



IPI POLICY FORUM

Tunisia: Seeking Justice in Times of Transition

When:

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Where:

Trygve Lie Center for Peace, Security & Development
International Peace Institute
777 United Nations Plaza, 12th Floor
(Corner of 1st Avenue and 44th Street)

TRANSCRIPTION

Chair:

Warren Hoge, *Vice President for External Relations, IPI*

Speakers:

Ghazi Jomaa, *Permanent Representative of Tunisia to the United Nations*

Mokhtar Trifi, *President of the Tunisian League for the Defense of Human Rights (LTDH)*

Habib Nassar, *Acting Director, Middle East and North Africa, ICTJ*

Marcie Mersky, *Senior Advisor, Program Office, ICTJ*

Warren Hoge:

Good afternoon. I'm Warren Hoge, IPI's Vice President for External Relations. And on behalf of IPI and the International Center for Transitional Justice, ICTJ, I'm happy to welcome you to this policy forum on "Tunisia: Seeking Justice in Times of Transition."

Since January, popular uprisings across North Africa and the Middle East have overthrown the longtime dictators of Tunisia in Egypt and shaken rulers in Libya, Bahrain, Syria, Yemen and Jordan, marking the greatest wave of political change the world has seen since the fall of the Berlin Wall.

The episode that set off these rolling events was the action last December by Mohammad Bouazizi, a 26-year-old fruit and vegetable vendor in the small Tunisia town of Sidi Bouzid to set himself on fire after being harassed by a local policewoman as he tried to set up his stall for work.

Within a month, the 23-year-old regime of President Zine al-Abidine Ben Ali had come to an abrupt end and protest against the established order began to erupt across the region. The issue here was a long-thwarted and pent-up popular desire for economic opportunity, political recognition, public accountability and social justice.

Tunisia, a moderate state with a secular tradition is where it all began. And it is also where efforts to move from dictatorship to democracy are the farthest along of any of the restive states I just mentioned. Examining those efforts is our purpose here today.

But let me digress for a moment to a different time and a different place that I experienced and that one of our speakers will be mentioning.

For five years in the 1980's I was *The New York Times* bureau chief covering Latin America from a base in Rio de Janeiro. And the main thematic story in that decade there was a similar popular rejection of dictatorships and call for representation and justice that was sweeping countries across South and Central America. Today they call it The Jasmine Revolution. In Brazil, back then they called it *abertura*, the Portuguese word for "opening."

One of the people I communicated a lot with at that time was Alfred Stepan, Professor of Government at Columbia University. And Al was to go on to make this process of transition the subject of a number of penetrating papers and books. The other day, I noticed a column he wrote in which he said, "Tunisia's chances of becoming a democracy before the year ends are I believe surprisingly good."

On July 24th, Tunisia will hold an election to choose the members of a new constituent assembly whose first job will be to form a government. It's evident that the Tunisians are devoting a lot of attention to this important transition, which will be closely watched across the region and could become a model for others.

In Tunis last month there was a conference in which there were panels on transitional justice in a post authorities setting, criminal justice and judicial accountability, and security sector reform or how to turn abusive security institutions into ones that are responsive to the needs of society.

To discuss these issues here today, we have assembled a terrific panel. In the order in which they will speak our panelists are: Ghazi Jomaa, Tunisia's Permanent Representative to the United Nations; Mokhtar Trifi, President of the Tunisian League for the Defense of Human Rights; Habib Nassar, Acting Director of ICTJ's Middle East and North Africa division; and Marcie Mersky, a Senior Advisor at ICTJ's Program Office. Their full biographies are in the back of your program.

First up is Ghazi Jomaa, who has been Tunisia's Permanent Representative at the UN since 2009. Prior to that he held a number of high level positions in the Ministry of Foreign Affairs in Tunis and Ambassadorial post in Europe, Latin America, and just before coming to New York, Turkey. A career diplomat, he joined the Ministry in 1983. Ambassador, welcome to IPI and the floor is yours.

Ghazi Jomaa:

Thank you, Mr. Warren Hoge, for giving me the floor. Allow me first to thank the International Peace Institute and the International Center for Transitional Justice for organizing this event, and for inviting me to address such a distinguished audience. Let me, because I know the theme of today is the transitional justice let me a small introduction on the, what we call it, 14 January revolution in Tunisia.

The Tunisia that made news on January 14, 2011 had enjoyed and still does more than 50 years of a successful education policy that allowed Tunisian society to become and open, homogenous and modern one. And it was expected that any political establishment would make that factor--would take that factor into consideration and act accordingly.

It was high time Tunisians enjoyed a high degree of democracy and freedom as they have concentrated their efforts on building a strong social and economic fabric during the three decades that followed independence, the human resources being the most important, if not the sole wealth of the country. Unfortunately, when they thought they were ready for a political openness and expected to be provided with that legitimate right, they were faced with an iron

curtain by which their aspiration were not only ignored, but also crushed violently.

That cost a major fracture between the citizens and the political establishment which continued to grow until January 14, 2011. But it grew faster as the country started suffering from an economic downturn due to an international situation, but also to doubts within the domestic system as corruption and favoritisms became the main criteria to make business.

As a consequence, both national and foreign investors were suspicious and later discredit from investing and creating jobs as the living conditions deteriorated. That set the stage for the final act that lead to the revolution. The growing concern included not only the unemployed, but also the middle class, the educated, the working class, the political arena, the business community. In other words, the regime was totally cut off from the population who ultimately decided to take over its destiny in January 2011.

To sum up, it was wrong to ignore the aspiration of society that produced the creator of modern society, Ibn Khaldoun. It was wrong to ignore that fact that Tunisians women were the first to gain emancipation and full equality with men in 1956, just after the independence. It was wrong to ignore the fact that Tunisia was the first Arab country to provide itself with a constitution. It was wrong to ignore the fact that Tunisia was the first Arab and African country to set up a central bank and print its own currency in 1958. With its modern society, strong institutions and laws covering all sectors, and feels the last element missing was the democratization process that finally came a bit late--but like we say, better late than never.

Now let me move that to the theme of our meeting, this gathering. Transitional justice is an important subject in my country. And in this particular significant point of its history, as Tunisia is going through a period of political transition to democracy which we believe will be incomplete if justice is not one of its main components.

The fall of the former president regime opened the door to many initiatives and debates on how to address the widespread political oppression and the human rights violations which were committed and bring to justice the perpetrators. Already this issue was the subject of two international conferences that took place in Tunis during the last few weeks. One of them was held on 14 April in collaboration with International Center for Transitional Justice and the UN Office of the High Commissioner for Human Rights. It brought together some 150 government and civil society actors from around the world to discuss common challenges faced by societies in transition with a focus on the Tunisian context.

As you all know, an authoritarian regime brutalized Tunisia for several decades during which crimes against political opponents and social-civil society among them--we have now one representative the head of the League on Human Rights on my left, Mr. Trifi. Then committed social--were committed social claims were brutally repressed and corruption and disregard for the rule of law reaches unprecedented levels, all in a climate of total impunity.

The recent ouster of Tunisian's dictator presents the first real opportunity for victims to seek justice. As the country is moving through this period, which Tunisians dreamt of for generations, it would not turn its back to the darkness of the past and the people who suffered. On the contrary, it should reconcile this past so that perpetrators of abuse can be held accountable. Victims are recognized, and they're rehabilitated. And mechanisms preventing the recurrence of such violations are put in place.

As with all revolutions, nothing is as simple as it seems. Many things have to be done from scratch. This is the daunting task facing Tunisia's new leaders, both

government and civil society. Everything needs reform: health, education, the security sector, elections, the justice system, corruption, employment. This list goes on. In such a context one maybe inclined to think that priorities should be given to providing people essential needs and ensuring basic services before one could even think of justice and accountability. In this, however, the people of Tunisia think differently, particularly the civil society that is starting now to regroup and assert itself.

Indeed, we see justice and accountability for past violations as an essential component of building a stable state, not as something that can be taken on later. There is a strong belief that transitional justice is needed now, both to demonstrate a real break with the past, but also to make sure that a new Tunisia is built on a solid foundation of respect for the rule of the law that includes accountability of its leaders current and former.

In Tunisia, in addition to civil society, the interim government is also showing a strong interest to end impunity, implement transitional justice and restitute civil rights and peace to people so that they can turn the page. In fact, among the first decisions of the interim government was to proclaim a general amnesty, release all political detainees and grant them the right to reintegrate their jobs, as well as the right to seek reparations.

Tunisia's decision to join the International Criminal Court is also very indicative of this genuine interest to fight impunity. Moreover, an independent national fact-finding committee was put in place and tasked to investigate the violations and abuses that occurred during the recent uprising. Since it started examining complaints and hearing citizen's grievances, the committee received some 979 complaints; 106 about deaths, 641 about injuries, and the rest referring to damage of property.

The committee is expected to prepare a comprehensive report to document evidence before and during the revolution. And to reveal who the victims and perpetrators were. It is not meant to replace justice, but to support it. The key challenge here is how to ensure synergy between this fact-finding committee and criminal justice and meet the needs of an integrated approach where both mechanisms can work similarly in a symbiotic relationship.

The other challenge for Tunisia is how can the justice system keep pace with the high number of cases brought before it either directly or brought or through the fact-finding committee? Criminal justice is facing many hurdles including case complexity, the large numbers of both perpetrators and victims.

There is a real need to reform and strengthen investigative and prosecutorial bodies within the Tunisian judiciary which also needs to gain back the confidence of the citizens, who, for long time, had doubts about its independence. Beginning with accountability for the event of recent months is a good start. But eventually this must extend back to the reparation and oppression of previous decades.

In the meantime, another independent fact-finding committee was created and was tasked to investigate embezzlement and corruption cases. Although the legitimacy of this committee was under question and even subject to judicial proceedings, the committee continued its investigations and received six thousand records--over one thousand cases--of which were processed and submitted to courts.

Another challenge is reparation. Justice must be comprehensive and should include reparations for the victims and communities who were particularly oppressed. The interim government in Tunisia has already offered reparation to the victims of the recent uprising and their families. But, in many cases, material reparation proved irrelevant as long as perpetrators were not indicted. As a

matter of fact, some families refused to receive any reparations, insisting instead that perpetrators should be brought to justice first.

Indeed, reparation should not be perceived as a substitute to justice. It is not. When and how to issue reparations is very important. A participatory approach and a clear strategy are needed to put in place well thought out reparation programs that should consider on addressing the real needs of victims and entire towns that have suffered before and during the revolution. Non-material forms of reparations are also important and necessary to repair the moral damage suffered by the victims. Tunisia has already begun naming streets and people who died during the revolutions.

I wish I had more time to underline some other major challenges facing Tunisia. In this regards, such as the need for security sector reform to change the once-abusive institutions into ones responsive of the needs of society. Or the fear that collective blame for past atrocities committed by former leaders could be used as a pretext for broad exclusion from political or economic power of the passive supporters without due process.

In conclusion, let me remind that the underlying cause of the Tunisian uprising was the denial of dignity. Or a phrase that resonated highly during and in the aftermath of the Tunisian revolution: today we believe that a décor of restoring the dignity will be bringing the perpetrators of violations before justice as well as redefining the relationship between the state and its people. This relationship must now be built on accountability, respect for human rights and plays the state at the service of the entire population.

Thank you very much for you attention. And I am ready for you if there are any question, any question, without barriers. Thank you very much.

Hoge:

Thank you Ambassador. We will have a question-and-answer session after this is all over, so the Ambassador will have a chance to ask questions of him, and to answer them.

Our second speaker is Mokhtar Trifi, a Tunisian journalist, lawyer, rights activist and member of the Tunisian opposition. He is currently the President of the Tunisian League for the Defense of Human Rights, which is the oldest organization of human rights in the Maghreb. Mr. Trifi will speak in French, so any of you who need to do so, its channel one is the English version on your headset there. Mr. Trifi, the floor is yours.

Mokhtar Trifi:

Merci, Monsieur le Président, merci de votre invitation et je m'excuse au près de l'assistance de parler en français. Mon anglais est tellement faible que je ne m'aventure pas à l'utiliser.

Tout d'abord je vous remercie. Je remercie aussi M. l'Ambassadeur, qui est assis à ma droite. C'est la première fois que je m'assoie à la même table qu'un ambassadeur de Tunisie. Je suis honoré, M. l'Ambassadeur, parce que auparavant nous étions pourchassé ici et là. C'est vous dire qu'une révolution est passée par là!

Donc voilà. La transition en Tunisie et les problèmes de la justice transitionnelle. Je voudrais dire quelques mots sur des choses que vous connaissez déjà : comment cette révolution s'est passée et quelles en sont les conséquences immédiates.

C'est parti d'un fait plus ou moins banal, un jeune diplômé qui s'immole dans la ville de Sidi Bouzid. C'était le 17 décembre. On peut dire que c'est apparemment banal parce qu'auparavant, il y a eu pas mal de gens qui se sont immolés et que leurs actes n'ont pas suscité cet élan, et c'est ce mouvement qui

a conduit au changement de régime.

Qu'est-ce qui c'est passé? Parce que, justement, on essaie de trouver une explication. C'est partie d'une région où la pauvreté a atteint des degrés élevés ; où le chômage, surtout des jeunes diplômés, a atteint des proportions inégalées ailleurs. Et surtout, ça c'est passé devant la caméra d'un téléphone portable. Tout de suite après l'événement, ce qui s'est produit a été filmé et passé sur un - - excusez-moi -- est passé sur une chaîne de télévision, en l'occurrence Al-Jazira pour ne pas la nommer.

Ces images du jeune qui s'immolait et des jeunes qui ont attaqué le siège de la préfecture régionale et l'administration régionale, on fait le tour de la Tunisie et le tour du monde. Et ça a donné l'élan à plusieurs dizaines de jeunes à Sidi Bouzid et puis dans les villages aux alentours, de rappeler qu'ils ont des problèmes à poser. De se rappeler que ces problèmes n'ont pas été résolus durant les dix années passées. Les problèmes du chômage, du développement régional inéquitable, les inégalités, etcetera.

Donc les gens ont posé devant tout le monde ces problèmes là. Et ça a commencé à passer de village en village jusqu'au jour où il y a eu six morts dans un village à côté de Sidi Bouzid. Et vous comprenez que les gens qui voient leurs copains tomber sous les balles à côté d'eux, et qui reviennent le lendemain pour manifester, n'ont plus peur de rien. C'est à ce moment-là que le mur de la peur qui s'était installé en Tunisie est tombé.

C'est au moment où les gens bravaient la mort. Parce qu'on pouvait dire qu'on pouvait manifester. On pouvait être réprimé. Mais être réprimé en se faisant tuer et en revenant le lendemain, ça c'est nouveau. Et en ce moment-là, le pouvoir, malheureusement, n'a pas compris que quelque chose avait changé. Que la peur avait changé de camp, comme on dit.

La peur qui était du côté de la population est passée du côté du régime qui n'avait aucune réponse. A cette fronde, à cette manifestation, à cette demande sociale, que la répression! Et la répression a continué et les manifestations ont continué, elles se sont transportées dans d'autres gouvernorats, surtout dans la région qui est à côté de Sidi Bouzid, qui est la région de Kasserine. Et à Kasserine le nombre des tués a augmenté d'une manière spectaculaire. Plusieurs dizaines sont morts sous les balles en quelques jours. Et c'est à Kasserine que le mouvement a changé de nature.

Les revendications sociales ont continué à se faire entendre, mais aussi, c'est la première fois qu'on a entendu de façon collective la demande que Ben Ali, le président de la République, parte. Et la répression est devenue encore plus forte à cette demande-là. Mais la population de Kasserine et Détela, un village pas loin de Kasserine, a continué de manifester et à partir de Kasserine le mouvement s'est propagé dans toute la République jusqu'à la chute de Ben Ali le 14 janvier.

La chute de Ben Ali n'était pas attendue. Personne, absolument personne, y compris les défenseurs des droits humains Tunisiens, étrangers, tous les observateurs, personne n'attendait la chute aussi rapide de Ben Ali. A tel point que vous vous rappelez probablement que certaines chancelleries étrangères demandaient à la Tunisie de mater, d'une manière soft, les manifestations. C'était comment exporter, par exemple, le savoir-faire français, je le dis, vers la Tunisie, pour que les manifestations soient réprimées d'une manière qui ne laisse pas beaucoup de traces. Ce soutien s'est manifesté jusqu'à la chute de Bend Ali.

Cette chute, qui n'était pas annoncée, qui n'était pas programmée, a laissé la Tunisie devant un vide, que maintenant on essaie de combler. Et vous vous

rappelez, M. l'Ambassadeur se rappelle, que nous avons tenté pendant plusieurs semaines et plusieurs mois.

Le premier jour, on a eu deux présidents en 24 heures, deux présidents intérimaires. D'abord c'était le premier ministre, qui a pris le pouvoir comme président intérimaire par le fait de l'Article 57 de la Constitution qui prévoit qu'en cas de vacance provisoire du poste de Président de la République, c'est le premier ministre qui prend la relève pendant deux mois. Et ce, jusqu'à ce que l'empêchement à l'origine de la vacance ait disparu.

Donc c'était le 14 au soir, mais le 15 au matin c'est un autre président intérimaire qui est arrivé. Maintenant, c'est du fait de l'article 56 de la Constitution, en constatant que l'empêchement du président de la République en activité est définitif, que Ben Ali ne peut plus revenir au pouvoir. C'est à ce moment là que le président de l'assemblée nationale est devenu président par intérim.

Donc en moins de 24 heures il y a eu deux présidents par intérim. Et par la suite, ce président par intérim avait l'obligation d'organiser des élections présidentielles dans les 60 jours qui suivent. Donc, on aurait dû avoir un nouveau président de la République au 14 mars 2011.

Oh, certains parmi connaissent la situation constitutionnelle de la Tunisie. La Constitution Tunisienne a été tellement falsifiée qu'on ne pouvait plus parler d'une constitution. A chaque moment, Ben Ali faisait des amendements de la constitutions pour s'assurer une continuité, pour s'assurer d'être réélu.

En 2002, on a changé la constitution pour lui permettre de dépasser les trois mandats constitutionnels. On a changé la constitution pour lui permettre d'être candidat. Donc n'il y avait plus de limitation de mandat. Par ailleurs, étant donné qu'il allait avoir 75 ans bientôt, on allait changer la constitution pour aussi éliminer la limite de l'âge pour lui permettre d'être président en 2014. Donc cette constitution là, on ne pouvait plus l'utiliser pour des élections démocratiques.

On ne pouvait pas l'utiliser parce que les conditions de candidature à la Présidence de la République étaient faites sur mesure pour Ben Ali. N'importe qui d'autre ne pouvait être Président. Par exemple, il était obligatoire pour tous ceux qui voulaient être candidat d'être entérinés par 30 élus députés à l'Assemblée Nationale ou présidents de Conseils Municipaux. En cela, tous pratiquement étaient du parti du Ben Ali. Donc celui qui veut être président doit avoir l'aval des élus du parti de Ben Ali. Donc on était dans l'impossibilité d'organiser dans les 60 jours des élections.

Le problème c'est que le gouvernement qui s'est mis en place de Monsieur Ghannouchi était tout entier tourné sur ça. Il n'a pas pris la décision, par exemple, ou bien de renvoyer les élections de la présidentiel au printemps, ou de sortir du cadre constitutionnel. C'est seulement deux mois après, même un peu plus de deux mois, qu'on est sorti de ce cadre.

Nous avons dit que la constitution actuelle ne peut tenter d'utiliser les chambres parlementaires élues dans les conditions qui vous connaissez, c'est-à-dire dans des élections totalement falsifiées avec des scores stratosphériques de 90 ou 99 pourcent...

Donc, de suite, on a installé un nouveau système, un nouveau système qui part du consensus. Et là, c'est à mon avis extrêmement important. On n'est plus dans la légalité constitutionnelle puisqu'on est sorti de la constitution. On est entré dans une légalité consensuelle, c'est-à-dire les gouvernements et la société se sont mis d'accord pour organiser le 24 juillet – et j'insiste sur cette date, je vais y revenir – pour organiser le 24 juillet des élections d'une assemblée constituante. Donc le pouvoir provisoire reste en place jusqu'à l'élection de cette

constituante le 24 juillet.

Au même moment, puisqu'il n'y a plus d'institutions représentatives, le Haut Comité pour la réalisation des objectifs de la révolution, de la réforme politique et de la transition démocratique – excusez le nom très long – a été installé comme une commission technique. Maintenant, il rassemble plus de 170 personnes. J'en fais partie. Le haut comité a pris un peu la place d'une chambre législative, mais avec un pouvoir pas décisionnel mais de proposition.

Et c'était un débat très long et très pénible avec le gouvernement parce que certains parmi nous voulaient que cette assemblée ait un rôle de décision, mais on s'est arrêté à un rôle de proposition et de travail avec le gouvernement. La première tâche qui a été assignée à ce haut comité est de faire une loi électorale pour les élections de l'assemblée constituante du 24 juillet.

Cette loi, nous l'avons proposée et le gouvernement a tergiversé pendant un mois pour la passer. Pourquoi ? Parce qu'il y a un article qui a posé problème. Le haut comité a dit que les anciens du parti au pouvoir, les membres de l'ancien régime, ne pouvaient pas être candidats aux élections de la constituante. Et là, bien sûr, plusieurs voix se sont élevées pour dire qu'il n'y a pas de raison qu'il y ait cette exclusion. D'autant plus que la période est longue, c'est 23 ans, le règne de Ben Ali! En fin de compte, on a trouvé un consensus et la loi a été publiée il y a 10 jours.

Au même moment, nous avons voté une loi pour instituer une commission, une haute commission indépendante pour les élections. C'est que, pour la première fois, les élections en Tunisie ne vont pas voir la seule intervention directe de l'exécutif. Le ministre de l'intérieur, qui était là auparavant, qui faisait les élections, ne va pas le faire.

Je dis un seul mot sur ces deux lois. La première loi sur les élections a, à mon avis, une qualité extraordinaire, qui ne se trouve à ma connaissance nulle part ailleurs. Nous avons demandé, et cela a été accepté, que sur les listes électorales, chaque parti doit présenter une liste à la parité homme/femme. C'est-à-dire si vous avez 10 candidats sur une liste, il doit y avoir cinq hommes et cinq femmes. S'il y a un homme, la deuxième sur la liste est une femme. Et si le premier est une femme, le deuxième est un homme et ainsi de suite.

Là, je peux vous dire que ça n'est pas passé d'une manière facile! Même au sein du gouvernement, il y en a certains qui ont discuté, comme quoi on n'est pas préparé. Bien sûr, dans ce genre de truc on n'est jamais préparé. Ou on commence ou on ne commence pas. C'est au fer et à mesure que ça va aller. Et je crois que c'est une mesure extraordinaire que nous avons vu.

Par contre, le problème qui se pose, c'est sur la commission électorale indépendante qui vient d'être élue en partie. Cette commission, qui va superviser les élections du 24 juillet, n'est pas encore totalement élue parce qu'on a trois membres qui doivent l'être. Et là, le problème qui se pose est est-ce que nous pouvons toujours, dans ces conditions, faire les élections de la constituante le 24 juillet? Le décret pour les élections va être publié incessamment mais, techniquement, moi je commence à avoir des doutes.

J'ai demandé pas plus tard que mercredi au premier ministre lorsque je l'ai vu, je l'ai dit publiquement, qu'on tient au respect du 24 juillet. Parce que si on dépasse cette date sans faire d'élections, c'est-à-dire sans apporter un pouvoir nouveau basé cette fois-ci pas sur le consensus, mais sur la volonté populaire, on va avoir des difficultés. Ce consensus a voulu que, le 24 juillet, ce pouvoir disparaisse, et un gouvernement basé sur la volonté populaire, le suffrage universel, prenne la place. Et ça va être problématique...

Bon. Donc dans tout ça, quelle place pour la justice? Et vous m'excusez d'être un peu long. Donc quelle place pour la justice?

Aujourd'hui, je vous le dit clairement, la justice légitime est à refaire parce que c'était une justice totalement instrumentalisée. Je le vois dans la salle, certains savent certaines choses, qui ont assisté à des procès, des procès politiques, et même les procès des droits communs.

Lorsque vous entrez dans une chambre, la correctionnelle – la correctionnelle dans le droit tunisien, ce sont les peines qui vont jusqu'à cinq ans – vous trouvez une chambre avec 200 à 250 dossiers par audience. Avec ça, 150 prévenus en état d'arrestation. Vous demandez au magistrat d'être indépendant et de les juger sur serment. Il ne peut pas. C'est une justice expéditive.

En plus du nombre important d'anciens cas vient – M. l'Ambassadeur vient d'en parler – un nombre extrêmement important d'affaires nouvelles qui tombent sur cette justice. Les affaires de corruption : plusieurs milliers, certainement. Les exactions – pas seulement celles qui sont traitées par la commission que préside mon ami et mon prédécesseur, M. Bourdarbelle, ancien président de la ligue de droits de l'homme. Parce que cette commission ne traite que des exactions commises à partir du 17 décembre. Mais toutes les exactions qui ont précédé le 17 décembre ont également le droit d'aller en justice. Donc ça va être un grand nombre.

Donc, cette justice est déjà encombrée par le passé et va l'être encore plus, mais aussi c'est une justice qui n'est pas préparée techniquement. Les magistrats tunisiens n'ont pas été formés pour juger ces problèmes-là : les problèmes de corruption, les problèmes pointus, les problèmes du trafic d'influences, les délits d'initié, les délits financiers, etcetera, etcetera.

La recherche des fonds tunisiens à l'étranger, de fonds qui ont été volés par Ben Ali et sa famille, par les gens qui l'entouraient, c'est une tâche extrêmement difficile, à laquelle techniquement nous ne sommes pas préparés. C'est pourquoi le gouvernement tunisien a fait appel à un bureau international spécialisé dans ces affaires.

Donc notre justice, elle n'était pas préparée pour ça. Aujourd'hui, elle est pourtant obligée de juger des criminels qui vont lui être transférés. Et cela va être difficile, donc on doit changer d'abord le statut des magistrats pour leur donner effectivement une indépendance de fait. Pas seulement une indépendance sur le papier, mais les moyens de travailler, une formation adéquate pour l'avenir et une mise à niveau immédiat pour pouvoir juger les gens qui doivent l'être. Et avec la célérité nécessaire.

Un des problèmes qui se posent à nous maintenant, qui se pose pour les populations concernées, c'est que la justice est lente. Les gens réclament la justice et ils le disent haut et fort. Ils font des « sittings », ils font des grèves pour ça. Il n'y a pas longtemps, j'ai accompagné des familles devant le ministre de la Justice. C'était pénible parce qu'on le sermonnait pour lui dire que les gens qui ont tué nos enfants sont en train de circuler devant nos yeux. Pourquoi ne sont-ils pas arrêtés ? Heureusement que les choses commencent à évoluer, mais pas aussi rapidement qu'il le faut.

Bon, dans tout cela, quelle articulation pour la justice transitionnelle. D'abord, aujourd'hui en Tunisie, lorsqu'on parle de la justice transitionnelle devant des gens qui ne sont pas initiés, ils vous disent tout d'abord : "Ah, vous voulez garder l'impunité pour les hommes de Ben Ali! Vous voulez les absoudre. Vous êtes en train de défendre un système qui ne les met pas en prison."

Bien sûr, il faut expliquer que ce n'est pas du tout ça, que la justice transitionnelle

n'est pas l'impunité. Et que nous sommes convaincus de la nécessité de juger les criminels. Mais lesquels et dans quelles conditions ? Ça c'est la première question. Est-ce qu'on doit juger tous ceux qui ont commis des crimes, même les crimes les plus simples – s'il y a un crime qu'on peut appeler plus simple qu'un autre.

La deuxième – un élément fondamental – c'est qu'il doit y avoir à un moment pas très lointain, la nécessité d'une prise de position, d'une décision politique de recourir aussi à la justice transitionnelle. C'est-à-dire de faire toute la lumière sur ce que c'est passé tout le long du règne de Ben Ali, pas seulement au niveau des crimes qui ont été commis mais aussi sur la nature du régime.

Cette vérité doit être faite parce que les conséquences du régime de Ben Ali sont extrêmement répandues dans le pays. Je peux vous dire qu'il n'y a pas une famille qui n'a pas souffert. Et des familles qui ont souffert de la répression directe, un membre de la famille, plusieurs membres de la famille agressés, mis en prison, torturés, etcetera.

Mais aussi le traumatisme qu'a connu le pays pendant toutes ces années là. Il doit être traité. Est-ce que nous allons tous subir une cure psychiatrique généralisée ? Bien sûr que non. Mais en établissant la vérité sur le pouvoir de Ben Ali, c'est une manière de dépasser ce qui s'est passé.

En plus, il doit y avoir une certaine repentance puisque, au jour d'aujourd'hui, aucun des responsables de l'ancien régime ne dit, ne demande pardon. Jusqu'à aujourd'hui, personne – ni ceux qui sont arrêtés, ni ceux qui se sont enfuit, ni Ben Ali, ni sa famille, ni ceux qui ont tués des citoyens dans les villes de Tunisie pendant les événements – personne n'a demandé pardon à ces victimes.

Et les victimes, je peux vous le dire, je crois que M. l'Ambassadeur l'avait dit, les victimes aujourd'hui ne demandent pas de réparations. Et les familles des victimes ont refusé des réparations financières. Lorsque j'étais avec les familles devant le ministre de la Justice et qu'il a parlé de la somme allouée par le gouvernement à chaque famille d'une victime, ils ont été furieux. Ils ont dit : « Non, on ne demande pas d'argent. Ce n'est pas notre problème. Nous, on demande que les gens qui ont commis les crimes nous concernant soient jugés et punis. » Pas de réponse.

Donc la première chose, la première réparation, c'est le pardon. La demande de ce pardon. Et puis on doit réfléchir à tout un système de justice transitionnelle. Qui, bien sûr, inclurait la réparation individuelle et collective. N'oublions pas que les événements sont partis d'une région pauvre qui était délaissée pendant des années et qui s'est propagée dans des régions aussi pauvres que celle de Kasserine. Ces régions-là demandent des réparations pour l'injustice, et c'est aussi ces réparations communautaires qui vont entrer dans le cadre de la justice transitionnelle.

Et puis la matière de la mémoire. La mémoire des gens qui sont morts, les gens qui ont souffert doit être maintenue, comme le dit un écrivain dont j'ai oublié le nom. Il a fait un bouquin formidable : Tout passe sauf le passé. Les événements sont passés mais on doit se remémorer. On doit.

C'est à dire que la mémoire peut s'exercer de différentes manières. C'est la commémoration. C'est les statues pour les morts. C'est les noms des rues – on en a parlé – c'est beaucoup de choses qui doivent être faites pour garder la mémoire.

Autre choses, pour que cela ne se produise plus, il faut qu'on mette des mécanismes en place pour que ce qui s'est passé ne se passe plus. La première chose à faire, c'est de refaire le système de sécurité. Nous y

travaillons. D'ailleurs, nous avons aujourd'hui en Tunisie un séminaire fait par la Ligue, le Conseil National de Liberté et la Fédération Internationale de Droits de l'Homme, sur la mise à niveau des services de sécurité. Il faut que les services de sécurité soit des services de sécurité républicains.

Qu'on ne nous fasse pas le chantage entre la sécurité – qui est nécessaire, absolue, tout un chacun doit être sécurisé sur sa personne, sur ses biens, sur les personnes, etcetera – mais il y a aussi en face la liberté, les droits de l'homme. Je l'ai dit au ministre de l'Intérieur, au premier ministre, à tout le monde – que ce chantage que certains parmi les agents de police veulent nous faire : « Si vous voulez la sécurité, on oublie les droits humains. Si vous voulez les droits humains, pas de sécurité. » Ce chantage nous ne l'acceptons pas.

Il doit y avoir une police et des forces de sécurité qui respectent les droits de l'homme, qui respectent les libertés fondamentales, qui respectent les droits de chacun et c'est possible. Et ça, c'est nécessaire pas seulement pour la police mais pour toutes les forces de sécurité. Et ça, ça doit être fait, parce qu'on peut pas faire une justice transitionnelle si on n'a pas la possibilité de dire que ce qui s'est passé ne doit plus arriver.

Quand est-ce qu'on doit commencer à mettre en oeuvre la justice transitionnelle ? Ah là, mon ami Habib Nassar me donne deux minutes de son temps de parole. Je ne vais pas les prendre tout. Donc je vais être rapide.

La justice transitionnelle, à mon avis, c'est maintenant qu'on doit y réfléchir. Peut-être que ce n'est pas toute de suite, vous savez, c'est un système d'une logistique lourde à laquelle nous ne sommes pas préparés. Il faut préparer les gens, il faut former des gens pour cette justice transitionnelle. Le temps de réalisation est assez long, et les attentes sont grandes.

Aujourd'hui notre problème en Tunisie c'est l'impatience. Chacun veut avoir tout et en même temps. Et ce, pas seulement sur la justice mais aussi par rapport aux demandes sociales. Chacun veut une augmentation de salaire maintenant. Chacun veut une amélioration de sa situation professionnelle maintenant. La Tunisie est incapable de répondre à toutes ces demandes nouvelles.

Que dire lorsqu'il s'agit d'un système long et complexe qu'est la justice transitionnelle ? Donc nous avons demandé à nos amis qui travaillent sur ça, et bien sur nous avons tenu un séminaire à Tunis en avril avec le Centre International pour la Justice Transitionnelle, l'Institut des Droits de l'Homme et la Ligue Tunisienne des Droits de l'Homme, pour réfléchir de ça.

Mais nous demandons a tous nos amis qui ont de l'expérience de nous aider a mettre en place ce système qui est nécessaire pour que la Tunisie tourne un jour ou l'autre la page de la répression et se mette en route de manière définitive dans le concert de nations démocratiques. Merci, et je m'excuse si j'ai été long.

Hoge:

Mokhtar, no need to apologize. You, after all, have come all the way from Tunis. You are a journalist, I always yield to journalists, and I always yield to anyone who addresses me as *Monsieur Président*.

We have two other speakers. The next speaker is Habib Nassar, a lawyer with degrees from universities in Beirut, Paris and New York--as a matter of fact New York University--and now director of the Middle East and North Africa division at today's co-sponsoring organization, the International Center for Transitional Justice. Mr. Nassar, the floor is yours.

Habib Nassar:

Okay. Thank you very much. I will keep it really to a few minutes and a few thoughts just to feed the debates and the discussion, especially that I don't have much to add to what Mr. Jomaa and what Mokhtar have just said. I mean, they

spoke about transition and justice much better the ICTJ would have spoken. So thank you really very much for your presentation, and thank you, Mokhtar, for coming from Tunis to participate in this event. And thank you, Mr. Jomaa, for participating. And thank you, of course, to the International Peace Institute for hosting it and organizing it.

Just a few thoughts that the two presentations have inspired me. First of all, this question about the blackmailing between security and stability on the one hand, and human rights and civil liberties on the other hand and transitional justice as well. This is typical of the post-9/11 logic or rhetoric. And to some extent, I mean, I wouldn't only blame the regimes in the region, in the Middle East and North Africa region for establishing this logic. But I think also that the number of governments, Western governments, should reflect about this question and how a number of counterterrorism legislation that are contrary to human rights were adopted in Tunisia or in Egypt or in many other countries in the region and were used as tools for repression. And when dealing with this legacy of human rights violations in the region, of course, those back in the region have very important role, I mean, in dealing with their own violations.

But I also think that the number of governments, including the government of the United States has also to question the past practices, and how a number of violations, for example, were committed in Tunisia or Egypt or Morocco or other countries in the region under the pressure of, for example, the US administration. So I think that when dealing with this legacy of human rights violations that include torture, that include arbitrary detentions and many other measures taken. I mean, under a number of counterterrorism measures but also of course under emergency laws that are or have been in place in many countries in the region. There is definitely a reflection that needs to be done outside of the region.

Another question on which Ambassador Jomaa emphasized is the fact that it's not the matter of choosing between economic development and human rights or economic development and transitional justice. As he mentioned, correctly, I mean, the people in the region are calling for both. I mean, it's not a coincidence if the icon of the Egyptian revolution, Khaled Said, is a victim of torture and the symbol of the Tunisia revolution, Mohammad Bouazizi, was calling--was protesting both against police abuse, but also unemployment. So those who--I mean, we have read recently in a number of articles, things such as the people in the region or the Tunisians won't eat transitional justice. It's a little bit dismissive of what the people in the region think, and as both Mr. Jomaa and Mr. Trifi told us today, I mean, they do want accountability.

And they do believe that, I mean, you can move forward only by focusing on economic development because this is precisely the logic actually that many countries use to support the regime of Ben Ali himself, by saying, okay, they got the economic development, social indicators are very high. This is perfect. I mean, my Tunisian friends, of course, I mean, remember what the former French President Jacques Chirac said once the situation in Tunisia was perfect because people got enough food to eat and education, and so on. And completely ignore the bigger picture. So, it's precisely this logic that was rejected by the locals, and I don't think... I mean that this is the right approach to say, oh we should start with economic development or we should start with stability because it's precisely blackmailing logic, as Mokhtar mentioned.

I think I will stop here and let Marcie give us a few thoughts from another perspective, and then we could answer questions.

Hoge:

Thank you Mr. Nassar. Our final speaker is Marcie Mersky who joined ICTJ as a Senior Advisor of the Program Office this year. Previously she worked at the UN both on the Commission of Inquiry into the Assassination of Benazir Bhutto and

the Commission Against Impunity in Guatemala. An American with a master's degree from Harvard, she lived and worked in Latin America for 25 years. and she was the person that was referring to without name in the very beginning when I said there had been a previous time like this time in Latin America that I witnessed, and so did she. So Marcie, *bienvenida*.

Marcie Mersky:

Thank you very much for inviting me to speak today. I'm going to shift the lens, the geographic lens, the temporal lens a little bit and speak to you some about - I was asked to speak about transitional processes and transitional justice in Latin America as perhaps an experience, an ongoing experience that could provide some insight and lessons for what's happening, unfolding in Tunisia and in Northern Africa more generally today.

In Latin America, there's some 30 years of experience with transitional justice, and I think if anything, the region tells us exactly what the Permanent Representative of Tunisia said earlier, that nothing is as simple as it seems on the one hand. And I think, in responses to some of the comments, that there's never an ideal transition and there's never an ideal situation for moving justice forward in these conditions. And one of the greatest challenges I think to all of us who work in the field is to try and come to grips with the limitations of the complexities of this situation, at the same time moving forward. And I think one of the things that sometimes we forget is how much, how important it is to use the creative energy that comes out of these movements for justice. And I'll come back to that at the end.

Latin America--the full range of experiences with what are now called transitional justice mechanisms, at the time when we were moving them forward years ago in Latin America, we called them the means of confronting impunity and achieving some degree of accountability for the violations that had been committed. The full range of mechanisms have been in place and have been used in different parts of the region, including truth seeking, reparations, prosecutions, memorials, institutional reform especially of security forces, military apparatus, and the judiciary. I was going to speak and the examples I'll draw on mostly from truth seeking and prosecutions because, in a sense, that's the heart of what has proven in Latin America to be a false dilemma, a false tension between truth and justice, and between stability and justice as well. I think the experience demonstrates over the long course of time, over a three-decade period that those are indeed false dilemmas.

As you all probably know, in Latin America through the 60s, 1960s to 1980s, there was a series of very strongly authoritarian and repressive regimes throughout the region. Often they were very corrupt as well. I think with the lens of history, we sometimes forget how incredibly corrupt they were as the violations, as the massivity of the human rights violations tended to overshadow that corruption in daily life. And in general, transitional justice has moved forward in the region with a focus on the human rights violations, although in some places, corruption issues have been key. For example, in Peru with the downfall of Fujimori and also in the final charges that were brought against Pinochet in Chile were corruption charges in the end. So that the relationship between issues of corruption and human rights violations is something that permeates even in the classic transitional situations of Latin America.

In the context of these authoritarian regimes that faced very strong opposition movements. In some places, often times full-fledged large armed insurgencies at least in Guatemala, Nicaragua, El Salvador, and Peru, there was a rise of--as in most authoritarian regimes--a rise of the intelligence structures, both military and political police that take over a strong role in internal political repression. And what that means, basically, is that you have a distortion of those institutions away from a normal role in a normal state of affairs. And a disintegration of the respect for that institution in the society. The same thing of course happens with the

justice institutions as they become aligned with the authorities, either out of ideological identification, out of fear, out of greed, out of whatever, but the justice institutions begin to crumble in the face of authoritarian regimes.

So you have a problem always of greatly weakened and distorted institutions. And that was a scene in the '80s and '90s in Latin America as the political transitions begin to happen by the mid-80s in some countries. I won't go--I was gonna go into more of the details of the differences, the different processes because it's really quite fascinating, although you have a general tendency from authoritarian regimes to more democratic, more responsive governments. In fact the processes that take them there are very different in different parts of the region. But I won't go into that.

But one thing I did want to point out, and it has to do with the fact that these are never perfect or never ideal situations to make transformations, or to seek justice, is that virtually all of the processes in Latin America, the militaries and the intelligence apparatus continue to be very strong and to play a major role in a country's political and economic life, even after the beginning of the transition, as did other political and economic forces that supported the previous regime. So you always have hold over these. They're not clean breaks. These are not clean ruptures with the past, and lots of things happening at the same time.

In Latin America as well, virtually all of these transition, included far-reaching amnesties, but not the kind of amnesty that the Permanent Representative spoke about, amnesty for political opponents, but rather what are called self-amnesties. That is to say the perpetrators declared, decreed or passed legislation that insured their amnesty. That was virtually in every country in the region, and I can say today, 30 years later--20 years in some cases--almost none of those amnesties are still in place. They have through a variety of different means been overcome. Some of them through legislation, some of them through court decisions, some of them simply because lawyers and victims have been very, very creative in finding cracks in those laws. That's been a major, major change, Although perhaps in the initial years it seemed like that was an impossibility, that was not something that was imaginable at that time.

Brazil remains of course one of the few countries in the region with an amnesty in place. It's now been questioned by the inter-American human rights court and a very important sentence in December, but it is still in place there.

So that most of the amnesties in today we see even though people thought it would never be possible. In Argentina, since 2005, there's 1,700 people have been charged for crimes against different kinds of crimes against humanity. There have been 173 convictions. In Chile, the courts have around 1,400 active cases and about 770 convictions, with 71 imprisoned. There're not perfect situations. There haven't been long prison sentences. In a lot of cases there have been reduced sentences. And if we look at the statistics it's about 1 in 10 of every case open in those two countries--which are in the lead in the region--have actually come up with a conviction. But it's definitely progress.

And even in Guatemala, which is probably at the tail end of some of these processes. Just in the last two months, a high-level police commander was arrested for his role in ordering disappearances in the early 80s, 1980s, something that was unimaginable and was based really on the work done by civil society organizations in preserving a treasure trove of police archives that were found about five years ago. So it was the work of civil society in those archives that made it possible to identify and prove the role of a police commander in those disappearances. Lots of hard work over many, many years to make that happen.

So out of this experience what I wanted to do was talk about two - maybe just

two major, major issues or two major lessons, besides the fact that nothing is ever easy. And that one is that the issues don't disappear no matter whether by decree, by amnesty, or by official neglect. The issues are always on the table. And it's not simply a matter of finding a quick fix that makes them go away. I mean it doesn't happen, at least in the Latin American experience that's not been the case anywhere, really. In Latin America, the processes, a lot of tension--I know in Tunisia is been given to the question of sequencing. What should we do first? We have all of these things that must happen at once. What should we do first? In Latin America they're perhaps wasn't a whole lot of choice in some of these things. And what people sought to do really was focus on, while preparing cases for prosecution and that was very important, people slowly but surely prepared cases, documented, gathered evidence, but worked fundamentally on issues of truth in the beginning, because that was what was possible.

There were several reasons why truth was so very important in the Latin American context. Three of them is--one of them is that the regimes used in an absolutely massive fashion the phenomena of forced disappearance. Where there were tens of thousands in some countries, thousands in others, hundreds in others. And it's a crime that fundamentally involves denial. It's one in which denial is a fundamental--it's at the heart of the crime. And so, in the face of impunity for those crimes and the impossibility at that time, a proceeding along a criminal justice path because of the amnesties and because of the power of the militaries, the path that was taken was to begin to put into place official commissions and official exercises that would be able to begin to challenge the denial by the state around disappearances and later around other crimes.

That gave rise of course to a whole slew of truth commissions in the region. And originally in Argentina and Chile focused almost exclusively on the disappeared and broadened in a very interesting fashion to include a much larger range of human rights violations and other acts of violence. In the Guatemala case, the language of the commission there was human rights violations and other acts that caused suffering in the population. You know, the idea was to really broaden out to understand what had been those issues that had caused suffering in the population.

And another thing that also became much more evident in the truth commission work, especially in Guatemala and then later in Peru was an attempt to go beyond the violation in and of themselves and to try and provide some kind of explanation for why they happened. What was the nature of those societies that allowed this enormous transgression of basic ethical principles and modes of coexistence to be violated in these grotesque ways? So it was an attempt to really explore beneath the violation, to look at what it was that had allowed society to do that to itself. These were incredibly important parts of those processes in the region to go beyond and underneath the violations themselves.

And although those commissions were often seen as a temporary or as a way of by the governments to allow them to happen, or voted them into place--the sense you had was it okay we'll open the book for a moment and then we'll close it. We'll let people take a look, but we'll make sure the book gets closed. And that was the intent, but that's not what happened. And in fact, the results of the truth commissions throughout the region really laid a lot of the ground work for the prosecutions that are happening today. In the most sophisticated of commissions-- for example, in the case of Peru, that was built into the mandate. The commission was empowered to present cases. In the other commissions that was not the case, although they often later fed into judicial processes.

So there are cases being tried today that happened in the 1970s, the 1980s, the 1990s. It takes...it's been way to long. I wouldn't say this is the formula for anyplace. You wouldn't want to have to wait 30 years for this kind of thing to happen. And hopefully by doing a good analysis of what happened in Latin

America, what's gone on in Latin America, there will be lessons to extract of that for other processes.

Just a couple of final things. I wanted to say that there's a least three major actors in Latin America that played a significant role in making these processes move forward. I would say first and foremost--and I'll come back to this one just for a few seconds--a very active civil society and in its different manifestations. A second factor or a second set of actors in this are just a few honest independent and usually very brave legislators, prosecutors and judges. It doesn't have to be all of them. It doesn't have to be everyone. It would be better if it were, but it won't be. But, a few who are willing to take the risks and to move these things forward.

And also these generally been a role of some international body. In the Latin American case an absolutely key force in this process has been the inter-American human rights court, which has provided a number of landmarks sentences, particularly around amnesty laws that had been vital. And also, another international factor that has played a role in Latin America was the decision by Spanish prosecutors in the late 1990s to bring charges against Argentine, Chilean and Guatemalan military under the rubric of international jurisdiction.

So those three--but I wanted to stress in just a moment the role of civil society and the importance of civil society throughout Latin America civil society groups played and continue to play an essential role in demanding accountability--the first stage, there has to be a demand for it, and that's clearly the case in Tunisia, as we've heard. But also in designing these mechanisms. Almost everywhere civil society, whether they were invited or not, voiced their opinions about the mechanisms that were to be put into place, often times rejecting the formula that the governments had come up with, that was the case even with the initial truth commission in Argentina, it was deeply criticized in its formulation by Argentine's civil human rights organizations at the time, but who then engaged with it once it was set up. They thought it was going to be instead of justice. They thought it was too limited in its scope. That's been an experience throughout the region as well.

But in the design--there's always improved by input from civil society organizations, in the engagement with them and the process of implementation, civil society organization provides many things that formal official actors can't. Accumulated documentation, people coming forward to bring charges, monitoring of those mechanisms that are put into place and often times they bring greater knowledge of international experience than the officials have themselves.

So, I just wanted to emphasize that--there must be a place at the table for civil society in these processes. It's important to ensure participation, because you get better content, greater legitimacy, better information for these mechanisms. And as I said at the beginning, enormous creative energy to bring to bear, to try and create mechanisms that can move forward in adverse conditions. Thank you.

Hoge:

Thank you. We have five or six minutes left for questions. So please raise your hand. Right here in the front row, just wait for the microphone if you will. And if you would introduce yourself please, thank you.

Ricky Goldstein:

Hi, Ricky Goldstein from Human Rights to Watch. Mr. Trifi mentioned that the justice system was in ruins, but that the Tunisians are starving for justice, there's a big demand for justice. But he only mentioned one proposal for fixing the system which was revising the law that governs the magistrates to make the promotion process more independent. And my question is, how do you square that circle? What are the many - what are the steps that need to be taken to

have a functioning independent justice system in the current situation? How long does that take? I think there have been over 200 people killed during the revolt. People want to see the perpetrators prosecuted, but do you really think that they could be capable of having fair and independent trials in the current situation of these individuals or individuals charge with corruption. How do you jump start an independent justice system that's now in ruins?

Hoge: Mr. Trifi if you would wait for a moment to answer that, I want to take a few more questions so we get over on the left side here in the front row. And we'll take about three or four and answer them all at once.

Mohamed Dayem: Mohamed Abdel Dayem, the Committee to Protect Journalists. Thank you very much for your comments about Latin America, I thought they were quite instructive. But I want to turn to a couple of countries in the region, Morocco and Algeria in the past decade or so have had attempts--shallow attempts I think--at instituting some of the mechanisms of transitional justice. And in neither case I thought very effective. I was wondering if any of the panelists could shed some light about those experiences, how they're similar or different from Tunisia, and how to avoid some of the same pitfalls.

Warren Hoge: Excellent, and in the front row here.

Female Speaker: Thank you for very enlightening session. Thank you. I've been to Tunisia several times and I was the most shocked when this whole thing happened. Cause we had no clue that this kind of things were happening in Tunisia. And the more things were being clearer and about the corruption, all of that, we were even more shocked, because the people never showed, at least our Tunisia friends. We never knew from them how bad the situation was.

And I'm very glad to hear about this situation for women, that there's a big role for the new... in the new constitution for women. So my question for you is, is this - is the religious part of women dominating now or is it gonna be secular as it was before. And what are you doing about it. Thank you.

Warren Hoge: Mr. Trifi if you could answer the first questions, Habib Nassar will take the last question - the second question. And then, Ambassador, I would like to give you the final words, so I'd ask you to maybe answer that last question particularly about women. Mr. Trifi.

Trifi: Voila, merci. Bon, sur la question posée par Eric sur comment faire pour que nous puissions juger tous les crimes qui se sont passés devant une justice sereine et équitable ?

C'est vrai, c'est un vrai problème. Ça va prendre beaucoup de temps, parce que notre justice actuellement n'est pas du tout préparée pour cela. Premièrement, vous savez que c'est un déni de justice de ne pas réparer un crime. Celui qui ne donne pas justice est lui-même coupable et peut être jugé pour cela. Donc nous devons juger les gens.

Mais nous devons les juger devant une justice capable de dire la justice dans des conditions ordinaires. Actuellement, il y a une pression sur le magistrat, une pression de la rue sur le magistrat parce que la justice, on l'a vu des fois, elle cafouille. Mais je suis confiant que cela va se faire. Nous avons des juges qui peuvent le faire. Mais le problème c'est que ça va prendre des années.

Nous devons nous préparer, préparer l'opinion publique que si on veut que la justice soit efficace et juste, ce ne doit pas être une justice expéditive. On nous compare à l'Egypte des fois. On nous dit que le ministre de l'intérieur en Egypte a été jugé et qu'il a écopé de douze ans déjà.

Chez nous ce n'est pas la même chose. Les gens qui connaissent le système savent de quoi je parle. C'est premièrement la police, le juge d'instruction, c'est une procédure longue : le juge d'instruction fait les auditions, des témoins sont entendus ainsi que les victimes. Il fait également l'audition des prévenus, les expertises, les déplacements pour réunir les éléments matériels de preuve, etcetera.

Par exemple, le juge de Kasserine a déjà auditionné plus de 700 personnes. Il a ordonné par exemple – c'est très sérieux et très pointu – les expertises balistiques sur les armes utilisées pendant la répression et cela va prendre beaucoup de temps.

Puis après le juge d'instruction c'est la chambre de mise en accusation. Si la chambre de mise en accusation trouve des choses à redire elle renvoie le cas devant le juge d'instruction. Et puis c'est la chambre de première instance criminelle. Et puis il y a l'appel...

Donc le procès lui-même prend beaucoup de temps lorsque nous avons des juges compétents pour le faire, que dire lorsque la magistrature est dans cet état ? Donc nous sommes conscient, il faut le dire, il faut l'expliquer, que c'est une justice qui va prendre du temps.

Pour rapidement répondre à la question de madame, sur la gravité de la situation, nous défenseurs des droits humains nous l'avons toujours dit. Nous l'avons crié sur tous les toits, tout le temps. Ici, aux Etats-Unis, à Washington, nous étions plusieurs défenseurs des droits humains pour le dire. Pas une seule fois, à plusieurs reprises, et les rapports sont là.

Mais les gens ne nous croyaient pas. Les gens croyaient que nous exagérions. Les gens croyaient que nous fabulions, mais il s'est avéré que ce que nous disions était nettement en deçà de la réalité. La réalité sur la corruption est énorme. Tous ce qu'on a dit est une infime partie d'une réalité vraiment atroce.

Warren Hoge:

Algeria, Morocco and Tunisia.

Nassar:

Okay. Algeria, Morocco and Tunisia. Well first off all, I mean, I'll put aside Algeria because I'm not sure that any efforts will really take unto address... I mean the violations that took place in the '90s, it was more an approach of impunity and amnesty.

On Morocco, I mean, which is a much more interesting experience, and I wouldn't put it at the same level as Algeria, of course. It's a specific experience that needs to be analyzed within the Moroccan contexts of no transition. It's a transitional justice experience that took place without the transition within a monarchy where the king is also the commander of the faithful. So within this very specific context, they had an experience with the truth commission, reparation programs, and a number of measures to try to address the past.

Of course, with the limitations imposed by this specific context it's - there are certainly many lessons to be learned from this experience. I wouldn't say, oh what they did in Morocco is what they should be doing in Tunisia. The context is completely different. They are having a much more radical transition in Tunisia. There are very serious calls for accountability. In Morocco so far, they haven't had any form of accountability. They had the truth seeking process. They had reparations which were very good measures and first steps. I think now inspired by what's going on in the region, probably the Moroccans might think, or might start to reflect about some additional measures to complete the process that they have started there.

Another experience, although it wasn't mentioned, is Iraq. I think those - this is a

country where a number of mistakes were committed in trying to address the past and a number of lessons can be learned from these mistakes. The process such as the de-Ba'thification process is very relevant in terms of the lessons to learn from it for Tunisia and Egypt for example where they are also dealing with remnants of the former regime.

In Iraq, the entire thing ended up as a sort of political revenge operation or witch hunting against former Ba'th party members without really looking into what this individuals were involved in and without any sort of fair process. So this is something that others in the region might look at and take into account.

Also the trials of former Ba'th party officials are also full of lessons and the way it was done, I mean, without having really in place an independent judiciary, without really respecting the right to a fair trial, and without really benefiting from the legitimacy to conduct such a process in the eyes of many Iraqis was very also problematic and there are also many lessons to be learned from there as well.

Warren Hoge: Ambassador Jomaa, the last word.

Jomaa: Thank you. Just to depart from this question on women and what's said by Mr. Trif—even there was a debate about this listing. 50/50 didn't... one of the reasons also why they were debate inside the government because it was, among other things... it was called by even some parties, small parties because as you know now the proliferation of parties, which is a healthy for the country. More than 60--and now 64, no?--with its 64 parties now, Tunisia... the small party... they can present listing with half and half. That's why the governments thinking twice before doing this, but after consultation with civil society and all the parties, then they decided to issue this decree about half/half. There have to be half/half then. It is a jump to the election, but to see what would be the result of the election. But for sure this will ensure the women.

But one more final word I would say about the women. Don't have to worry about women in Tunisia because the country that produces Elissa, Al Kahina, and Aziza Othmana, so don't worry about it. It has roots, the rights of women there.

And whatever the results of this election outcome, the democratic election that will outcome, believe me, we are confident as Tunisians, and you have to be confident of the Tunisian, of the three thousand years of history that we have. We've carried many, many, many transformation in our country, that what Tunisia achieve in terms of deeply-rooted reforms to that led to established of modern institution, and especially as mentioned here and educated and open-minded society where women insist, enjoys equal rights, and what civil society play an elective role those achievement. Nobody can change that. Whatever tendency it is, whatever it will come from the election, we'll see it, what is, because I know, everybody here in the room today may think I have a background, and I will speak frankly, not as Ambassador but as person. You have read all *The New York Times* today about Islamist, et cetera, et cetera, terrorist, et cetera. There is no threat in Tunisia because even—first, we don't know what is the share of the of the Islamist parties that we will have after the election. Second, if you see, for example, see the revolution of Tunisia. What are the slogans? There were no slogans. Islam has slogans. They were employment, dignity, democracy, liberty, human rights, freedom. Those are the slogans of the revolution. You have to take them into account. Thank you very much.

Hoge: On that historical and forward-looking note, we will end. Thank you very much. And thank the panel very much.