach, combining semi-structured individual interviews with victims and practitioners of transitional justice and collective *focus group* interviews.

Three questionnaires were prepared on this basis: one for victims who participated in the mechanisms of transitional justice, a second for victims who had not participated, and a third for actors working on transitional justice (civil society, both national and international, lawyers, representatives and members of the mechanisms of transitional justice).

Interviews provide respondents with the opportunity to provide information in their own words and combine a structure with flexibility. The questionnaires should not prevent victims from narrating their experiences on their own terms. Using the semi-structured instrument, victims were asked about their experience of violations, their current situation, and their priorities of the transitional justice process. They were then asked about their understanding and experience of participation in the process, since its inception in 2011. Experts from national and international organizations, lawyers, human rights activists and representatives of institutions were questioned about how they defined victims, their understanding of victim needs, and the benefits and risks associated with victim participation. A simplified version of the questionnaire was also used to guide a focus group discussion with victims and their representatives in Sidi Bouzid.

Interviews were conducted between March and June 2015. The average duration of interviews was approximately one hour. All were recorded, after receiving respondents' oral consent, on the basis that participants remain anonymous. Interviews were conducted mostly in Arabic with only a few, with experts, in French. The resulting audio files, which constituted a total of almost 100 hours of dialogue with victims, were translated and transcribed into French. Analysis was performed inductively, through an iterative coding of data based on the frequency of terms, and by selecting representative quotations to illustrate respondent perspectives.

Sampling

To facilitate access to victims, transitional justice actors - and in particular representatives of victims' associations - were the initial partners of this study. Through them and with their support, a contact list was prepared. In this type of *network sample*, individuals are selected based on their links with a "core" of individuals.

The choice of study locations was made on the basis of prior consultations, with the aim of accessing victims from different "categories", affected by different types of violations, including both and personal integrity violations and economic marginalisation, whose legacy is historical and structural.

- In Tunis, interviews were made from March 11, 2015 to June 15, 2015 and were divided between Mornag, Cité Hlel, Sanhaja, Bab Saadoun, Sidi Hssine, Oued Ellil, the northern city centre, Mutuelleville as well as downtown.
- In Nabeul, interviews were made between 7 and 20 May 2015 in different regions: Grombalia, Menzel Bouzalfa, Korba and Nabeul city.
- In Bizerte, interviews were made on 15 April 2015 in Bizerte city.
- In Kasserine, interviews were made between 24 April and 1 May 2015 in a number of parts of the region: Sbeitla, Thala, Feriana, Sbiba, Hidra and Kasserine city.
- In Sidi Bouzid, interviews were made between 1 and 16 May 2015 and one *focus group* was held on May 16 in Sidi Bouzid city.

A total of 82 interviews were conducted with a single *focus group* made in Sidi Bouzid, which brought together 21 participants. These interviews were conducted with 51 victims involved in the process, six victims who had not participated, and 24 with practitioners and experts working on transitional justice. Despite emphasising the importance of taking gender into account in the process, only 13 interviews with women victims were made. Access to women was not easy because victims associations are male dominated and thus often offered male contacts. Furthermore, we noticed a reluctance on the part of women victims to give testimony to a research team outside any legal framework and without receiving any direct assistance in return. Social taboos are also partly responsible for this silence, and access to women victims outside towns and urban areas remains very difficult, due to conservative local traditions. Finally, some women do not want to be visible after the suffering they have experienced and they have abandoned any attempt to claim their rights.

2. The transitional justice process in Tunisia

Since independence Tunisia has known serious and systematic violations of human rights, including torture, arbitrary arrests and executions, and sexual violence. A system of corruption (financial, administrative and political) that spawned regional and social disparities and important violations of economic, social and cultural rights, was also established. The revolution and the fall of the regime in 2011 raised the question of dealing with the past and with legacies of violations very early, pursuing perpetrators, seeking truth, compensating victims, and ensuring non-repetition through the reform of the administration to allow eventual reconciliation.

As of January 15, 2011, the date of the announcement of the departure of the President, several measures related to the democratic transition were established, some of which can already be regarded as an initial core of transitional justice.

2.1 Military tribunals and future specialised chambers

The criminal aspect of transitional justice in Tunisia represents the biggest flaw in the process, reflecting both its fragmentation and politicisation. Some major trials of former regime figures took place long before the drafting process of the transitional justice law, despite this providing

for judgement of those responsible for massive violations of human rights, within the framework of the IVD. Under Article 22 of the law on the general status of internal security forces, military tribunals were empowered after the revolution to try offenses committed by the security forces during demonstrations.¹⁵ For many victims, the use of military tribunals was reassuring, because of the good reputation still enjoyed by the army in the country and the lack of confidence in the civil courts, marked by corruption under Ben Ali.

Before the Military Court of Kef, Ben Ali, two former interior ministers, four general managers of the security forces, and sixteen high-ranking army officers were prosecuted for murder and attempted murder of demonstrators. Thirteen sentences were handed down in June 2012, including a penalty of life imprisonment for former President Ben Ali. In Tunis, 43 people were tried for similar crimes. Yet in April 2014 the Military Court of Appeal reduced the judgments at first instance leading to the release of a number of former senior security officials of the former regime, sparking outrage from the families of victims. The judgment has finally been sent to appeal at the Court of Cassation and is expected to be heard in November 2015.

These cases have generally had a limited impact with victims participating little, and the media reporting them only occasionally. Ben Ali's absence weighed heavily in this regard, depriving them of the ritual and cathartic dimension often attributed to such trials in transition. Moreover, they were quickly denounced as "show trials" for a few scapegoats, being so politically partisan. The obligations of the defence have been little respected, with Ben Ali's lawyer almost apologizing for this role, and chains of command have still not been established. The "executioners" - those who fired the deadly shots - remain free, creating tensions in cities like Kasserine or Thala or where people know them well. The question now remains open as to whether some of these cases may be transferred to specialised chambers opened up by the transitional justice law without violating the principle of double jeopardy.

2.2 The national consultations

To help unify the process, a Ministry of Human Rights and Transitional Justice was created on January 19, 2012, an unprecedented initiative in the field of transitional justice.¹⁶ This decision was also bitterly criticised by civil society, who saw a threat to the legitimacy and neutrality of the whole process of transitional justice, which by being institutionalised risked also being politicised. Some victims' associations feared that the process was being 'stolen'. The fact that the Ministry was in the hands of the Islamists did not address such concerns. A single 'umbrella', as a mediator for a plural and often divided civil society, or a 'Trojan horse' for *Ennahda*, the Ministry was in any case central to the planning of national consultations which give birth to a draft Basic Law.

¹⁵ See the "Draft principles on the administration of justice through military tribunals" of the UN Commission on Human Rights; and "Principles for the Fight against Impunity" (art. 29).

¹⁶ Since then both Egypt and Mali have followed suit.

A Technical Committee, composed of 6 representatives and supplemented by 5 large civil society coalitions, organized and held dialogues at both national and regional levels, with political parties or associations. Six regional sub-committees were created, with more than 100 members in total (lawyers, psychologists, teachers, civil society activists). Sessions were held in each of the governorates, with participants from civil society and victims' organizations invited to testify about their expectations and needs in terms of transitional justice. A national awareness campaign was organized beforehand in the country, particularly through short cartoons broadcast on national television and explaining relevant concepts in a didactic way.¹⁷ Participants were asked at the end of the dialogue sessions to complete a multiple choice questionnaire requesting their preferences as to the content of the future transitional justice law: 1800 were filled in total. It remains to be concretely assessed whether the national dialogue has enabled the effective participation of victims in the process, and if their expectations have truly been considered.¹⁸

¹⁷ One of these spots can be viewed on this link (Arabic): <http://www.youtube.com/watch?v=yo5uhMZokI0>

¹⁸ Indeed, some of the technical committee in charge of drafting the law, the "National Coordination Independent for Transitional Justice," which includes the "Group of 25" lawyers for the martyrs' and wounded of the revolution, but also the all-powerful General Union of Tunisian Workers (UGTT) and the Tunisian League of Human Rights, finally removed themselves from the legislative work alleging the overly political nature of the processes and legal flaws in the bill.

2.3 The IVD and commissions of inquiry

It was during his last televised speech that former President Ben Ali opened, probably without knowing it, the debate on transitional justice and the search for truth in Tunisia. Trying in vain to ease the tension in the nation, he promised on Jan. 13th 2011, to account for crimes committed by security forces against demonstrators and create three commissions: a commission of inquiry on violations of human rights committed during the protests, an investigative commission on corruption, and a commission for political reform. Despite multiple attempts to discredit these commissions by critics calling them "Ben Ali's commissions", all three have achieved significant results and it is important to integrate them into the process of transitional justice as a whole, to give it coherence.

The work of the "Commission of Inquiry into the abuses and excesses committed from 17 December 2010 until the end of its term", was based on hearing individual victims of the repression of demonstrations. The Commission also questioned the alleged perpetrators of these violations and visited many prisons, constituting an important system for archiving data on victims (personal data, event information) and enabling the creation of lists and statistics.¹⁹ From the beginning of its work, the Commission launched a major communication campaign, notably to call victims and their families to testify. A special phone line was created to receive such calls. In total, the Commission received and identified 2,489 cases, including 338 deaths (among which were 86 prisoners, 14 police officers and 5 soldiers), and 2,147 injured (including 62 prisoners and 28 police officers). The mandate of the Commission of Inquiry, limited only to the revelation of what happened during this short time period, lacked the resources or the publicity necessary to accomplish its objectives. Whilst it was a true milestone, it remained insufficient. The Commission's report was also somewhat vague, with its members likely having suffered various pressures from the authorities before it was published.

"The Commission of Inquiry into corruption and embezzlement", is an innovative exercise in the field of transitional justice, including economic crimes within its mandate. It worked almost as a Truth Commission, with citizens invited to present their cases and file complaints. A hotline was set up to receive these calls and more than 5,000 cases have been documented, including several hundred which were subsequently forwarded to the courts. These files often tie cases of corruption to other violations of human rights, such as harassment or violence by police forces. To this extent, the Commission has also functioned as an instrument of social inclusion, promoting the recognition of citizens previously considered as outsiders. The Commission's work was performed under constant political pressure, to the point that its headquarters was guarded by the army, and was hampered by the death of its President. It did however contribute to the fight against impunity and the dismantling of a mafia system. The Commission has since

¹⁹ Commission d'investigation sur les abus enregistrés au cours de la période allant du 17 décembre 2010 jusqu'à l'accomplissement de son mandat (2012) Rapport de la Commission, avril 2012, version abrégée disponible en Français sur : http://www.justice-transitionnelle.tn/fileadmin/medias/jort/Rapportbouderbela_fr.pdf

been transformed into a permanent body to fight corruption, and its work will no doubt be useful to the IVD whose mandate also covers "economic crimes" and corruption.

The organic law on transitional justice, passed in December 2013, contains 70 articles, and defines the foundations of transitional justice in Tunisia, referring to a normative framework that includes truth, prosecutions, reparations, and institutional reform. The bill devotes the majority of its articles to describe the role of the *Instance Vérité et Dignité* (IVD, Commission for Truth and Dignity). The IVD, composed of 15 members selected by consensus from among the candidates that are "neutral" and have "integrity and ability," will work for 4-5 years. Its mandate is broad, and includes: the investigation of violations committed since 1st June 1955; the collecting of testimony of victims, and provision of a definitive list of victims; identification of the responsibilities of the state and its institutions; an understanding of the root causes of violations; creation of a database of violations; recommendations for reparations (both individual and collective), democratic reform, and reconciliation; preservation of the national memory and archives; taking immediate action to assist and compensate victims. The law also created "specialised judicial chambers", responsible in the first instance for addressing rape and all forms of sexual violence, murder, torture, forced disappearance and arbitrary execution, committed since 1st June 1955. During the plenary debates in the Assembly, additional responsibilities were added, including economic crimes, defrauding elections, or coercing an individual into exile.²⁰ Relatively novel in the history of transitional justice, the fight against corruption appears central to the organic law. Violations of socio-economic rights are recognized on several occasions, notably through a broad definition of victims that includes "any area that has been excluded and marginalized systematically." The latter definition theoretically opens the way to collective forms of reparation or specific development programmes for the governorates of the interior, such as Sidi Bouzid, Kasserine, and Gafsa, which were excluded from the country's growth and marginalized by the central government in Tunis mainly due to their long tradition of dissent. The law creates, besides the IVD and specialised chambers, a "dignity fund for victims of tyranny", to centralise reparations programmes, a "Committee for the reorganization of the Public Service" to examine dossiers of officials in various sectors (media, justice, security etc.), and an "Arbitration and Reconciliation Committee" which, if not permitting amnesty encourages clemency for some crimes, especially the economic, where perpetrators are repentant.

2.4 Reparations

Very quickly after the revolution the debate on transitional justice in Tunisia became more focussed on reparations than the search for truth or accountability. A decree was enacted as early as February 19 2011 to provide amnesty for anyone who had been convicted or prosecuted for political reasons prior to January 14 2011. More than 12,000 former political

²⁰ This addition is controversial, and it is unlikely that specialized chambers can address "fraudulent elections" and "forced exile for political reasons", as these do not constitute crimes under Tunisian criminal law and thus run counter to the objection of non-retroactivity of penalties.

prisoners were able to benefit from the general amnesty, which also included provisions for compensation, reparation, and professional rehabilitation through preferential hiring in the public sector.²¹ This controversial decree was quickly suspected by the opposition of being primarily a means for the Islamists to place their supporters in key posts in the administration, especially since it turned out that several members of the Salafist movement *Ansar al-Sharia* - since classified by the authorities as a terrorist organization - were given positions in the civil service on that basis, particularly in the education sector.²² This categorization of victims, marked by a tendency to classify them according to periods or types of violations suffered, characterizes the Tunisian process and has helped to fuel its politicization by encouraging "competition" between victims.

Legislative Decree No. 97 of 24 October 2011 concerned the compensation of martyrs and the wounded of the revolutionary, and planned to construct a memorial and a museum, as well as naming streets after martyrs. It defines the martyrs and wounded of the revolution as "people who risked their lives to realise the revolution and make it succeed and were martyred or have suffered injury as a result from December 17 2010 up to 28 February 2011". To benefit from the planned reparations, rights holders had to report to the governorate headquarters with a medical certificate confirming their status as a "victim". This procedure has led to many injustices: some victims did not have the 80 dinars (about \$40) needed to obtain such a certificate; while others were easily able to produce fraudulent documentation with the support of corrupt doctors. Indeed, the lack of transparency in the definition and establishment of lists of victims remains a major obstacle to the legitimisation of transitional justice in Tunisia, and also feeds competition for victimhood. Payments were allocated in two instalments in February and December 2011, totalling 6000 dinars (\$3000) for the 2,749 injured and 40,000 (\$20,000) for the families of 347 martyrs. The decree also provides for the reimbursement of travel expenses and medical expenses for the injured, without differentiating according to the severity of injuries.²³

The establishment of an objective list of victims is still subject to significant challenges, partly related to this financial benefit, but also to its symbolic value. The fragmentation of the process has helped fuel the division of victims into categories and encouraged competition among them. The application of Decree Law No. 1, in particular, has been compromised for essentially political reasons, the granting of financial compensation to Islamist former political prisoners

²¹ Politically, it was very difficult for the government, dominated by Ennahda, to pay monetary reparations to former prisoners, most of whom came from its own ranks. In protest, many demonstrations and hunger strikes were reported among former political prisoners, denouncing irregularities in the implementation of Decree No. 1.

²² Al Huffington Post Maghreb (2013) La loi d'amnistie en question, 24 juillet 2013. http://www.huffpostmaghreb.com/2013/07/24/recrutement-fonction-publ_n_3643731.html. In total, more than 4500 people have been reintegrated into the civil service, a total of 25,000 jobs provided (figures provided by the International Center for Transitional Justice).

²³ Figures provided by the Ministry of Human Rights and Transitional Justice.

being badly perceived by much of the population, who consider that, for supporters of *Ennahda*, the taking of power is reparation enough.²⁴ The refusal to recognize the nature of the past victimhood of Islamists persists: given the lack of a comprehensive process of unveiling the truth, many consider that Islamists exaggerate when they share their suffering or detail the torture methods adopted by the Ben Ali regime. (These included being tied up like a "roast-chicken", sodomy, and solitary confinement, among others.) Legitimate applications for reparations made by former political prisoners of Ben Ali are often perceived by the secular opposition as a sign of their venality, and not as an expression of suffering and a claiming of their rights.

The text of Decree Law No 97 directly politicized the issue of reparations by subjecting them to the condition of having "sacrificed one's life for the revolution." This criterion is problematic since it excludes many accidental victims (that the police mistook for demonstrators), members of the families of demonstrators (such as the seven month old child who died from inhaling tear gas), or people who only wanted to help other victims fleeing the violence of the state. The question therefore arises whether the purpose of the decree is to reward activists or provide reparations to victims of gross violations of human rights. In theory, the right to reparations is not dependent on the nobility of the causes defended by a victim. The fragmentation process and focusing on *periods* instead of the *nature* of violations excludes victims who suffered outside the period defined by the decrees, such as those linked to the uprising in 2008 in the mining area (*bassin minier*), who have strongly protested against Decree No. 97. Whilst the decree claims the revolution began in December 17th, 2010, such victims feel that its real origin was in January 2008, in Redeyef.²⁵ This shows that the issues raised by reparations, far from being simply material, are deeply linked to identity, memory and historical disputes.

²⁴ The same type of argument was common in South Africa, among the opponents of affirmative action policies for the recruitment of the black population.

²⁵ Following the protest, a government circular eventually included, in December 2012, victims of the mining area as beneficiaries of Legislative Decree No. 97.

3. The victims and the process

3.1 Understanding victimisation

Who is a victim

A fundamental characteristic, which has affected the entire transitional justice process since its inception, is the lack of clarity on the definition of victims and an inability to identify them precisely. This confusion is partly explained by the absence to date of a definitive list of victims both from the distant past (Youssefistes, Perspectivists etc.) and of recent events (martyrs and wounded of the revolution), and seems to have been encouraged by the fragmentation of the different initiatives to search for the truth (commissions of inquiry, consultation, IVD etc.). Among other difficulties is the inability to "understand the magnitude of the number of victims because there is no accurate *mapping*. [...] at this stage; there is no clear view even on an interim number." This lack of clarity has fed the suspicions of many around the transitional justice process, encouraging competition between victims and feeding allegations of "false victims". Thus, "the first challenge is the lack of a database, of the number of victims and of the nature of the violations," said a representative of the former Ministry of Human Rights and Transitional Justice (VP82).

Consequently, several respondents referred to either a strictly legal definition of victim or – on the contrary - to a very broad definition, that would include indirect victims and affected communities. Thus, "those implicated include not only the direct victim but also relatives and the family," said a judge of the military court in Tunis (VP5). "My family is also a victim," said one ex-soldier and victim of the *Barraket Essahel* case (VP01). The collective nature of victimization, makes it a structural element defining families, neighbourhoods or regions, which traverses the Tunisian experience of transitional justice. "If he is from a village it is the '*Douar*'²⁶ which is concerned, if from the city it is a neighbourhood: the whole region is concerned," says another former inmate and victim of torture (VP46), implicitly referring to the possibility for a marginalized region to define itself as a victim of institutions.²⁷

Going even further, some respondents highlight a collective victimization extending to the Tunisian population as a whole. Thus, "it is all the people who have been injured," according to an international expert (VP06). "All Tunisian people even our children, we are victims for generations," said a victim of torture (VP68).

The effects of victimisation

Many victims cite, among the main consequences of their past suffering, the interruption of their careers or their education. This professional focus can be partly explained by the fact that the

²⁶ Village neighborhood.

²⁷ Lawyers Without Borders and Tunisian Forum for Economic and Social Rights (2015) Request for establishing the statute of "region-victim" to the city of Kasserine, submission to the Truth and Dignity Commission, June 2015.

first decree on transitional justice granted employment and professional rehabilitation as a form of compensation to former political prisoners. It also confirms the importance of the concept of "dignity" in the Tunisian transition, challenges to violations of the right to work constituting one of the first aspirations of the revolution.

Thus, according to the mother of a young man killed by police during the revolution (VP7), a victim is "a person whose career is interrupted. The human being lives to serve his community and anyone who is deprived is a victim in my opinion." A former inmate said for his part that "the regime of Ben Ali killed my ambition; I had to stop my studies because I was excluded from all high schools. [...] Life in prison was more comfortable for us than outside because I was always chased by the police and forced to move from one station to another throughout the day to give our signature".²⁸ This continuation of victimization, ongoing outside prison for both direct victims and their relatives - especially victims' wives - was recalled by several victims. A member of INSAF, the association for ex-soldiers recalled (VP52) "there were those who are required to sign at the police station four times a day, which prevented work" (VP52). More generally, these interrupted careers recall that one of the first effects of victimization in Tunisia has been both social and economic marginalisation, key issues of the Tunisian revolution and elements that are recognised by the transitional justice law. As a former detainee (VP13) remembers: "the victim is the one who is oppressed and the oppressed is the truly helpless. This is the real victim in Tunisia." Therefore, "the victim wants to feel that he belongs to the motherland. The victim, in a given period, feels excluded and is not regarded as a citizen and does not have the same rights as others ", said the coordinator of the association Activists of Thala (VP60). Often this marginalisation takes a geographical aspect, with regional disparities often mentioned as a central feature of past violations. The exclusion of these regions appears to continue today, particularly with regard to sensitization efforts.

Wives of victims, direct victims

Women are often cited as the first targets of these attacks on social and economic rights, and as paying the price despite the lack of public acknowledgement. "I have closely followed the case of several women whose husbands were victims, they were suffering, they were the ones who suffered the most and who paid the greatest price. Behind every male victim, there is a woman who supported him," says the President of the association "Free Woman" (VP24). Shame and social taboos still seem to surround the gender-specific violations in the Tunisian context. Thus, "there are men and women who have been raped in prison, there are women who have reached menopause and who have not given birth because during their fertile years, their husbands were in prison" says an activist (VP31).

²⁸ Human Rights Watch (2010) A Wider Prison, available at: <https://www.hrw.org/report/2010/03/24/larger-prison/larger-prison>. The report denounced the fact that Tunisian authorities subjected persons convicted of politically motivated offenses to a wide range of arbitrary restrictions following their release from prison.

Moreover, "a mother or a woman who is deprived of her imprisoned husband is a direct victim since she lost her husband, the father of the family, her confidant. She will suffer by travelling to visit him," says VP81. "Indirect victims" are therefore especially women, those that will "bring the basket" him and whose grief will be more intense than that of the victim [...] And the other victims are the relatives and friends of the direct victim" an activist (VP24) said. These indirect victims seem to have not always been aware of their status as victims and their rights. Thus, "the woman whose husband died believes that the right to justice is possible. She does not know that she was also a victim during the years of suffering she has experienced," said the same activist (VP24). To allow these stories to be recognized publicly, many victims interviewed require the establishment of specific cells for women within the IVD. Indeed, "there are girls who do not want to talk and are not ready to report to the Instance. They even refuse to talk to the judge. They are ashamed and afraid for their children. It is the role of the IVD to convince them to speak and to respect the confidentiality of their file [...] There is no privacy for the woman who is encouraged to talk," says a former detainee (VP14). The wife of a former prisoner in turn recommends the creation of "premises for women because in a mixed space, women cannot talk."

Awareness is also mentioned as a way to better integrate women in the transitional justice process, including by helping them become aware of their own status as victims and of their rights. Indeed, "our awareness is not developed enough and has not adequately put forward the concept of indirect victim since the woman has not been imprisoned in most cases and has not known physical torture. For her, perhaps it is not of interest", recognizes a member of the IVD (VP83), noting that many women are not even aware that they are victims and so can demand reparations. Thus "of 3000 cases [filed by women in March 2015 to the IVD] only one woman has discussed an attempted rape by police officers during the period of January 14. There is no other evidence that we know that such violence happened," she continues. The respondent therefore recommends that we must "facilitate procedures and protect women from the pressure from neighbours or others because of social stigma and judgments." "Despite all the awareness and the work that has been done, women are not turning towards the IVD" recognises an expert:

Even when organising something and being asked to intervene, they refuse. The state and civil society must give them more importance, since they face many pressures. When the IVD opens offices in the regions, women will not dare go there because they will be afraid [...]. They are afraid of scandal, they do not understand that there is no shame in that they are also victims. (VP06)

Women are probably not the only ones to be unaware of their status as victims. Indeed according to an international expert "some do not consider themselves as victims, others have benefitted from the amnesty and therefore believe they no longer have the right to bring their cases before the transitional justice commissions, or they believe that the violation is not serious enough to participate" (VP57). Again, awareness of the concept of the victim is presented as one of the ways to overcome these obstacles and encourage their participation. "The process

started a year ago and there are people who still do not know they are victims," says the President of an association (VP12).

3.2 The politics of victimhood: A victim competition?

The nature of the Tunisian transitional justice process appears to have encouraged the politicisation of its key players. The tendency to see victims as political agents appears repeatedly in interviews, with two key trends: This politicisation is either considered as negative, raising doubts about the honesty of victims, or - on the contrary – it is seen as an organising element, constructing victims as either beneficiaries or activists. The idea that a "real" victim is a necessarily depoliticised person was heard repeatedly. Thus, according to an international expert (VP22), "the victim is a person who was hurt when she did not deserve it;" one "who was not involved in a conspiracy or working against the government or against injustice" (an expert in transitional justice, VP55). For a former detainee from the mining area (VP17), the victim is "one who has hit no-one, who did nothing." This narrative can be a way to exclude from the remit of transitional justice Islamist militants who resorted to acts of violence leading to their arrest. In general however, victims were arrested because of their membership of the Ennahda movement and are sometimes viewed with suspicion as not being "real victims" or as having deserved their suffering. In contrast to these "false victims", the interviewee adds that "we must go and see the situation of young people who do not participate in political movements, they have advanced degrees and are unemployed. They are the real victims. "

This opposition between "false" and "true" victims structure the debate on transitional justice in Tunisia and appears to have been strengthened both through the adoption of Decree Law No. 1, widely seen as favouring only a certain category of victims, and by Ennahda's accession to power after the elections of October 2011. "There are connected victims, who know the right people involved in this process, but they are not victims. A true victim who fought refuses the participation of false victims in this process because it is a sacred thing" says an international NGO employee (VP73), recognising the symbolic value that the label 'victim' seems to have acquired in Tunisia. According to a former detainee (VP58), the general legislative amnesty proves "that there has been an ordering of the victims to the benefit of some parties, namely the people who were then in power, as they were the only ones to have been repressed".

The idea that certain categories of victims are more favoured than others dominates the discourse, reinforcing the idea of a form of victim "competition" in Tunisia. These suspicions, which impact mainly Islamists, are also affecting the wounded of the revolution, said a former detainee (VP72), who "presented themselves as victims while for some they are not." These "victims who have relationships" are stigmatised as those linked to the Islamist party in power after the revolution. "Victims of violations found themselves on the political scene and have regained their rights, especially the most important, the right to expression. These victims are currently very active in political parties," says the president of a youth association (VP54). "From a quantitative point of view, there was the omnipresence of a definite power: the Islamists," says the president of a victims' association (VP12), which adds that "there was no consideration of other categories that are different historically and culturally." Consequently, "the process was

politicized and, more importantly, ideologized: sometimes it has a dimension of revenge and sometimes one of blackmail with a logic that profits certain political parties."

According to victims themselves, the suspicion surrounding transitional justice in general, and applications for reparation in particular, forced them to justify themselves, making their marginalisation more extreme and participation in the process more difficult. "There are people who say that I have taken 15,000 dinars and 20,000 dinars from Ennahda and the government, and I got compensation and my position was finally restored. They accuse me of not helping them, and you see the baseness of these people, how far it can go?" asks another former detainee (VP46). Often Islamist victims feel unfairly assumed to be "terrorists" in the post-2011 security context and even more so after the attacks of 2015. "Even now, there are people in Tunisia that classify us as Islamic terrorists. I want everyone to know that I am innocent," pleaded a former political prisoner in Tunis (VP4). Others, impatient of the doubts expressed in them, raise their voices in response to the all too frequent accusations of lies, venality or exaggeration. A young man injured in the revolution and tired of four years of fighting, concludes: "The harm to me is clear, I should not need to ask for things."

The politicization of the process

The most obvious reason victims choose not to participate is because they believe that the process will not yield the results they seek. Much of this disillusion with transitional justice derives from a lack of confidence driven by perceived politicisation, i.e. that the process has goals driven not by victims' needs, but by others' agendas. The implication is that the transitional justice process becomes a tool for politics, exploited by tendencies and parties for their own advantage. At various times, the Islamist party Ennahda is impacted by these charges of 'commercialisation', of which demands for reparation were seen as the principle symptom. A representative of civil society explained:

This political party (Ennahda) began to 'sell' its commitments, leading to the exclusive and limited participation of victims in the process of transitional justice. Yes, this orientation was intentional: investing in the victim, enjoying the smell of the victim at the elections. A political current has been marketed as the greatest victim of the past and it has claimed more participation. [...] Unfortunately, the concept of compensation itself is invested and presented as a strategic tool for the benefit of the same political party. (VP11)

Some respondents also claim that reparations have been used by political parties for their own benefit around certain communities. According to an international expert:

We had been there, the situation was catastrophic. We were told that Ennahdha told them that compensation would rather go for people from the mining basin (in Redeyef) or leftists. And they told them: "You, you are one of us, you can wait." I am not defending anyone. (VP06)

Even in the institutional mechanisms, such as the military tribunals, the effectiveness of victims' participation as civil parties was perceived to be undermined by political differences and certain logics of power. A judge from the Military Court said:

In my opinion, I think the case was highly politicised, there were groups with different tendencies and each demanded something. There have even been arguments between lawyers of the plaintiff about defence strategies. Conflicts between associations and groups of lawyers [...] politicised issues. (VP05)

However, we must recognize that the role of political parties can also be positive, to the extent that some - including Ennahda - have been used as a vector to encourage broad participation from their base, thanks in part to the deep links maintained with the victims and the communities concerned. Indeed, for many interviewed, Ennahda is the only institution that has supported them through their victimization for decades; the party today is naturally regarded by them as a way to access the mechanisms that will allow them perhaps, to deal with this painful legacy. "I only participated with the Ennahda party" summarises a victim of torture (VP20).

Victim or activist?

The focus of the discourse of transitional justice in Tunisia on reparation contributed as much to this politicisation as the construction of an ambiguity around the term 'victim', alternately regarded as a worthy title or as a form of denigration in favour of the more honorific status of "activist" preferred by some because it is perceived as less passive. From the perspective of the victims themselves, there is a tendency to resist the title of victim, which is perceived as a form of denigration. "We are not victims because we have fought against the oppression of Ben Ali, against the oppression of freedoms and the practices of oppression of Ben Ali against all the Tunisian people, against all elements and social groups without exception." says another former detainee (VP 14).

Being a victim seems to have become pejorative, since the term appears to imply a certain passivity, a certain vulnerability which, with their activist past, they do not recognise. A former prisoner (VP14) adds: "We are not victims, victims who have suffered oppression and no longer have a role in society. No, instead, we have a large role in the transitional process." Participation in the process appears as a way to repair violations suffered, reaffirming their activist status. Another former prisoner (VP16) considers meanwhile, "I am a victim, not in the sense that I'm going to beg. I consider myself as the hero of an era," highlighting the permanence of a negative perception of the victim. "Personally I cannot say I'm a victim because I faced tyranny with all my conviction. I was prepared for any confrontation. This is the price we must pay because we fought for the best," says an ex-detainee (VP39). The president of a victims' association (VP62) summarises "some, because of their cultural background, consider that the word 'victim' is a word for the weak, and they do not like the word." An activist (VP60) for his part considers that "when the victim is participating in this process, the logic of sacrifice for his country will be questioned. This is a personal view. If I fought for the good of this country I would not expect anything in return", reflecting the rather negative perception given to requests for reparations, often seen as a sign of vengality. The refusal to appear as a "beggar"

serves to curb the participation of certain victims in the process, challenging the assumption that participation in the transitional justice naturally contributes to the empowerment of victims.

"The concept of transitional justice itself remains ambiguous in the eyes of normal people. They believe that victims only want money," said one former prisoner (VP61), implying that the victims were 'abnormal'. "They regularly allege that our activism is paid in cash," says a victim of torture (VP71). "Transitional justice is money, this is the illusion of the official political discourse. This perception has affected the quality of the process in all its dimensions. The compensation initiatives have nurtured this idea," said an international expert (VP11). Some of those interviewed testified to the stigma they suffered while talking their demands to the authorities. "We contacted the head of the minister's office, and were initially not taken seriously, believing that we wanted to take advantage of the situation and obtain reparation by pretending to be victims of the former regime" reflects an activist (VP31).

3.3 Understandings of transitional justice: Recognition first, forgiveness will follow

General understanding of the concept

The interviews demonstrate in general a good level of knowledge about what transitional justice is and its various aspects. Surprisingly, and despite the centrality of reparations discussed above, demands for accountability often seem to be a priority. Reconciliation, which was at the heart of discussions during our investigation and following the attack on the Bardo Museum, does not seem a goal of victims interviewed.

Accountability itself is however not always understood as punishment or in a strictly criminal sense, but rather as a form of recognition. Thus, "victims especially expect recognition and rehabilitation," said an expert (VP6). "It is true that there are those who await genuine convictions, but most want to bring perpetrators to account and see them admit what they have done." The mother of a martyr of the revolution (VP7) talks of her desire to see "first judgment, then punishment, then – perhaps - reconciliation," but added that "I must see the guilty be punished (not necessarily be imprisoned), and pay his debt. No longer to have the right to perform his duties seems to be punishment to me," she adds, demonstrating the multiple understandings of accountability, encompassing the administrative vetting process still largely under-applied in Tunisia despite the establishment of a committee for institutional reform within the IVD. The mother of the victim nevertheless concludes that "if this reconciliation law passes, justice will be finished. I don't need anyone to judge the minions, I want the big heads." Such major trials, however, are still pending. Specialised chambers to take care of this aspect, according to the transitional justice law, seem largely unknown to victims who never mention them.

Forgiveness is still treated with some suspicion, and in any case rarely considered at the price of impunity. "I want accountability and compensation, I want to confront myself with all the executioners who tortured me and after I will decide if I will forgive them or not," says a former prisoner and torture victim (VP53). A military victim of the *Barraket Essahel* affair (VP1) explains

that "the recognition of crimes is part of a kind of therapy for the victim. It is necessary that the perpetrators do their *mea culpa*. Then we can easily take the next step: reconciliation. When perpetrators have confessed and victims are forgiven, we can consider reconciliation, which would therefore be natural."

Among victims familiar with the process, many seem generally vexed about its lack of impact and results. Transitional justice is often criticized as being mere theory without concrete results, "nothing more than a concept. It has not been applied" as says a young man wounded in the revolution:

We need something concrete, enough chatter. Quick and clear decisions. This is what I need to be reassured because I am increasingly afraid. I was already scared early in the process, and things keep getting worse. Plus it's slow, and it's serious, because we have the impression that they want us to forget what happened, they think we will eventually get bored and give up. I do not believe them. I think they have unhealthy intentions. (VP02)

Transitional justice is only a technique of the powerful to distract victims from their rights. Worse, for a former soldier tortured by the old regime, (VP8) it is "unfortunately an illusion. It is not done and never will be." This lack of results is for another ex-military (VP01) also a source of fear. "I do not feel safe at all. I am afraid. Until there is nothing concrete, I'm afraid."

Knowledge and attitude towards the institutions: "The more institutions, the less we get!"

Victims interviewed, although they often seem to have an idea of what transitional justice is in theory, seem more confused when it comes to describing actual mechanisms. "I have no idea about the mechanisms of transitional justice," said a victim of torture (VP20). "I have no idea about these mechanisms," said a former prisoner (VP37). "Regarding the mechanisms, honestly I have no idea," offers another (VP38). This lack of knowledge seems to particularly affect disadvantaged regions in the country, including Kasserine and Sidi Bouzid, accentuating the cleavage with the capital. Thus, "the victim that is not urban is still unknown, she does not even know that there is a truth commission. And even if she knows, if she understands her role, she may believe that it is a charitable organization," according to a former political prisoner (VP14). "Elsewhere, outside Tunis, people do not even know they are victims," believes one expert (VP06).

This confusion seems to have been exacerbated by the multiplicity of bodies and mechanisms linked with transitional justice since the revolution, and by the multiplicity of actors: investigation commissions, committees within the National Constituent Assembly, the Ministry, associations, the IVD, courts, international organizations etc. Several victims testified to their difficulty in navigating this complicated environment, unable to know where to drop their cases. The fragmentation process has clearly affected the participation of victims. The wife of a now deceased political prisoner recounts her journey:

I submitted a dossier to the Karama association for political prisoners; they contacted the National Pension and Social Insurance has asked for a reassessment

of attestation of SONEDE (former workplace of the victim) so they can recalculate the amount for the years in prison. That makes two months I went to SONEDE. Each time, they claim that it will be ready the following week. The last time I was told that it was ready and awaited only one signature. But it must also be sent to the Ministry of Agriculture and the Prime Minister for signature of the Prime Minister. Only then it can be returned to SONEDE. Who knows how long it will take! (VP10).

A former prisoner (VP19) said: "When I spoke to the IVD, I had the sensation of being part of the scenery; it's been a couple of months since I submitted my file, I thought I would have a quicker response." This vagueness concerns not only the government, but also the many associations related to transitional justice that emerged after the revolution. "There were a large number of associations, committees, bodies. It remains unclear until today. Even the Department of Human Rights no longer exists, it has become the Ministry of Social Affairs. We do not know where to turn," says a young man wounded in the revolution (VP2) who adds: "The records of the wounded of the revolution were scattered everywhere: Prime Minister's office, the Ministry of Human Rights, associations. Everyone wanted to take care of it. And the more institutions there were, the less things we got".

This crisis of confidence is often reinforced by the perception, shared by many, of a lack of representativeness of the victims to institutions involved in the process, primarily the IVD. Several victims particularly cite the "luxury cars" of the members of the latter, widely criticized in the media, or too many receptions and conferences in major hotels in the capital, and bemoan the waste of money thus generated, as explains a victim of torture:

What really hurts us is that I consider the IVD receives salaries on our account, they exist thanks to us and exclude us. The victims and their suffering are absent from the design and programming of the IVD. My problem with the IVD is that it works in closed offices, it does not hear us. (VP70)

Several respondents recommended harmonization of the work of these different actors in order to "de-fragment" the process, stressing that this confusion encourages politicization. "It's very confusing," reminds a former inmate who continues:

The process started with the creation of the Ministry of Human Rights and Transitional Justice. Everyone has submitted records, several associations were created. But as the past will make distinctions between victims, they will come to nothing. If they do not harmonize to work towards the same goal: the success of transitional justice, and as long as they do not abandon partisan negotiations, it will be a waste. (VP9)

The centrality of reparations and their limitations: "money and dignity"

The debates on transitional justice in Tunisia focused very early on reparations, understood – wrongly - in an essentially financial sense. "Justice is the compensation, that's the basis of transitional justice. It must compensate the victim," demands the president of a youth association (VP54). "That's how they see justice, not as a form of preserving memory through

erecting monuments and other things [...] In the end, 90% of them expect material compensation for the harm done," says an expert (VP06). The president of a victims' association (VP12) meanwhile deplored that "we only speak of financial compensation. We do not even talk of moral compensation. Nobody speaks of symbolic buildings. "

However, many victims testify to the lack of financial reparation and the inability in any case to compensate them for their suffering. An ex-prisoner (VP36) asks: "Transitional justice, what is it going to give me? Is it able to compensate me for 20 years of my life?". The notion of irreparable harm seems ever present among the victims interviewed, including a former political prisoner:

As for reparation, you could offer me billions and it would not matter to me, because they could not give me back what I lost. What I experienced is comic and tragic at once. Try putting someone for an hour - I would not say for years - in a cell where the toilet is blocked, with a capacity for 30 or 40 people, but where 200 are collected with lice hopping everywhere. Do you think this is calculable materially? And I have just mentioned an hour, I'm not talking about several years. Those who talk of remedying this injustice or calculate the years of suffering have not experienced all that. (VP09)

The paradox seems to be that despite the centrality of reparation, it is largely rejected by victims, sometimes even regarded as insulting. "Besides, if I meet a victim whose only claim is for material compensation, I do not agree with it. This is only a small, symbolic part. Money cannot replace what I have experienced," says a former detainee (VP09). In general, reparations are understood a linked with the recovery of a lost dignity, and in the continuity of the demands of the revolution. "On a personal level, transitional justice is to restore my moral and material rights, and to restore my dignity," says another former prisoner (VP04). The fact of finding a career is sometimes presented as a way to recover this stolen dignity although this form of reparation is not without issues.

Vocational rehabilitation as a form of reparation and its limits

The choice, in the context of Decree-Law No. 1, of vocational rehabilitation as a form of reparation seems to have partly convinced the victims interviewed although, as we shall see, that it has not always been well adjusted to needs. Rehabilitation is in any case often presented as a more dignified way of thinking of reparation, since it allows long-term capacity building. "The major challenge for transitional justice is to guarantee the right to work and therefore promise a dignified life," explains another former prisoner (VP36), while a former detainee (VP42) argues that "the most important thing I got is serenity, inner calm and hope, thanks to the general amnesty that allowed me to work" (VP42).

Yet it appears that these measures were often inadequate, or became the object of discrimination and were therefore sometimes experienced by victims as a new humiliation. Integration into new positions, in particular, seems to have been ill-conceived, often revealing difficulties for victims who felt stigmatised by their colleagues. "After the revolution I benefited from the amnesty but that didn't allow me to return to my job as the manager of the company

where I work – so I refused to resume my post. I complained to the authorities and I returned to work but the problem now is that I suffer from discrimination from my superiors," said one former detainee who participated in these programmes (VP26).

Sometimes, the assigned position is considered unsuitable given a victims' qualifications, who thus perceive their post as an insult. A former prisoner and torture victim (VP71) explains that some have therefore "regretted being recruited because, despite their diplomas they were recruited as couriers or as security guards." For women in particular, these assignments seem to have been resented, "Go and meet women whose reparation has been working as a cleaning woman" asks an international expert, who adds:

Personally I am against reparation as finding people work, because they are now complaining of not having good jobs and wanting better. In the place of the state, I could not give them something better because the first criterion must be competence. If I hire a teacher to train my children, he must have a minimum qualification. But it was not necessary to invent this story of recruitment and let them fill the positions of maids or janitors because then it becomes a humiliation. (VP06)

4. Victim participation in transitional justice processes

4.1 Understandings of participation

Defining participation

Our efforts to conceptualise victim participation in transitional justice have allowed us to establish different degrees of participation, from merely being informed of a process to direct and meaningful involvement in its design and in its implementation. Interview data suggest that victims perceive these degrees similarly, considering any form of engagement with the institutional process as constituting a form of participation. Indirect engagement, which is a very light form of participation, such as when victims meet in group, or attend training or public events, is thus considered as important as taking part in consultations or testifying directly before an institutional mechanism. A former soldier said:

We participated in all meetings and conferences related to transitional justice, we participated in the drafting of the law, as an association. [...] We have also participated in several conferences as civil society. (VP1)

Victims seem therefore to think that progress on transitional justice is not limited to what happens in the formal spaces of institutions such as the IVD, military courts or government offices. There exists rather an "ecosystem" of transitional justice, more accessible, more supporting and led by civil society and victims' organizations. Transitional justice is therefore invested in areas beyond the strictly institutional, allowing the victim to become a full participant in the process understood in its broadest sense.

Participation is perceived not as something that happens only once in an initial consultation, but that continues throughout the transitional justice process. This implies the building of relationships between the Tunisian state that has the obligation to address histories of violations and the victims who have suffered from them. This continuity of participation was articulated by one international expert, who when asked how victims can participate, described three stages, driven by the importance of ensuring that victims' voices are heard:

What is needed is to hear their voices. Next, it must reach policymakers: the Assembly, the media, the IVD. This is a first step. The final step is that they are well represented in civil society, to be the guarantor that the process advances through such mechanisms. (VP 11)

This suggests three stages that can provide such a continuity of participation:

- Hear victims' voices;
- Impact policy makers;
- Civil society to act as guarantor for process, through the representation of victims.

Implicit in this approach is that the above three stages constitute a cycle to be repeated, with civil society acting as a bridge between victims and policy makers that can both aid victims'

voices reaching those tasked with steering Tunisia's transitional justice process, and ensure that victims understand what is happening at the institutional level.

The reason victims are a crucial constituency in transitional justice was articulated through the idea that rights must be claimed by those who have experienced violations. This is at the heart of the prioritising of victim participation, and demonstrates the challenge of ensuring that a process does not simply defer to an elite class of activists and "transitional justice entrepreneurs"²⁹ who claim rights on behalf of victims who remain passive. Thus, participation appears to be fundamentally linked to the empowerment of victims, and aims to make them real *actors* in the process. According to a former prisoner:

Victims can play a role if they are active in defending their rights with legal and peaceful means, but if they keep silent they will give up their rights and no one will defend them. (VP37)

One victim however resented that participation was necessary to seek redress, and sought only that the Tunisian state satisfy its obligations:

I am a victim, a person in a wheelchair. What do you think I can do? I have no means to act. I should not be forced to assert my rights, to fight to get them. Logically, this should be done alone. As a victim, all that I should do is worry about my health, not run after my rights. (VP02)

Participation means different things to different victims, and a challenge of ensuring participation is seeking to encompass this range of understandings. In the interview data the two principle forms participation was seen to take were *indirect participation*, through victims being heard and being kept informed of the process, and *direct participation*, in which victims play a role in institutional processes.

Participation defined on victims' terms means their benefitting from the process, in terms of the breadth of victims' needs being addressed, not simply in engaging with the relevant institutions. It is of course likely that the nature of victim participation – and opportunity for it – evolves over the duration of a transitional justice process. Victims were understood to have a distinctive role in the process because they have unique experiences to share.

One of the most important roles of participation in a transitional justice process is to remake a relationship to the state that has been damaged by violations, an example of the restorative potential of transitional justice. For an institutional mechanism or other government body to engage with victims is an act of recognition. An example was seen in a group of ex-soldiers linked to the *Barraket Essahel* affair, who had been discharged from the army and imprisoned in 1991, and who as a result had faced huge obstacles socially and professionally. Following the revolution they were acknowledged individually and as a group by the state, and took part in two

²⁹ Madlingozi, Tshepo (2010) On Transitional Justice Entrepreneurs and the Production of Victims. *Journal of Human Rights Practice*, 2 (2): 208-228.

ceremonies where they received medals, a return of their military uniforms and new ranks in the army. This is participation as reparation, serving to reconstruct state-citizen relations, through acknowledgment of both the fact of violations and of the value of the victim. A victim who claims his rights restores his position relative to the state, as explained by the President of a women's NGO:

One of the contributions of participation is the concept of citizenship with which man does one's best in one's role as a citizen. Citizenship should not be limited to a single designation. The citizen is the one who knows his rights and exercises them and he must know the basic concepts of citizenship. (VP24)

This links to the concept of participation as intrinsically empowering: one goal of participation is to challenge histories of violence and marginality through empowerment. Empowering affected individuals and communities can create the conditions in which repetition of violations becomes impossible. Participation is also perceived as a check on the power of institutions, both in terms of ensuring that transitional justice is effective, and in terms of ensuring non-repetition of violations. In this sense victim participation overlaps with the role of civil society and broader social activism, as a tool to hold power accountable, explains this former prisoner:

The IVD is an independent body but works in parallel with authority, which may fail. To avoid this failure, the whole of society must help it achieve its objectives. (VP09)

Participation is here restorative in a moral and emotional sense, some victims consider active engagement in the process of transitional justice both a way to recognize their victimization and to rehabilitate them. "The just participation of victims in the process is a compensation for them, both mental and moral, and this will have the effect of stimulating other victims who still abstain," said a former prisoner (VP26). According to a young man wounded in the revolution:

Of course, when there are people listening to you, who are concerned about your cause, it is normal that you feel more at peace, because you know you're not alone. And it encourages you to continue. (VP02)

The interviews thus teach us the diversity of voices, needs and opinions of victims regarding participation. They are not a homogeneous group with identical views and requirements but are rather polarized and divided by their experience of violations. Although some victims have easy access to Tunis elites who lead the process of transitional justice, most are remote, so that participation, speech and the ability to act mean very different things for each.

4.2 Indirect participation and representation

It is extremely difficult for a transitional justice process to allow the direct participation of *all* victims to the mechanisms. This is why indirect participation is probably the most realistic approach, albeit at the risk of disappointing the high expectations of some victims. Such indirect participation is generally through an intermediary organization of civil society, a lawyer or group of victims who will represent them formally or informally.

The role of civil society

Civil society represents a huge resource for victims in Tunisia, where it has been able to remain strong despite years of dictatorship. Human rights associations have extensive technical expertise and access to funding as well as important international support. Victims interviewed repeatedly stated they perceived their engagement with civil society as a form of participation in itself, and victim associations as an important intermediary between them and the state. A former political prisoner said:

Civil society must play a role, since it represents an intermediary between the citizen and the authorities [...] The state on its own can never ensure fairness among victims, and indeed everyone needs to be there to address these shortcomings of the state. (VP37)

This emphasises the role civil society plays in creating forums and building links between the authorities and mechanisms, and victims. Civil society was seen as having a number of distinct roles in supporting victims and their participation:

- As a source of information about the process and the rights of victims;
- To pressure the authorities for an effective process;
- To link victims and the process;
- To support victims.

As pointed out by a former soldier, "civil society plays a very important role. If people did not show up and did not shout, the IVD would not work." (VP08). Civil society therefore has a role monitoring the process, and advocating for action. His colleague confirms:

What I am sure of is that civil society is extremely powerful. This is why its role must be decisive. It is true that not everyone has experienced injustice. Some are interested through empathy, but we need the associations to help each other so that the process of transitional justice to succeed. This would be a means of pressure on political power. (VP03)

Backer identifies six primary roles for civil society in a transitional justice process: data collection and monitoring; representation and advocacy; collaboration, facilitation and consultation; service delivery and intervention; acknowledgement and compensation; parallel or substitute authority; and research and education.³⁰ In Tunisia, civil society has provided data to the mechanisms, sometimes documented violations, and has made a plea for special mechanisms; it oversaw the process of appointing members of the IVD, encouraged victims to engage in the process and supported them psychologically, legally and socially. Civil society has used normative

³⁰ Backer, David. (2003) *Civil Society and Transitional Justice: Possibilities, Patterns and Prospects*, *Journal of Human Rights* 2 (3): 297-313.

arguments to contest decisions apparently driven by political or partisan convenience and has fulfilled a watchdog function, monitoring transitional justice mechanisms as they unfold. Civil society is also supposed to educate the victims by creating conditions for their effective participation, as stressed a representative of the World Organization Against Torture (OMCT):

With OMCT we will train people in each governorate to provide specific information on transitional justice, the processes, mechanisms, etc. When there is need for legal information or legal assistance, these people will move in the field. In parallel, it has agreements with local associations in each governorate to raise awareness of transitional justice. (VP34)

Even this piece of research – led by a civil society organisation – was perceived by some as a form of participation and victim engagement, as a former political prisoner suggests: "I am very happy because you gave me the floor to speak. I feel that my rights have been restored. I am proud." (VP 38).

Civil society associations will have to face some challenges, however, including the dominant perception of a persistent gap between themselves and the victims, in the sense that their interests are not always seen as coinciding. For many of them, an "industry" of human rights with its own objectives, seeks to exploit victims, as expressed by a young man injured in the revolution:

Personally, I do not want to get involved in these associations, as many have exploited the cause so now I run away every time I hear of an association. What do you want them to do for me? [...] You know the association "Freedom and fairness"? She came, took pictures, took over the case, then no news. We do not know what she did with it. I think they exploit the files for their own purposes. There are some who have done things for the victims, who have cared for them, etc ... But they are not all well-meaning, so I do not trust them. (VP2)

These associations therefore obey a "commercial" logic according to a former soldier (VP8). This mistrust and the persistent difficulty, since the beginning of the transitional justice process, to have direct access to victims, justifies the need for them to have their own organisations that can transcend such partisan approaches. Indeed, most of the associations of civil society are divided along political lines, embracing either a secular or religious perspective, as one former detainee said:

If civil society is linked to political parties, it will never succeed [...] If civil society is not independent, if it remains under the authority of a group of parties, the process will not succeed. It must be independent otherwise it will only represent the parties. It must be a means of pressure. (VP33)

Representation and victims' organizations: "No one will represent us"

Representation demands that someone speaks on behalf of others, potentially allowing the creation of structures that can give a voice to all victims at a central level. It does however come with its own challenges, including a necessarily emotional perspective and the almost

metaphysical uniqueness of victims, as seen in the clear expression of the mother of a man wounded in the revolution: "Nobody can represent victims. One day my son said to me: 'You know, you're certainly my mother, but you cannot feel what I feel.'" (VP02)

Victims' belief in letting other victims speak for them emerges from an understanding that there is a common experience at the heart of victimhood and those who share it can speak for all victims. As such, empathy must be the first condition of representation: a former political prisoner said: "Anyone who presents his case to the transitional justice process is a success for me because he has suffered like me and more." (VP 21) In many cases, victims' organisations will be locally based and those leading the group – and speaking for it – will be known and trusted by their members. This proximity distinguishes "politicians" who have not had the same experience of violations, and can never truly understand victims. A young man injured in the revolution articulated: "Politicians are not affected, they receive a salary, it's not like us who are deeply affected by the issue." (VP02)

One potential problem with victims nominating representatives is that such an approach can actively mitigate against broad participation, and encourage passivity in the majority. Routes must be found to ensuring that representation encourages participation, rather than substituting for it. In addition, those who lead groups of victims or NGOs are generally educated and from urban areas. Their presence thus fuels the reproduction of certain dynamics of exclusion, the poor and the marginalized always remaining less visible. Representation thus risks perpetuating already well established marginalization, giving voice to particular individuals, often those who are not highly representative of the needs of victims in general. An international expert says:

We need to hear the testimony of victims themselves, not the presidents of the associations. What do they know of our needs? Why does the victim who is in Tunis have information because the president of an association has advised him of it, while those in Gafsa and Medenine are not aware of anything and do not file cases? (VP06)

The failure of representation was strongly articulated by many respondents. "No one can better represent a victim than the victim himself", said a former prisoner (VP53). This has led to victims' groups internationally 'resisting representation' to ensure that change is made by empowering victims themselves, rather than by others acting on their behalf. Indeed, when victims of conflict represent themselves the agenda that emerges is often qualitatively different from what has become the 'transitional justice agenda'. The lack of victim empowerment in Tunisia has prevented victims' groups challenging with local needs a transitional justice process which remains driven by both external templates and elite agendas in the capital. The limits of participation, in terms of victims being unable to challenge the conception of the transitional justice process, are clear.

Existing hierarchies are also reinforced through the relative visibility of human rights NGOs as against victims' groups: representation can only lead to effective participation when victims' representatives have the resources to play a leading role. A Tunisian activist said to the contrary that he noticed that "victims' associations were virtually absent: it is the human rights activists

that are visible, not the victims." (VP31) The latter, better organized, better trained and more present, therefore progressively appropriate the cause of victims. Yet many victims have demonstrated the substantial support that is provided by the few real victims' associations which exist in Tunisia. These allow them to better advance their mutual interests and support each other, not only to take part in the process (legal, social support, advocacy), but also to confront together the legacy of violations. A torture victim recounts:

I submitted my case file to the Karama victims' association. I even participated last year in the association and now I gave my file to the IVD. We made listening sessions with the association, and also hearing sessions with sociologists and psychiatrists, we were really well supported by this association. I read about it thanks to some victims - communication between victims can help in involving them in the process. (VP50)

Such support structures not only aid participation, but also create spaces separate from the institutional spaces of the transitional justice process, where victims can come to terms with the violations they have experienced, including the emotional, social and psychological impacts.

These links between victims, often reinforced by a common political outlook, are sometimes seem longstanding and have been maintained since the time of arrest. "When we went to jail, we were gathered in the April 9 prison, with all the families - those who have a brother or a father imprisoned - so we supported each other," says the brother of a political prisoner (VP77). Yet these links help to feed the doubts of some of the population, that victims' network are actually those of political activists. To counter these accusations, several interviewees put forward strategies of justification, in particular that of depoliticisation, and assert their work to involve contact with victims from all sides, as a pledge of their political neutrality. "I have personal relationships with victims belonging to Ennahda, and even with others," says a former soldier (VP08). "I have connections with many victims, whether victims of the mining area or others. I connect with everybody: the Islamists, leftists and even pan-Arabists - all are my friends," assures another activist (VP31).

But despite the many calls for unity, divisions between the victims are real, nourished by the same fragmentation as the broader process. "Islamists" versus "leftists," "victims of the mining area" versus "revolutionary martyrs", or soldiers of the Barraket Essahel - the categories are fixed, even to the point of establishing hierarchies between them. Thus, according to the president of a victims' association (VP12), priority should be given to victims of the most recent events, including the wounded of the revolution, because

[T]he other categories, dating back 20, 30 or even 40 years can wait longer, since they are already used to their situation. The most recent victims, we need try to understand them today, because otherwise they will be left for history, one can no longer understand them. Thus, one of the main shortcomings of the process is that knowledge of the most recent truth has been marginalised. (VP12)

Others, however, emphasize the need to first meet the needs of older victims, including those of the Yousseffiste movement who are in greater need. Indeed, "in terms of age they cannot wait. He who can live 5 years cannot live another 10. I think they should have priority because the time constraint is against them," says the representative of another association. He however adds that:

The victims are the victims. I think we should not fall into the logic of classification. By what standard will we classify them? Politically? Ideologically? Chronologically? I think the victims should be studied as a whole, treated on an equal footing, applying the same methodology to them to achieve the same result. "(VP15).

The limits of representation

In general, victims express the feeling of not having been sufficiently or properly represented. This difficulty is due to the impossibility that anybody can put themselves in their place and feel like them. But the idea of placing victims in transitional justice institutions to represent them, however, is not unanimously shared. "Victims have an advisory role only," says a former soldier and a victim of the old regime (VP8), "I don't think they should themselves make decisions, because the intellect must always triumph over emotion," implying that victims are emotionally invested to be able to act in an objective and informed way. "You think if I was able to punish Ben Ali, I would be forgiving and pardon him? No. So it is necessary only to consult victims," lucidly explained the mother of a man killed by police during the revolution (VP07).

This caution appears to not be shared by all victims. Thus someone wounded in the revolution suggests:

For victims to find inner peace, you must place them in political positions because whether we like it or not, we've all been politicised. Of course I'm not saying that there should be anyone in any post, but there are many among us who are sophisticated [...] Within the Assembly of People's Representatives, we would really want to be represented. Also within the IVD. For example, of four members it would be necessary that there to be two who are wounded or their family members. We are the only ones who know how to keep our files. As long as this is not the case, things will not advance. (VP04)

From women's point of view, this opinion seems to be shared. A former prisoner regrets that "the structure of the Women's Office in the IVD is represented by no female victim. Besides, they have not sought our opinion in relation to this question of representativeness, while there are well educated women who are victims and have skills." This crisis of representation seems to also affect civil society. Many interviewed deplore the absence of real associations of victims and victims' groups, stressing that the proliferation of intermediaries and of persons claiming to speak for them has reduced space for them within the discourse of transitional justice. "The participation of victims is still done *via* an intermediary," says an international expert, explaining why:

It's very hard even for us, because we have difficulty working directly with them. You end up working with civil society, with an organization that defends the rights of victims, or with associations of victims or groups of victims. So we always end up, since the end of the national consultations by working with an intermediary and rarely in direct contact with them. (VP34)

The lack of direct access to victims, even through an association representing them, therefore appears to have seriously affected the Tunisian transitional justice process, including during the national consultations that were supposed to finally give them a voice, as one international expert noted:

The victims were involved early in the national dialogue on transitional justice, but only through the frame of an association or through civil society. The real victims have not participated in the process, they were represented - as usual - by lawyers. I only know one or two associations of victims who were present: Karama and the Association for Justice and Rehabilitation. There are others but they are partial and belong to particular political parties. Most victims in civil society are people who have managed to overcome what happened to them and who are willing to be active and to work. But some other victims have not overcome these challenges and have no confidence in the institutions of the state or in transitional justice. So in the end, participation was very poor. (VP06)

Respondents are not shy however to be critical of these same associations, accusing them of favouritism or politicisation. "I have attended meetings organized by the Karama association for political prisoners and a few others, but my participation remains low. What I have seen in some associations has made me step back from them, and now I'm observing from a distance," laments an ex-detainee (VP09). The cases of the martyrs and the wounded of the revolution, in particular, seem to have been the subject of fierce competition between lawyers and human rights defenders, allowing anyone to earn media exposure and public sympathy. "Unfortunately there are people who have tried to take advantage of these events and have come out to defend the issues of martyrs and the wounded of the revolution," says an activist from the city of Thala. "There were lawyers with groups of the injured that politicized the trial a bit," said a judge in the military courts, while a lawyer and torture victim acknowledged, "They were used, they have done business in the name of victims." (VP70) "Lawyers have also exploited the cases of the injured with a lot of selfishness, which saddens us" said a young man who was wounded in the revolution (VP02).

Insufficiently consulted victims: "To participate is to have hope"

Because of these limitations, many respondents complained that the voice of victims was lost, carried through too many - not always well intentioned – intermediaries. This was despite the Tunisian process claiming to be based on wide consultations and an "inclusive" approach in line with international standards. "We do not talk about victims, but victims' groups, and seek out their representatives," said the president of an association of victims (VP12).

This difficulty in hearing the victims also comes directly from the fact that their material conditions do not always allow them to take direct part in consultation exercises or in the national dialogue. "The only obstacle for me is availability. Since I work I can't find the time," says a former political prisoner from the Bizerte region. "We do not need round tables in hotels" said a former prisoner and torture victim (VP71), expressing a widespread weariness about the excessive number of workshops and conferences organized since 2011 by the international community, often without follow-up or results. "One has the feeling of being excluded by some who do not give importance to our participation and our testimonies. Often the victim is lost," says a former political prisoner (VP4).

Too many conferences and consultations have also had the negative effect of generating high expectations in those involved, especially with regard to reparations. According to an international expert:

Nothing has changed and for us ordinary citizens, expectations are too high. Those involved in the process and attending conferences of world experts necessarily have much greater expectations than those who did not and who are satisfied after even if they only access compensation of 100 dinars. (VP06)

A victim wounded in the revolution, from the Mornag region recommends, "it is imperative to give a voice to victims. I have never seen a meeting between a minister and a wounded victim. We, those principally concerned, are marginalized. It necessary for example that there is a group of wounded victims in the Assembly who could testify and raise our voice whenever the issue is discussed." A former political prisoner from the same region said: "there is that direct communication with them and empowerment that can help them," because in the end, summarizes a victim of torture, "no one can represent a victim better than the victim herself" (VP53).

The consultations and the national dialogue process preceding the drafting of the Organic Law on Transitional Justice, in 2012, seem to have had a mixed but generally effect for some. "When drafting such a law," said a member of the IVD, "victims participated positively; the Ministry of Transitional Justice at the time held a national dialogue with victims and civil society to hear their opinions and perspectives on such a justice process. I can see the victims in this law and today they are at the heart of controlling and monitoring to improve the delivery of the IVD." A former activist showed the same optimism:

We participated in the framework of our association in numerous meetings and events on the subject in order to better monitor this process. We have given our opinion on the matter and have contributed significantly to the law on the establishment of transitional justice. Our contribution has been important and effective. (VP03)

During consultations victims were asked to complete questionnaires and to give their opinion on the content of the future transitional justice law. Thus, an expert from an international organization says:

Many ideas in the legislative process came from victims. It is they who suggested to trace the Youssefistes; it is they who wanted those responsible brought to account; it is they who said they did not have confidence in justice, and hence the establishment of the specialised chambers. The people who drafted the law certainly have knowledge of the experiences of other countries, but it is to the victims that we owe the specificities of the Tunisian law. 1800 questionnaires were distributed: some say it is insufficient. But in my opinion, the technical committee wrote something compatible with Tunisian society. (VP06)

According to a tortured ex-soldier, "the only positive thing for the victim is the drafting of the law governing transitional justice, which emanates directly from the lived, personal experience of the victim" (VP8).

Participation is here understood as comprising attendance at these sessions and having been able to give an opinion, which in itself was regarded as a source of hope. "Being involved is to have hope," said one former detainee (VP 33), continuing: "Being absent rather is to not have a role, while to participate is to regain hope and have an impact. [...] We hope that transitional justice will rely on the victims so that we can show this to other victims." This is an opinion shared by a former prisoner from the Kasserine region: "the first thing from which I benefitted was the presence of hope and the fact that I can have my rights." Again, we see that participation creates certain expectations. "I personally believe that the fact that you come to talk to me is already a recognition that I am a victim and that means you want to help me get on the right path to achieve my rights, and this gives victims a sense of satisfaction concerning this moral support," says a former detainee. Indeed, "the positive impacts (of participation) are at the level of awareness," according to an international expert (VP11). Participation as consultation is therefore essential because the victims "will feel they have participated and will accept the process, even if there were difficulties. They will feel they have collaborated from within. It is primarily a way to recognise and rehabilitate them. They will take ownership of the process, it will not be something that will have been created by people who have prepared laws and reports without even having listened to them" (VP06). "The fair participation of victims in the process is a psychic and moral compensation for them, and this will have a stimulating effect for other victims who still abstain from engagement," said a victim from Kasserine (VP26).

4.3 Sensitisation and participation

According to respondents, civil society has an important role to play especially to relay information and provide support to victims in their dealings with the authorities. "The role of civil society is to disseminate the law on transitional justice to citizens and to further explain why not even make awareness campaigns everywhere in Tunisia," suggests an activist from Sbeitla:

This could include creating a network that includes a set of associations in all governorates of Tunisia and to visit all without exception in order to explain to citizens and victims the procedure for submitting applications in order to consolidate

their participation which so far is not at its optimal level, since there are still victims who do not have information." (VP29)

In particular, local associations should be mobilized, as several respondents point to the disconnection of national associations from their real concerns. "To explain how to file their cases, it also needs the involvement of small local associations because large organizations that have money to raise awareness are only in the big cities [...] so you have to establish a link between the two structures to move forward," proposes a civil society activist in Tunis. The media are also sometimes invited, but their role remains marginal. "I got the information from the media and I decided to participate because I believe in my cause. I have found my teaching job only after considerable effort," said a former prisoner from the Tunis region (VP09). "We need support from the journalists so that our issue becomes a national matter. But also publicity and awareness campaigns to encourage people to speak," suggests a victim injured in the revolution. Indeed, so far, "victims have no confidence in the IVD and the choice of its members was not very wise. The problem also is that the IVD does not have a strong communication policy. They worked for six months without communicating either through the media or with victims" said an international expert (VP06).

Information, awareness and media: outreach

The victims interviewed seem to understand the fact of being informed as a prerequisite for truly meaningful participation in the process. This process is generally called "*outreach*" and involves raising awareness in communities to explain the principles and functioning of transitional justice mechanisms. While awareness and dissemination of information does not directly affect the transitional justice process, these measures are nonetheless often perceived as already constituting a form of participation. "I got the information from the media and I decided to participate because I believe in my cause," said one former detainee (VP09).

Thus understood, education helps to overcome the obstacle posed by the lack of knowledge among many victims of the existence and nature of mechanisms intended for them. Sometimes victims are not aware of their status and rights according to the transitional justice law, and this ignorance prevents participation. One way to meet this challenge is therefore to inform ordinary citizens through the media, in language that directly echoes their own concerns.

The solution would be to popularize the messages and convey them in their own language, in Tunisian dialect, not using legal terms. We must reach people in their homes through, for example, local radio stations. (VP06)

The centralisation of the process in Tunis and the high costs associated with travel to the capital for the poor contribute instead to make transitional justice even more remote from marginalized communities. A former prisoner said:

We have not been visited by any association. I have no information on them, they do not come here. If I live here and they work elsewhere, it comes back to the question of centralisation that is to say that you work in Tunis and the person concerned is the mining area. If an association is created in Gafsa or Kasserine, I

will move there, otherwise I will lose transportation costs. How can I participate otherwise? (VP21).

Institutions such as the IVD can play an important role in facilitating the direct participation of victims in the process. Many of them seem to feel that the IVD is obliged to do so, including through the expected opening of its regional offices. An activist explained: "No I have not participated in advocacy or training, because we expect the establishment of regional offices." (VP34). Meanwhile, many victims are aware of the process through friends and private circles: the power of peer networks of trust - for example through victims' organizations or political parties - should not be overlooked. "Decisions reach people through the associations, not TV that fails to communicate on the issue. Information is given by the local office of Ennahda in Gafsa or civil society associations." (VP06)

Information, awareness and media: inreach

A second role of the media is to ensure that information also flows from victims to the process, what has been called *inreach*, and can articulate and disseminate victims' perspectives.³¹ Victim participation in and through the media can ensure that the entire nation is aware of histories of victimhood, victims' needs of the transitional justice process and perspective on ongoing mechanisms, and their engagement with it. In the sense that the media can ensure truths are told and can confront Tunisians on the greatest scale with the nation's past, the media can also be a tool for transitional justice, as an advocate for victims' voices. Effective inreach, where victims' perspectives reach the institutions of transitional justice, permits mechanisms to dynamically change to better serve the victim community. A woman explains: "We need the support of the media and of journalists to make our case a national matter. But also advertising and awareness campaigns to encourage people to talk." (VP04) Some victims' organisations have been proactive in participating in the preparation of media products, such as films, to tell their stories such as victims of the former military conspiracy *Barraket Essahel*:

We recently made a film with UNDP who has helped us financially. We collected several important testimonies but not all could be included in the film [...] The film was successful and had great impact. [...] We have hundreds of hours of testimony that we will keep for posterity. (VP03)

Other associations, such as *Tâabir* (Eyewitness) collected the testimonies of victims of torture in short compilation videos, again with UNDP support, in an "online memorial". It remains clear however that most victims do not have access to media that can share their needs, stories and opinions of the transitional justice process.

4.4 Gender and Participation

Notably, of submissions made to the IVD only 5% are from women, according to the President of the IVD committee dedicated to gender. Despite a focus on sensitisation of women, they have not seen the IVD as a place to which they can turn: civil society respondents reported that many women remain reluctant to participate in events they organise. Ensuring women's participation is likely to require far greater efforts both from civil society and from the authorities and mechanisms. There are several reasons for this consistent under-representation. Perhaps the most prominent is the fear of knowledge of a stigmatising violation becoming more widely known, since many female political prisoners and wives of prisoners became victims of sexual

³¹ Inreach has been defined as "the process of obtaining ideas, opinions and feedback from local populations about their expectations and responses to the transitional justice process". Lambourne, W. (2010) Outreach, Inreach and Local Ownership of Transitional Justice: Cambodian Participation in the Khmer Rouge Tribunal. Paper presented at the International Studies Association Annual Convention, New Orleans, 17-20 February 2010.

violence. An expert explains: "They are afraid of scandal, they do not understand that there is no shame that they are victims. As a woman, I understand that a woman who has suffered a violation feels complicit or feels soiled." (VP06)

Women interviewed seem not to have understood the concept of indirect victimization. Some respondents claim that Ennahdha seeks to discourage women to give their testimony, confirming a patriarchal pattern in which it is men who speak for victimised families. These constraints are often very strong and prevent any form of participation, explains the president of an association of female victims:

There are also some who are prevented by their families (a husband for example). I know a woman who has completely cut off contact with us; it is her husband who has imposed it. We have often called for psychological support for these victims, so that they come to talk. (VP04)

Civil society activists have nonetheless urged women to testify: "She needs to understand that it is her right to express herself, it is not a shame to say what she has suffered, she has to do it so that this can't happen to her daughter or her sister. You have to push them to testify." (VP06)

But the threat perceived by women giving testimony in public should be taken seriously, and can drive thinking about alternative spaces in which women can discuss violations, through indirect participation. Are there ways in which victims' organisations that are trusted and locally rooted can collect such testimony, rather than expecting women formally file their testimony in a centralized IVD?

The many challenges for creating a transitional justice in which women can play a leading role, include understanding how participation and reparation overlap. Many violations experienced by women derive from the position women have in society relative to men: the lack of equal participation in society has created an environment in which gendered power relations facilitate certain violations. Victim participation not only permits engagement in transitional justice, but can be a foundation for empowerment that addresses the underlying drivers of historic violations against women. An example of approaches that perpetuate gendered disempowerment and non-participation is that of women being given jobs as domestic workers as a form of reparation under Decree No. 1, confirming their low status and potentially enhancing their humiliation and non-participation socially. Instead, reparations should contribute to improving the status of women in society, for example by offering new educational opportunities or by changing laws relating to inheritance. This would see participation as a victim not restricted to the transitional justice process but about increasing broader social participation as empowerment.

4.5 The barriers to participation

Lack of knowledge of the process

Where victims are unaware of the existence of a mechanism, or unsure of how they can engage with it, their participation will be limited. Many victims and their representatives emphasised how

little knowledge of the transitional justice process most possessed, as a woman activist from Sbeitla explained:

There are many victims who do not even know the procedures and documents required for the preparation of the file, there are people who ask only to know the procedures to submit the application. It is communication which is lacking. (VP29)

There remains much to be done in terms of awareness, particularly for least engaged communities and the most difficult to reach, such as women or groups living in marginalized areas. An expert says

Last year, the Karama association of political prisoners was a Nabeul project, funded by the UNDP. They wanted to work on the issue of women in transitional justice. When people of the association discussed with them, they told them that they were unaware of transitional justice. And that is in Nabeul. What then of Gafsa and Sidi Bouzid? It's like when you see on television a whole family where no one has an identity card; that in itself is a violation. Those people are forgotten by the state. It is therefore in my opinion a job to do for women and those living in remote and forgotten regions. It's not like in Tunis and Sfax where civil society exists, and tries to educate victims. Moreover, people do not even know they are victims. (VP06)

The reasons why people remain ignorant of the ongoing process included social factors, such as the fact that women were often constrained by social norms that prevented them from actively seeking such information, as in the case of this former political prisoner: "As I am active in community life I am aware of these issues. But there are women who do not leave their homes under compulsion of family authority. How will they know?" (VP14) In some cases the struggle to survive dominated, and people were simply unable to devote time and energy to understanding the process and to learn, "I don't know! It does not interest me!" Answered the mother of a young man killed during the revolution. "This is my last concern, I work to make a living, that's all." (VP07)

The solution was widely perceived as demanding that all those involved, mechanisms and civil society, must lead information campaigns. There was also the implication that work must refocus away from the efforts in Tunis, which currently dominate, to ensuring access to victims in all governorates, as advocated by a civil society actor in Thala: "[I]n my opinion, the solution would be to work in the field, going door-to-door in the governorates where there are people who are victim of such injustice but have no idea on how to claim their rights" (VP22). This approach would also imply a democratization process, which finally would place victims and their concerns at the heart of it. The establishment of committees dedicated to victims and the "martyrs" of the revolution within the National Assembly, or the creation of a specific portfolio at the level of Secretary of State, appear to be insufficient initiatives from the perspective of the affected.

Members of the IVD who were interviewed have themselves acknowledged that communication with the victims was insufficient and that civil society played an important role in filling those gaps. For one of the commissioners met, strengthening links with victims outside of Tunis was therefore a priority:

We have a problem communicating with victims, they do not know the details of the file, we set up a hotline to overcome these difficulties, the victim can then complete the file... We are aware that the Instance cannot work alone, we must work with civil society in particular and the government in general. We started making visits in the governorates to listen to the victims and their representatives, to invite them to cooperate. (VP83)

Lack of monitoring and results

Overall, four years after the revolution, the lack of both monitoring and of results has led to a form of resignation in some victims. "Members of the IVD listened to us, that's all. Since they have never come back." laments a victim of torture in the Kasserine region (VP45), although, he adds, "when they visit us, they give us a glimmer of hope." "The minimum would be they respond to my letter telling me that I did not have the right to benefit from privileges," demands a former political prisoner in Tunis (VP18). This lack of follow-up seems to have caused a certain fatigue among victims who no longer have faith. Another says:

I have given my file everywhere, I started to speak to the Ministry of Transitional Justice but there was no response and files were buried. I spoke to civil society but that was always the same result, and the same at the Constituent Assembly. I am still awaiting a response and now I have approached the IVD and I await the processing of my file, and especially the establishment of the listening units. (VP26)

"I filed a case at the Ministry of Justice and another at the IVD and I expect an answer" reflects a former political prisoner (VP42). "We were tortured and until now we have seen nothing but a symbolic ceremony. It's been 4 years since I addressed my requests to the Ministry of Defence for their attention or to issue our identity cards, they never answer in writing, it looks like they are ashamed or afraid of something on paper." says a former soldier (VP52). "When one wants to present a case, we get a response that there are others who came earlier, this has gone on for 4 or 5 years, when one asks for a discharge from the administration, the staff refused. Nothing has changed. To whom can I to complain?" Asks a victim from the mining area, demonstrating again the confusion caused both by the lack of institutional reform and by the multiplicity of agencies involved in the process.

The consequence of this lack of results, as a victim of *Barraket Essahel* stated, is clear: "As time passes, the victim no longer wants to seek redress, which is a real tragedy. We finally resign ourselves and accept our fate because we have no choice." (VP01) "One has the feeling of being excluded by some who do not value our participation and our testimonies. Often the victim is lost," says a female torture victim (VP04). "Even when we went to the Ministry of Human Rights, we were marginalised," said a young man wounded in the revolution (VP02). "Before that, we went to the office of relations with citizens, where we had to take a ticket and wait like

at the town hall, so that the person in charge of the wounded of the revolution could come and deal with us," he continued, stressing again the lack of support and consideration from the concerned authorities.

This lack of confidence justifying the reluctance of some victims to participate. Victims, who have sometimes waited for years for the establishment of mechanisms that truly meet their needs, have too often been disappointed by the failure or the slow pace of the institutions in question, discouraging them to become more involved. Two former political prisoners testify:

I have submitted a file to the Ministry of Human Rights, and I have proof. Then I presented another folder to another committee to get my children jobs, and I also have proof. But there was nothing: no response to the first submission, and a phone call - not even a written document - for the second, to tell me that I had no right. In addition, as I live 500km from Tunis, it is difficult for me to defend my case before the competent authorities or to follow its progress. (VP18)

When the Ministry of Human Rights and Transitional Justice asked us to give them our files, we gave them but there was no follow-up. When the government asks you to give it your information and it does not respond, it does not encourage you, and then you lose confidence. (VP33)

For those disappointed by the lack of response and follow-up, mechanisms should demonstrate their efficiency to encourage greater participation, "But because of the slowness of the process, I'm a bit unmotivated. Perhaps that confidence will be restored as transitional justice progresses." said an ex-soldier.

The most visible mechanism, the IVD, was criticised by victims, for inspiring a lack of confidence in the IVD generally among victims' associations, and specifically in members of the IVD, linked to issues of perceptions of their political loyalties. It was also perceived that the IVD lacked an effective communication policy: "The presence of the IVD remained theoretical or at least, it works only on Tunis, then the regions are marginalized," says one former political prisoner (VP18). If the commitment is perceived as ineffective or purely decorative, victims simply refuse to participate.

Emotional barriers: demonization and shame: "I am ashamed to speak, I am ashamed to ask"

Victims often have significant health issues: many have suffered long-term physical abuse or imprisonment, and as such face additional challenges to participate in a transitional justice process. The ways in which victims are expected to participate often involve a reexposure to the mental trauma of the violation, including through testimony in public or to a stranger. Former prisoners confirm: "Some have suffered great psychological harm to the point they are not able to speak." (VP04) "Since these people have suffered enormously and they have been harassed, they have neither the means nor the physical and psychological means to participate. Only direct communication with them and accountability can assist them." (VP09)

The emotional stress of such an engagement is a disincentive to participation. For women, many of whom have been subject to sexual violations and have maintained their silence for years or decades, the stress is often greater, as recalled by a former political prisoner:

There are girls who do not want to talk and they are not ready to appear before the IVD. They even refuse to talk to a judge. They are ashamed and afraid for their children. It is the role of the IVD to convince them to speak and to respect the confidentiality of their file." (Focus Group member, Sidi Bouzid)

The IVD must therefore do everything to create a physical and emotional space to enable these women to give their testimony. Sometimes victims will also need psychological support adapted to present their testimony: participation requires the establishment of an infrastructure that accompanies the process of transitional justice that is integrated in a restorative logic, support in the longer term. A former prisoner confirms:

I tried to ensure that this page is not turned, telling myself that there was a lesson from what happened. There are people who must receive psychological support when they speak, they have to find people to listen to them and accompany them, all that will help. It is I that all this does not happen again because it's a very hard experience, our children and our friends should not go through this again. (VP23)

Without counselling, and facing the accusations that they do, it is not uncommon for victims to seek to justify themselves. A former political prisoner Bizerte explains:

After the revolution and even after the elections there was a period that I consider a very difficult time especially with the accusations of some people, and specifically the charge 'how much you have advocated'. We were hurt by this accusation, we considered ourselves as individuals advancing our personal interest when we ask only for reparation and the restoration of our rights [...] There are people who have been seriously affected by violations, and now they are demonized. (VP41)

The interviewee here talks of a "double victimization" due to this demonization. A former female political prisoner (VP44) said: "Even when I go to the mosque, women look at me differently, they have in their mind a woman who was a prisoner and therefore she was raped, they have this stigma in their look," pointing out that the victims of sexual violence, in particular, continue to be stigmatized. As a result, in this climate of generalised suspicion and with the slowness of the process, many victims said they felt ashamed or afraid to ask for their rights. Thus, according to one interviewee in Tunis:

The victims have suffered numerous harassments, which have made them lose confidence in everything and they find themselves unable to claim their rights. Physically, psychologically, they do not have the strength to do it, especially since they know that the chances are slim that their requests will be met. There are victims who continue to suffer injustices, who have nothing to eat, no decent housing. You can continue to sensitise them but there is a huge crisis of confidence. (VP09)

Again, awareness and lack of information that results, are presented as a reason for this general lack of confidence. "The victim needs to know that she has rights to claim, know the existence of the IVD. At the time we were all victims, society must know that today we can go back to an authoritarian and repressive system, that there are commissions to defend their rights. There is too much silence and fear. He who has a right must be able to benefit from it," said the vice president of the association 'Thala for the theatre of reality' (VP22). Resigned, many victims say they have therefore not filed applications to transitional justice mechanisms. "I never asked for help, although I have a disability that allows me to have compensation. I am ashamed to ask for help," says a former prisoner in Kasserine (VP37). "We must ensure that victims know that they are safe, and that their tormentors can never reach them again because they will present their cases. They must realise that the law protects them, they are learning concerning the procedures of submitting their file" recommends the general coordinator of the Sama Sufetula Association for Social and Cultural Development (VP29).

This lack of confidence is likely accompanied by a lack of interest in all issues related to transitional justice. "There is no justice yet, especially in disadvantaged regions. Today I do not want to watch TV when they show a young unemployed man or woman with four children without food, it makes me dizzy. There is no justice, most victims are from disadvantaged areas, justice is still elusive," said an advocate for human rights." Nobody was ready to give up his rights. But some are tired, they are desperate," said a young man wounded in the revolution (VP02). A victim of *Baraket Essahel* says that "due to the slow process, I'm a bit demotivated. Perhaps confidence will be restored as transitional justice advances" (VP03). This unfavourable environment, marked by a lack of trust, a lack of results and doubts of each, probably explains the refusal of some victims to participate. "There are many victims who choose not to participate because they consider that this process will not lead to good results. Others were not even aware of this process," says a former political prisoner (VP39). This resignation is all the more striking as after the revolution hopes were enormous. "People have too much hope in the Ministry of Human Rights and Transitional Justice, and towards the associations dealing with these issues. They thought they were going to save them from this miserable situation. These people were disappointed and withdrew," says an ex-detainee (VP61).

To cope with this resignation, many victims claim to rely on religion. "We first believe in divine justice before earthly justice" said one activist (VP31). Other no longer even have the strength to demand their rights. "I am increasingly afraid. I was already scared early in the process, and things keep getting worse. Plus it's slow and it's more serious, because we have the impression that they want us to forget what happened, they think we will eventually get bored and give up. But I do not believe them. I think they have unhealthy intentions," laments a young man wounded in the revolution (VP02)

The fear of the return of the old regime

Interviews were made after the parliamentary and presidential elections of 2014, which saw the victory of the party "*Nidaa Tounes*", and reveal the presence of a certain fear of seeing the representatives of the old regime reappear, and the expression of a lack of confidence in the process due to their continued presence in the Tunisian political scene. Some would have

refused to file a case before the IVD after the victory of the party in 2014. "There are women who were afraid and did not file cases. They were afraid after the victory of *Nidaa Tounes*" said an expert (VP06). "If transitional justice allows the return of the old regime and its symbols, it would be a tragedy," says a former political prisoner (VP18), adding that "one of the biggest mistakes that have been made was allow symbols of the former regime to return to political life." Others express the same feeling:

I hope transitional justice will continue its process and encompass all victims, especially now that the current situation does not reassure them. With the new government I felt that these threats are back: higher education strikes took place because of those recruited after the amnesty. (Former political prisoner Bizerte, VP23).

There is a state will which want to terminate its files, there are lobbies that still govern the Ministry of Interior and Defence. The cases of martyrs and the wounded are meaningless to many, they are often forgotten. Talking about someone injured in the revolution makes people laugh, this case is meaningless as long as there was no real judgment and a pardon. (Regional coordinator of the Union of Unemployed in Sidi Bouzid, VP56).

The absence of major trials of former officials and the release of many of them, the notable failure of military justice in the trials of the "martyrs of the revolution", and the absence of a genuine process of 'filtering' institutions of justice and security, all fuel this crisis of confidence. "After the revolution and the presidential elections I do not see how they will be judged, it is not impossible to do but very difficult, because they came back and they hold important positions in the government" claims a victim of torture in Korba (VP68).

These fears explain, according to some interviewees, the decision not to participate in the process or not to file a request to the concerned authorities. Some victims say they fear for their safety, or are afraid to assert their rights knowing that those responsible for the violations they suffered are still present. "We have not been threatened but there is some fear when we present our cases. Since the executioner has kept his post, he has knowledge that can protect him," says a representative of civil society (VP55). The presence of these networks of 'old ones', sometimes exaggerated and fed by a sense of plot, is often mentioned by victims. "Today the executioners can be seen on TV talking and occupying major positions, we know them and there is a list that was published with their names," says the president of the Karama Association - Dignity for Political Prisoners. (VP62).

This fear explains the self-censorship practiced by some victims, who refused to participate in the process either because of a fear of being persecuted by former dignitaries, or a lack of trust, or a form of spite. Thus, "it is very important that victims are aware of the need to claim their rights, because many of them are still afraid; self-censorship, especially the modest people who still attach importance to the old underlings of the RCD, imagining that they still have power," says one activist from Feriana, near Kasserine (VP31).

Regional inequality and economic marginalization

Tunisia's transitional justice law innovatively acknowledges histories of social and economic marginalisation through recognition of the collective victimhood of affected regions. Ironically however, there is also evidence that victims from such regions themselves feel marginalised from the ongoing process, demonstrating the challenge of a discriminatory state leading efforts to address such exclusion. In a culture of exclusion, the practice of human rights will also be exclusive, led by organisations and individuals from privileged regions and classes. This challenges the state, and transitional justice mechanisms, to work in a way that is more inclusive and to bring the idea that *how* it works as much as what it does can be reparative, in terms of countering marginalisation. This is of course intimately linked to accessing victims, and the idea of collective victimhood through marginalisation is not well known. One former detainee says: "Regarding the initiatives of associations to reach out to them, it is too difficult because they are historically and geographically scattered. It's too hard even if it is the state that leads this initiative." (VP12)

A greater challenge to participation is *how* collective victims participate. In most mechanisms (including trials and truth commissions), victims participate as individuals who have been victims of violence. For a victim region or community to participate presumably demands a representative approach, in which some actors speak for the marginalised. This raises many issues around the challenges of representation, and the dangers that the socially excluded are again marginalised from the process by those whose voices have always been better heard.

Some victims demonstrated what might be considered *self-marginalisation*: they considered that because their educational level was low they were not able to attend meetings or contribute, as in the case of the former political prisoner: "No, I have not participated since my school level is very poor, not to say that I am illiterate, so this prevent me from attending." (VP37) This phrase emphasizes the link between empowerment and participation: these populations can participate only when they are actively supported and empowered to. Many victims even lack the material means to participate in the process as they would like - for example, living far from Tunis, they are unable to finance their transport. Here, autonomy is clearly conditioned by the range of possible choices. The brother of a former political prisoner said: "All this requires an effort. But for those people, mostly unemployed and poor, it is not a question of fear, when they can find the means to move they could occupy the ministry. The biggest obstacle for these people, it is the means." (VP37).

An elite discourse? New dynamics of exclusion

The participation of victims seems still to be in tension with the politicisation of the concerned actors and their multiplication, but also with the lack of economic means of victims and gaps in the communication strategy of the institutions concerned. This has resulted in all those surveyed articulating confusion about the very nature of the process and the identity of their interlocutors. The educational level of some victims, to whom the details of the process sometimes seem too complex or disconnected from their daily reality, also explains this lack of information and interest. "Most are illiterate, when we ask them something they don't understand us," said the coordinator of OMCT in Sidi Bouzid (VP73). "I don't know what that means, I don't understand

you, I don't know what to tell you," replied a victim from the mining area (VP17) when asked what transitional justice was. A symbolic violence is added, by this exclusion and these misunderstandings, to the physical and structural violence generated by past abuses. "This process did not target all the victims, there are those who died and those who are forgotten, and those who do not follow the news. To me none of this is my problem, I am illiterate and I have no knowledge of the procedures," according to the vice president of the association 'Thala for the theatre of reality' (VP22). The mother of a martyr (VP07) considers for her part that: "Transitional justice does not interest me! This is my last concern, I work to find a living, that's all." "Sometimes I try to read a little, but I cannot because my mind is occupied by other considerations: I think of my family, that the boss might come to fire me," said a former detainee (VP19), highlighting the disconnect between transitional justice and victims' daily concerns. A former soldier meanwhile emphasised:

Just within our association, we have ten people who still know nothing: what about the others? There are people who live in the forest, in the mountains, who are not aware of anything. The other day, we asked a man who lives in the South about the revolution, he did not even know there had been one, he did not know who was President of the Republic. People who are likely to be involved in transitional justice are those who have been less fortunate than others, who remain marginalized and forgotten [...] We talk about shepherds who own 10 goats and leave at dawn to the mountain. At best, they have a radio that allows them to listen to Oum Kalthoum - information does not interest them. (VP08)

This marginalization, both intellectual and regional, have facilitated a form of exploitation on the part of politicians. "There are many victims, particularly in rural areas, who do not know the law and know nothing. Besides officials exploit the intellectual weakness of these people in order to hide several things. This is why we must always be in contact with each other and be aware so that they do not believe that we are easily deceived," warns a young man wounded in the revolution (VP02) paradoxically emphasizing that these dynamics of exclusion have strengthened the links between victims and ease their common advocacy. The representative of an international organization summarised: "We managed to reach the elite, not ordinary citizens. Sometimes they call us or contact us here, believing that we are the IVD. The citizen is not even aware of the existence of the IVD and the process" (VP06). A former prisoner goes in the same direction, stating that:

Many victims do not know yet what transitional justice does and are not aware of its existence, since they live in rural areas and distant suburbs, which is why it is urgent to set up regional offices for reasons of proximity, to facilitate access to these people in the process and so people are better informed. (VP26)

Generally, these injustices are linked to the broader issue of regional inequalities in Tunisia, which are already at the heart of issues related to transitional justice. "We must put an end to regionalism," demands a former prisoner:

We are deprived of skills, even if they exist they are limited. You were lucky to belong to the Sahel, you have reached the next level of education, you are doctors, engineers. But we must go to peoples' homes and see the problems and concerns of people, you have to go to Sbeitla, Jedelienne, Hassi El Frid, and see the potholes in the roads and discover the shaking drive and dust due to air pollution. You have to really see all that to be closer to the victim [...] We need a transitional justice that is far from the elite and academics, that focuses on the streets, and ordinary people." (VP46)

"There are victims who continue to suffer injustices who do not have food or decent housing," recalls a former soldier (VP08). "You can continue to educate but there is a huge crisis of confidence."

5. Recommendations

For the attention of the IVD

- Ensure that the IVD and the mechanisms linked to transitional justice promote greater inclusion of victims in the process, and support the broadest possible participation of civil society associations who accompany them;
- Conceptualise and standardise a clearer method of and regular communication channel between the IVD and civil society, adapted to the areas where complementarity is possible (data collection, monitoring, representation, advocacy, outreach, and support to victims);
- Consider the collaboration between the IVD and civil society in a complementary and not hierarchical manner;
- Deepen relations between the IVD and victims to better understand their own perceptions and needs in the process, and to be able to evaluate in a continuous and reflexive manner the performance and results of the work of the IVD;
- Accelerate the establishment of a final list of all victims, to counter perceptions of "false victims" and their stigmatization, and thus guarantee their recognition at national level;
- Facilitate access to mechanisms of transitional justice by simplifying the procedure of depiction before a single mechanism and not a multiplicity of separate bodies;
- Clarify and make known its mandate, in particular to encourage the participation of marginalized victims (victims of sexual or gender-based violence, victims of economic violations);
- Build on the basis of conclusions provided by preceding mechanisms of transitional justice, including commissions of investigation and reparation programmes to avoid any duplication which helps to feed stigma and doubts around victims;
- Develop a communication strategy dedicated to marginalised groups, using a simplified or illustrated language, and through the available means of communication, including radio and social networks;
- Ensure the preservation of the memory of the victims as a symbolic reparation to counter the dominant perception that reparations are only financial;
- Accelerate the implementation of public hearings and taking of testimony with unique forms, especially for victims in urgent need;
- Guarantee specific measures to collect the narratives of female victims particularly in regions and among groups that are marginalized and linked with associations of women victims benefitting from their trust within the community;

For the attention of civil society:

- Facilitate and strengthen the role of victims' associations as an intermediary between victims and the IVD, particularly by reducing the gap and inequalities between the regions and the capital;
- Pursue and facilitate sensitisation closer to the population in connection with the IVD but also in an independent manner, for example via the creation of an Observatory for Transitional Justice;
- Complement official mechanisms by providing adequate support to victims, especially women and vulnerable groups;
- Ensure representation of women at all decision-making levels;
- Make advocacy for listening to and offering specific support to women in the IVD;
- Reduce the perception of politicisation or partiality by working with all categories of victims and thus ensuring greater representativity;
- Strengthen their presence outside Tunis and especially in historically marginalized areas, directly or by working more closely with local civil society partners ("platforms").

For the attention of the international community:

- Ensure that civil society organizations are funded and supported to best fulfil their role as an intermediary between victims and the mechanisms of transitional justice, strengthening the capacities of associations of victims in particular, and encouraging them to work in all regions of the country;
- Support civil society organizations in their role of monitoring the process, including supporting the Observatory for Transitional Justice;
- To benefit the members of the IVD with examples of good practice and international experience concerning listening to female victims and consideration of gender-based violence;
- Promote accessible and simplified sensitization that reaches all victims especially those who are marginalized, and living outside the capital, as well as vulnerable groups and the illiterate;
- Make advocacy to support the establishment of a coordination mechanism for all instances related to transitional justice to facilitate the access of victims to the mechanisms;

- Disseminate widely the principles and standards on the rights of victims and their definition to counter negative perceptions and stigmatization;
- Challenge the politicisation of the process by empowering victims beyond their identities as Islamist or secular, through support to organisations that do not articulate such an identity-based politics.

6. Conclusions

While often presented as a model for transitional justice, particularly because it was built on inclusive consultations with civil society, Tunisia's transitional justice process still has work to do to achieve a real and effective participation of victims, beyond the formal pleas and "empty rituals".³² The multiplication of intermediaries, including civil society associations and lawyers, is an obstacle to the direct involvement of victims who no longer feel themselves the primary focus of transitional justice.

Participation in the process has been variable, more visible at certain times of the process than others. During the national dialogue and the development of the organic law, it was obvious but then decreased, notably during the appointment of members of the IVD, which strongly affected the confidence of victims in a process from which they were progressively excluded.

On the individual level, the expectations of victims are both material and moral. While being aware that nothing will repair or compensate the lost years, broken careers, interrupted education, tarnished dignity or loss of loved ones, victims are still awaiting at least a decent life. Dignity, often cited by victims, means that they find a job to match their skills, but also that they enjoy decent housing and are rehabilitated in the eyes of their family and society. If financial compensation for lost years is certainly considered a right, it is not without the expression of some bitterness about the image, particularly in the media, of victims as profiteers and "traders in activism ". Most respondents said they were shocked by the campaign "how much a kilo of activism?" (" كيلو النضال بقداش ").³³ Their demonization too often forces victims to enter into a logic of justification, sometimes even evidencing a double victimization.

Moral expectations are just as numerous. Victims interviewed deplored the lack of psychological care, and of public listening centres to offer support and advice, and feel left on their own, dependent on the goodwill of the competent authorities and awaiting effective mechanisms.

The recognition and the request for forgiveness also constitute one of the most moral expectations shared by the surveyed victims. Indeed, fears are still numerous and sometimes justified by a political discourse trivializing their suffering or even accusing them of being responsible. Official recognition could help reduce this stigma. Establishing the truth about past crimes is often cited as constituting a form of moral reparation, even before financial compensation or accountability of those responsible for violations.

Collectively, the expectations of victims relate to both the community of victims and regional and national communities. The overriding expectation remains the institution of mechanisms of non-repetition of the violations, several victims expressing their fears of the old regime returning,

³² Taylor, David (2014) *Victim Participation in Transitional Justice Mechanisms: Real Power Gold Empty Ritual?* Discussion Paper: Impunity Watch.

³³ Supporters of the campaign argued, in response to the creation of a "Dignity and Rehabilitation Fund" that it was inadmissible to compensate political activism, and denounced the waste of national resources that it represents in the context of the current economic crisis.

particularly in the current context. Victims in this regard mentioned their disappointment in the judgments of military courts, considered an obstacle in the fight against impunity. Thus - and despite the criticism often directed IVD - the majority of respondents still consider the victims as the last rampart to accomplish transitional justice. This does not prevent their expectations being great, particularly concerning the establishment of specialised chambers. Victims interviewed are also waiting impatiently for the establishment of regional offices of the IVD which would cover all the territory and facilitate their access. Vulnerable groups in particular see that the IVD should come to them, rather than the opposite. They also hope that these regional offices all contain a helpline, offering legal, social and psychological advice and support, to help them gain access to the mechanisms provided for them.

The greatest apparent threat to a process that both engages and satisfies victims remains its continued overwhelming politicisation, from the highest levels of governance to victims' organisations and communities. The repeated calls however for the 'depoliticisation' of the process fail to acknowledge that transitional justice has always been political, devoted to the legitimisation and delegitimisation of regimes: contestation over the Tunisian process reflects the lack of consensus over the political direction of the nation. The only way in which partisan political approaches can be challenged is through the political empowerment of victims beyond their other identities in a way that can confront and bridge such divides.

These few elements, whilst not exhaustive, constitute a first effort to finally give voice to the victims in a process of transitional justice intended for them but from which they have been quickly marginalized. Working with victims, refocuses the transitional justice debate on their needs and on making their voices heard without intermediaries is a way to finally give them their place and, perhaps, to help rebuild a lost dignity. Victims are indeed first among citizens, activists, human rights defenders - in short, the actors. It is therefore right that the last word of this study is from one of them who, from Sidi Bouzid, summarised the substance of our argument: "To participate is to have hope".

Appendix 1 List of persons interviewed

ID	Gender	Status	Description	Region	ID	Gender	Status	Description	Region
VP01	M	Victim	Ex-soldier: Barraket Essahel	Tunis	VP43	M	Victim	Ex-political prisoner and victim of torture	Grombali, Nabeul
VP02	M	Victim	Injured during the revolution	Mornag, Tunis	VP44	F	Victim	Ex-political prisoner	Grombali, Nabeul
VP03	M	Victim	Ex-soldier: Barraket Essahel	Tunis	VP45	M	Victim	Ex-political prisoner and victim of torture	Kasserine
VP04	F	Victim	Ex-political detainee	Tunis	VP46	M	Victim	Ex-political prisoner and victim of torture	Sbeitla, Kasserine
VP05	M	Expert	Judge at the Tunis military court	Bab Saadoun, Tunis	VP47	M	Victim	Ex-political prisoner and victim of torture	Kasserine
VP06	F	Expert	Representative of the International Center for Transitional Justice	Tunis	VP48	M	Active in civil society	President of the association: Tunisian Transitional Justice Network	Tunis
VP07	F	Victim	Mother of a young man killed during the revolution	Tunis	VP49	F	Victim	Ex-political prisoner and victim of torture	Bizerte
VP08	M	Victim	Ex-soldier: Barraket Essahel	Tunis	VP50	F	Victim	Ex-political prisoner and victim of torture	Grombali, Nabeul
VP09	M	Victim	Ex-political prisoner	Mornag, Tunis	VP51	M	Victim	Son of ex-political prisoner	Sbiba, Kasserine
VP10	F	Victim	Wife of dead ex-political prisoner	Bizerte	VP52	M	Active in civil society	Ex-soldiers' association, INSAF	Tunis
VP11	M	Expert	Representative of the UN High Commissioner for Human Rights	Mutuelleville, Tunis	VP53	F	Victim	Ex-political prisoner and victim of torture	Grombali, Nabeul
VP12	M	Victim active in civil society	Member of the Justice and Rehabilitation association	Tunis	VP54	M	Active in civil society	President of the association «Youth Forum for Culture and Citizenship»	Kasserine
VP13	M	Victim	Ex-political prisoner	Feriana, Kasserine	VP55	M	Active in civil society	Active in transitional justice	Kasserine
VP14	F	Victim	Ex-political prisoner	Sidi Thabet, Tunis	VP56	M	Active in civil society	Coordinateur régional de l'Union des chômeurs	Sidi Bouzid

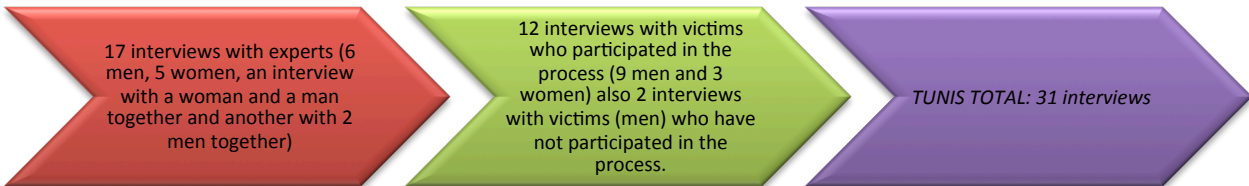
VP15	M	Victim	Brother of an ex-political prisoner	Feriana, Kasserine	VP57	M & F	Active in civil society	Representative of Advocats Sans Frontières	Tunis
VP16	M	Victim	Ex-political prisoner	Bizerte	VP58	M	Victim	Ex-political prisoner from the mining area	Sidi Bouzid
VP17	M	Victim	Ex-political prisoner (mining area)	Feriana, Kasserine	VP59	M	Victim	Ex-soldier, victim of Barraket Essahel	Sidi Bouzid
VP18	M	Victim	Ex-political prisoner	Tunis	VP60	M	Active in civil society	General coordinator of the association « Thala Activists»	Thala, Kasserine
VP19	M	Victim	Ex-political prisoner	Kasserine	VP61	M	Victim	Ex-political prisoner	Menzel Bouzalfa, Nabeul
VP20	M	Victim	Ex-political prisoner and victim of torture	Kasserine e	VP62	M	Active in civil society	President of the association « Karama »	Tunis
VP21	M	Victim	Ex-prisoner (Activist of the UGET)	Feriana, Kasserine	VP63	M	Victim	Ex-political prisoner	Foussana, Kasserine
VP22	M	Active in civil society	Vice-president of the association « Thala pour le théâtre de la réalité »	Thala, Kasserine	VP64	F	Victim	Harassed and marginalised former dissident.	Korba, Nabeul
VP23	F	Victim	Ex-political prisoner	Bizerte	VP65	M	Victim	Marginalised former dissident	Kasserine
VP24	F	Active in civil society	President of the association “Free Women”	Sbeitla, Kasserine	VP66	M	Victim	Harassed and marginalised former dissident.	Korba, Nabeul
VP25	F	Active in civil society	Lawyer working with victims of the revolution	Tunis	VP67	F	Victim	Victim of corruption and administrative harassment	Sidi Bouzid
VP26	M	Victim	Ex-political prisoner	Kasserine	VP68	M	Victim	Ex-political prisoner and victim of torture	Korba, Nabeul
VP27	M	Victim	Ex-political prisoner and victim of torture	Tunis	VP69	M	Victim	Ex-prisoner (Victim of the abolition of the monarchy in 1957)	Sanheja, Tunis
VP28	M	Victim	Victim of harassment and marginalisation (Active in the student movement)	Laayoun, Kasserine	VP70	M	Victim, Lawyer	Ex-political prisoner and victim of torture	Ibn Khaldoun City, Tunis
VP29	F	Active dans la societe	General coordinator of the association « Sama Sufetula for	Sbeitla, Kasserine	VP71	F	Victim	Ex-political prisoner and victim	Menzel Bouzalfa,

		civile	social and cultural development »					of torture	Nabeul
VP30	M	Victim	Ex-political prisoner	Kasserine	VP72	M	Victim	Ex-political prisoner and victim of torture	Nabeul
VP31	M	Victim	Ex-political prisoner	Feriana, Kasserine	VP73	F	Active in civil society	Social coordinator of OMCT	Sidi Bouzid
VP32	M	Victim	Ex-political prisoner	Bizerte	VP74	M	Victim	Ex-political prisoner and victim of torture	Korba, Nabeul
VP33	M	Victim	Ex-political prisoner	Tunis	VP75	M	Victim	Brother of victim killed by the police	Cité Hlel, Tunis
VP34	M	Expert	Representative of UN programme on human rights	Tunis	VP76	F	Victim	Mother of victim killed by the police	Meknassi, Sidi Bouzid
VP35	F	Active in civil society	Member of the Tunisian League for Human Rights	Tunis	VP77	M	Victim	Brother of an ex-political prisoner and victim of torture	Bizerte
VP36	M	Victim	Ex-political prisoner	Kasserine	VP78	M	Victim	Ex-political prisoner and victim of torture	Nabeul ville
VP37	M	Victim	Ex-political prisoner	Kasserine	VP79	F	Active in civil society	Avocate	Tunis
VP38	M	Victim	Ex-political prisoner	Bizerte	VP80	M	Member of the IVD	IVD	Tunis
VP39	M	Victim	Ex-political prisoner	Grombalia, Nabeul	VP81	M	Member of the IVD	IVD	Tunis
VP40	F	Expert	Representative of the association « Tounisiette »	Tunis	VP82	M	Head of Mission. Ex-Ministry of HR and TJ	Lawyer	Mutuelle ville, Tunis
VP41	M	Victim	Ex-political prisoner	Bizerte	VP83	F	Member of the IVD	IVD	Tunis
VP42	M	Victim	Ex-political prisoner	Kasserine					

Kasserine



Grand Tunis



Sidi Bouzid



2 interviews with experts (one man and one woman)

4 others with victims (2 men and 2 women) who participated in the process.

Bouzid TOTAL: 6 interviews

Focus group: 21 participants

