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Do You Swear to Tell the Whole Truths?

Tunisia and the Truth and Dignity Commission.

Abstract

Tunisia is where all hope and rebellion started. After the self-immolation of Mohamed Bouazizi in 2010, the Jasmine Revolution spread to other Arab countries leading to the famous Arab Spring. Tunisia is depicted as the model of democratic transition in the Arab region and in the West. Transitional justice mechanisms have been implemented in the country, notably a Truth and Dignity Commission aiming to uncover the past horrors committed during the authoritarian regimes.

The Truth and Dignity Commission was mandated to conduct investigations, hearings and auditions in 2013 and has released its report this year, in March 2019. It denounces years of abuse, torture, impunity and corruption committed by the regime and its partisans, infiltrated in all the layers of the Tunisian society, and making the *truth* and the truth commission heated debates for the Tunisians and turning points in their history. This research aimed to discover what types of truths were revealed through this Tunisian truth commission and what they served.

Using content analysis as a methodology, legal documents, retrieved interviews, testimonials, as well as the works of Foucault and Minow as supporting material, the research findings show that truths in the context of the TDC meant freedom of information and of speech, as well as the reconstruction of memory and of history allowing forgiveness and the healing of trauma. However, the absence and negligence of the perpetrators and of those responsible make the process of reconciliation difficult to measure right now in this process of democratization that Tunisia experiences.

Key words and abbreviations: Truth and Dignity Commission (TDC), transitional justice (TJ), truth commission (TC), parrhesia, right to the truth, reconciliation, transition, memory, healing

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1 Introduction

1. 1 On the way to democracy

The Jasmine Revolution stroke up in Tunisia in 2010, when Mohamed Bouazizi, an unlicensed street vendor self-immolated publicly, after having been repeatedly harassed and humiliated by the local police. This act of despair and rebellion remained a powerful and striking symbol for the Tunisian population in front of decades of abuse from an authoritarian regime, and it also became the starting point for the Arab Spring. The massive popular protests on the streets but also through alternative channel, such as social media and the internet, led to the dissolution of the government and the exile of the former ruler, Ben Ali enabling the birth of the Tunisian democracy. In 2014, the first democratic elections were won by Beji Caid Essebsi, leader of the Nidaa Tounes party, and he remained president of Tunisia until his recent death, on the 25th of July, at the age of 92 (BBC News, 2017; 2014; 2019).

The will for change, initiated by Tunisian citizens, spread quickly to other regions of the Arab World. Tunisia became the initiator of the Arab Spring and represented the defender of human rights for other Arab countries and their population experiencing decades of impunity, torture and corruption from their authoritarian regime. Even outside the Arab region, Tunisia has often been praised and taken as an example by Western countries. In 2015, a coalition of four civil society groups, including the Tunisian General Labour Union (UGTT), the Tunisian Confederation of Industry, Trade and Handicrafts (UTICA), the Tunisian Human Rights League (LTDH), and the Tunisian Order of Lawyers, were even awarded the Nobel Peace Prize for their mediating role in creating a peaceful dialogue and democratic issue when tensions between political and religious parties could have brought back Tunisia to chaos (The Guardian, 2015).

Before the Jasmine Revolution, under Bourguiba and then Ben Ali, Tunisia was already depicted as a good model for democratization among Western countries. The

government had advocated secularism and women's equality leading many scholars to remain optimistic regarding a future Tunisian democratization. After the Jasmine revolution, this optimism grew with the settlement of the presidential elections which were recognized as free and fair by the international community with Freedom of House recognizing the increase of freedom of speech, press, assembly and religious expression (Bush, 2015: 189).

1.2 Truth commission to reconcile

However, Tunisia still has a long way to go to achieve a stable democracy. Not only in terms of institutional consolidation, but also when dealing with its background. The difficult past still seems to haunt the population and the attempts to bring justice, good governance, and human rights in the picture in order to move forward. Tunisian citizens, who suffered decades of torture, corruption and violations of human rights from their own government, and from former supporters of Ben Ali, are asking for justice and reparation from their former perpetrators. The lack of trust between victims and former authoritative figures; officials, government institutions, or the police, seem to smother attempts of reconciliation in the country, and by the same token impedes the building of a brighter future.

The Truth and Dignity Commission (TDC) was one of the transitional justice (TJ) instruments that was settled in 2013 in Tunisia to enable a reconciliation between citizens and victims with former authoritative figures representing the state. A TC would enable to process the heavy past in order to build this new democracy on a solid ground guided by the rule of law and by international human rights standards. This TJ instrument seems to play a major role, not only in defending victims in front of former authoritarian regimes and in preventing future human rights violations and impunity, but also in awakening new democracies and setting up the basis of democratic values: the rule of law, freedom of expression, and a government where citizens can feel safe.

In the case of Tunisia, where trust has been broken by years of serious violations including unjustified imprisonment, torture and forced disappearance, reconciliation seems indispensable to move forward. Tunisia being depicted as a model of democratization in the Arab region, and being the first country after the Arab Spring to set up a TC, the country stands at a crucial crossroads in its democratic transition. This research aims to look at the

TDC's role in this transition, in particular regarding to *truth and truths*, knowing that the TDC investigations have ended very recently, in March 2019.

1.3 Research questions

Conceptualizing a research subject means translating the words into real societal or political phenomena into variables which will be used to frame the research, as explained by Schmitter (2008:268). In reviewing previous work and studies on the subject of TJ and TC, I noticed that *truths* told through the various channels of TC (audience, audition, written documents, memorials, to name a few.) were on one hand portrayed as supporting the transition to democracy, and on the other hand described as hypocritical, taming the *real truth* by protecting the perpetrators (not bringing them into court), or counter-productive, pushing back countries into division and worsening the trauma for the victims.

The TDC and the case of Tunisia have attracted many scholars who have attempted to measure the extent to which the country was likely to attain democracy. Like the previous scholars and authors, the Tunisian case has intrigued me because it stands out in front of other post-Arab Spring countries, as it has been the first one to set-up a TC. Truth appears to be strongly attached to the history of the Tunisians and to the Tunisian Revolution. Truth is “the word translated into a real societal phenomenon”, as described by Schmitter, and was revealed through the social media, the blogs, the banners and the slogans of the Tunisian masses on the streets during the manifestations (2008:268). I therefore chose to focus on this TJ instrument in Tunisia, the Truth and Dignity Commission (TDC) and particularly on the concept and on the term of *truth*.

The research question came to me when reading the article written by Ross about TCs in Latin America and in South Africa (2003). He argues that TCs do not defend the victims' truth but the perpetrators truth justifying the existence of TCs where only the justice of the dominants is actually made (Ibid). TCs would be the way to escape tribunals and court for former perpetrators while testimonials would be the consolation for the victims (Ibid). By contrast, Minow describes truth telling and other channels of truth given by TCs as paths to heal and to reconcile by standing in a state of forgiveness and acknowledgement, avoiding punishment and revenge; therefore “breaking the cycle of hatred” (2003).

Through this study, I aim to discover the different concepts of truths expressed through the TDC, in order to define the meanings and roles of truth in the context of transition to democracy in Tunisia. The research question that will lead this study will then be:

- ***What types of truths are expressed through the TDC and what do they serve?***

The literature review gives an overview of the TJ background, theories and practices; of TC roles in transitional democracies and in the Tunisian context.

The methodology and mode of analysis describes the choices I made leading me to a content/textual methodology and an interpretative/inductive approach.

The empirical data and material describe the compilation of the chosen texts that include legal international and national documents, as well as hearings, interviews, and videos retrieved from the TDC website, and broadcasts. Moreover, previous work from academics specialized in the subject, such as Minow, as well as Foucault, will be used to support the analysis.

The analysis and results give three types of truth in the context of the TDC: truth as a right (to information), truth as freedom of speech (parrhesia), and truth as a memory-builder.

Finally, the discussion and conclusions reiterate the types of truths found in the context of the TDC, as well as the aims that they serve in order to open up to new interrogations regarding the future of the Tunisian democratization.

2 Literature Review

2.1 Transitional Justice

2.1.1 Theory and practice

The term “transitology” was first used in the 80s for regions of Southern Europe, Latin America, and ex-USSR, who just came out from dictatorship and who were taking an economical turn. Later on, in the 90s, the term evolved with the will to stress the inclusion of democratic principles leading to the term of democratic transition (Dufy & Thiriot, 2013:1-2). The term of Transitional Justice (TJ) was also used in the same period, in the 90s, at the time where former Soviet Union states and Latin American countries were seeking ways to bring the responsible and the representatives of the authoritarian regimes in front of justice to repair and pay for their human rights violations (ICTJ, 2019). The concept of TJ, even before the creation of the term, can be traced back to the Tokyo and Nuremberg trials when the Allies prosecuted and sentenced former leaders and Nazi officers at the end of the Second World War. However, the contemporary understanding and practice of TJ is mostly understood in connection with the South American countries, which prosecuted former members of the authoritarian state, as in the example of Argentina who pursued the military junta (ICTJ, 2019; Sriram, 2017:16). While TJ describes the ways in which countries are using methods to confront past human rights violations, it does not have a common and standard definition within the international community (ICTJ, 2019).

In practice, TJ encompasses a variety of mechanisms and approaches, judicial and non-judicial, symbolic or material, and can include criminal prosecutions for serious violations, reparations, reform of laws and institutions, and the “truth-seeking” or fact-finding activities conducted by non judicial bodies as it is the case with Truth Commissions (TC) (ICTJ, 2019; Ohchr.org, 2019). The main models and mechanisms used in TJ are the restorative and the retribution models. The retributive model focuses on sanctions and punishment of wrongdoings such as economic compensations and tribunals and courts, that can be set up domestically or internationally, with or without the support of the international

community (Lambourne, 2014: 19-20; Krotoszynski, 2017; ICTJ, 2019). Meanwhile, the restorative model, or historical clarification model as described by Krotoszynsky, promotes informal customary mechanism and encompasses truth-seeking activities and informal sanctions including truth commissions, and the building or re-building of history in symbolic or material terms such as national memory institutes, memorialization, monuments, museums, public apologies (Ibid). Finally, Krotoszynski adds a third model that he calls, the “thick line” model which refrains from using sanctions or historical clarification tools to focus on legal or factual amnesties (Ibid: 13).

2.1.2 Roles and objectives

Victims recognition, political stability, peace, free democratic elections; these are ones of the few objectives of transitional justice, and it is based on key principles and foundations including the rule of law, accountability, transparency and international human rights law (ICTJ, 2019; Krotoszynski, 2017: 14). TJ approaches then serve, not only the long-term purpose of building democracy and setting up human rights, but enable the individual recognition and the creation of collective memory, in order to heal trauma (Ibid:19). TJ is supposed to give the legal and social frameworks to address serious and large-scale human rights violations committed by former repressive regimes. It would therefore enable emerging and post-conflictual countries to go through the democratization processes by creating systems and institutions enabling the legitimization and the acknowledgement of past victims in order to give them back their dignity in a place where no organized or solid judicial system is yet settled.

Before re-establishing or creating accountable institutions, TJ instruments focus on reconciliation in divided countries where former conflicts impede fostering democratization. Restoring trust between victims and former perpetrators becomes then the main objective. This can be attained through reparations but is also believed to be a long term process which requires the implementation of the rule of law but also the culture of human rights (Ibid). Therefore, what is expected from TJ often goes beyond the punishment of perpetrators and reparations for the victims, as TJ is expected to serve as a key mechanism for peacebuilding and democracy development (Lambourne, 2014: 21-22).

2.2 Truth Commissions

2.2.1 Definition, roles and benefits of TCs

This new era uses increasingly the use of language through legal instruments such as truth-telling and reparations to confront regimes of torture (Minow, 2003). TCs provide the space and tools for victims of past perpetrators to speak their truth and to gain symbolic or material reparation, while being acknowledged as victims. They would be the key to help a nation in transition to move to democratization and to come to terms with a painful past by turning narratives into acknowledged facts of history. In the 2004s report of the Secretary General, TCs are presented as essential and complementary tools to other TJ practices like ad hoc tribunals (United Nations Security Council, 2004:2). TC is an official and temporary practice put in place to facilitate truth-telling, and consists in investigations conducted by independent non judicial bodies who are looking at facts and patterns of past human rights violations (Ibid:17). The TC ends with a final report of facts and findings (Ibid). More than 30 TCs have been conducted in post conflictual countries, including Argentina, South Africa, Chile or Sierra Leone, to name a few (Ibid). Latin America was one of the first ones to set up a TC but the South African commission remains the most known and symbolic in front of the international community (Ross, 2003:1-4). The aims of TCs are to reinforce accountability, preserve evidence, identify perpetrators and recommend reparations and institutional reforms (United Nations Security Council, 2004:2).

TCs aim for several objectives and are believed to be the most beneficial for the transition to democracy on the short and long-term, as well as on the individual and collective level and for the healing process of victims. Murphy describes three justifications existing in the academic debate, giving the reasons to sacrifice justice and to use TCs instead; first, TCs would promote moral values such as democratic reciprocity, but also the development of trust through negotiation between the parties; second, TCs would serve justice using restorative justice instead of retributive justice prioritizing forgiveness and reconciliation over punishment, enabling social justice by putting the victim first, and through the reintegration of both perpetrators and victims in the society; third, TCs would be the right compromise between justice and reconciliation by holding the responsible accountable but not using punishment, justice would then be made through the recognition and acknowledgement of the victims (Ibid). All of these justifications put TCs in priority as TCs would promote social

justice and develop democracy as well as the human rights culture (Ibid). TCs are then expected to foster human rights but also to be therapeutic, as specialists have shown that rebuilding a historic truth enabled the victims and entire communities to heal (Ross, 2003:1-4). Moreover, through the establishment of historical records, and by taking a victim-centered approach, TCs would support reconciliation processes by restoring the population's trust in the government and national institutions (United Nations Security Council, 2004:2).

Consequently, the TCs goals are quite varied and often aim to impact transition in-depth, as they include reparations for victims, but also the recognition of the victimhood, as well as the healing of trauma, reconciliation and finally the development of democratic and human rights culture. In between amnesties and punishment, promoting collective responsibility and a victim-centered approach, TCs would be the perfect compromise between a too harsh justice, stirring up the past conflicts in court, and a tamed justice, leaving the victims left out. In the search for a just justice, TCs leave a space for all the parties to be able to reach a common ground, enabling reconciliation while promoting human rights and pushes for reforms (Olsen et al. 2010: 458).

2.2.2 Challenges and critics

In practice, TCs encounter obstacles and difficulties when attempting to operate and conduct their activities. They have to handle a heavy workload in –very often- an unstable context, while confronting critics or even threats, as they are sometimes accused to be trouble-makers and to impede reconciliation processes; and finally they are responsible for the thousands of citizens who expect reparations, symbolic or economic. According to the report of the UN Security Council, the obstacles for TCs to fulfill their role and objectives are numerous and include; a weak civil society, political instability, victim's fear of testifying, a corrupt judicial system, and a lack of funding or time to carry out investigations (2004:17). Speaking about horrors committed in the past during TCs could also have adverse effects by awakening old wounds and leading to more divisions in an already fragile environment. For example, it can lead former perpetrators to become targets of new hate groups perpetrating the hate cycle (Minow, 2003:16).

From another perspective, TCs are represented as the shields under which the former perpetrators can hide, as they would rather suffer economic reparations than face their responsibilities in front of a tribunal (Ross, 2003). According to Ross, this is TC's main

objective: to protect these accused parties and to negotiate an agreement in the event of legal proceedings as negotiating amnesties can remain delicate to set up (Ibid). The popularity of TCs would therefore mainly be attributed to their ability to avoid the political and moral risks associated with prosecution (Ibid). While TCs would satisfy victims in a state where no stable judicial system exists to protect the victims' rights, they would be beneficial to past perpetrators as they would provide mechanisms to reintegrate them in the society without any legal prosecutions (Ibid:20).

TCs can also be seen as indecent for some citizens and for the audience as they reveal painful events publicly, stirring up unwanted memories, and giving the impression of a will for revenge in some cases. It was the case with the South African commission which gave public hearings and shocking stories covered by media to the point where the commission ended up being called the "commission tears and revenge" (Ibid: 21-22). Finally, if TCs fail to do a follow-up on recommendations, and if victims do not get reparation, they can lead to perverse effects. Therapeutic effects reverse for the victims who took the risk to testify, they feel worse as their truth has not been fully recognized and has not served the community (Ibid:28).

Furthermore, TCs would not lead to reconciliation if no genuine confrontation between the victim and the perpetrator exists, as many truth commissions are avoided by the very same perpetrators (Lefranc, 2015:25-30). The victim is not truly at the centre as it is the transitional government who leads (Ibid). While TCs are excellent channels for victims to heal through testimonies, by confronting the criminals to enter into a repairing dialogue with them, testimonials are very often supervised, focusing on psychological pain and not allowing anger or complaints about economic suffering for instance (Ibid). Moreover, often the victim is not allowed to use words that would divulgate the perpetrator's name, as it was the case for the South African commission (Ibid).

The establishment of TCs is therefore politically justified but highly controversial morally speaking (Murphy, 2011:1096). While it is globally accepted that confronting past human rights abuses is the only way to democratization; TCs face many challenges. They have to replace the judicial and institutional system which does not exist yet, while they are not able to conduct proper trials and punishments against past perpetrators (Ibid: 1097).

2.2.3 Context: the TDC

The Tunisian Truth and Dignity Commission (TDC) describes itself as "the facilitator of the transition to the rule of law, who determines the responsibility of the State for past violations, holding those responsible for accountable, restoring the rights and dignity of the victims, preserving memory and facilitating national reconciliation" (TDC, 2019). Modelled on the South Africa's post-apartheid Truth and Reconciliation Commission, the TDC is an independent judicial state body created in 2013 in Tunisia to dismantle the authoritarian system and to enhance national reconciliation by revealing the truth about former human rights violations and corruption committed between 1955 and 2013 (The Economist, 2019; Human Rights Watch, 2019; France 24, 2019).

The commission missions include the investigation and exposition of truth, in order to find measures to punish those responsible, and reparation and rehabilitation for the victims (Human Rights Watch, 2019). It aims to refer cases of torture, enforced disappearance and other serious violations to other specialized chambers which will have the possibility to try the perpetrators after the commission's mandate (Ibid). Tunisia is the first country in the aftermath of the Arab Spring who has created a TC, and the second one in the Arab region, after the Moroccan Equity and Reconciliation Commission set up in 2004 by Mohammed VI to investigate violations committed by his authoritative father Hassan II (Ibid).

However, the TDC encountered many obstacles, critics and attempts to cover up the truth within the Tunisian society and its political sphere. Members of various political parties; the president's party, Nidaa Tounes, but also former supporters of Ben Ali, leftists, and Ennhada, the Islamist party; were discussing possible amnesties to be given to former perpetrators even before the end of the commission, as the commission was blamed for preventing reconciliation and putting Tunisian peace-building in danger (France 24, 2019). The TDC has often been threatened to be closed-up even before the end of the investigations and the parliamentary voted for the non-reconduction of the 5 year TDC mandate in 2018 (Ibid). The commission finally ended after four years with a 17,000 pages report in eight volumes revealing the truth about the past authoritarian regime (Justiceinfo.net, 2019). More than two hundred documents proved the mechanisms used by Ben Ali's government to settle a one State party, the RCD (Rassemblement Constitutionnel Démocratique) (Ibid).

To empower his party, Ben Ali recruited his activists in highschools, in public, semi-public and private companies; such as Société de phosphate de Gafsa, Banque de l'Habitat, Caisse nationale de sécurité sociale (CNSS), Société tunisienne d'entreprises de télécommunications (Sotetel) and Tunis Air; in order to infiltrate various sphere of the country (Ibid). Fictitious jobs were created in the most reknown Tunisian public and semi-public companies but those invisible and highly paid employees, were intended to conduct propaganda, defamation and denunciation (Ibid). Racketeering and abuse was also common for party leaders. They took loans that they never paid back and used their position to obtain scholarships for their children or relatives (Ibid). The representations of Tunisia abroad such as the Office des Tunisiens à l'étranger (OTE) and the Agence tunisienne de communication étrangère (ATCE) were as well recruited by Ben Ali's party to find fundings (Ibid).

Furthermore, the TDC divulgated the creation of a parallel "political police", an administrative structure in the Ministry of the Interior, in charge of carrying out extra judicial missions in total impunity including; physical, digital or phone surveillance, or creating rumours; in exchange for rewards (Ibid). Under Ben Ali, even the judicial system was infiltrated by the party through the instrumentalization of the courts including the military courts, the administrative court and the ordinary courts, as well as journalists and human rights activists (Ibid). Finally, the whole judicial system was not independent and arbitrary imprisonment in inhumane conditions was usual. Prison did not only deprive from freedom but became the place of humiliation and torture for detainees who were regularly beaten and insulted by the prison agents (Ibid).

At the end of the investigations, the TDC filled hundreds of recommendations including the recommendation to the State to try cases of gross human rights violations using the specialized criminal chambers who have been operational since May 2018 (Ibid). The TDC also proposed the creation of a body to supervise finances of associations and political parties. It recommended that the position of the State officer became independent of the Executive and proposed the creation of an independent police oversight body, coupled with an intelligence agency under the supervision of the President of the Republic and subject to parliamentary control, with the aim of restructuring the security forces, preventing abuses and guaranteeing their political neutrality (Ibid).

3 Methodology and mode of analysis

3.1 Content and textual analysis

Content analysis allows a wide variety of texts and documents, which can include written texts or videos, hearing material, as well as books, articles, websites, interviews, speeches, historical documents, theater or informal conversation, to name ones of the few choices available (Busch et al., 2019; Stemler, 2001). These documents and texts are broken down into themes, categories or concepts through the observation of the recurrence of certain types of words, sentences or expressions (Ibid). These "recording units", as described by Weber, can be a single word with meaning, an entire sentence, or a more general theme that can be drawn from the text (1990:7). A deeper analysis can be done through a conceptual or relational analysis (Busch et al., 2019). In the relational analysis, the analysis will go a little bit further by looking at relationships between words and concepts, and by looking at the context too (Ibid). Textual analysis takes the process of content analysis one step further, by looking not only at the words or concepts in the text but at the structure and context of the text (Stemler, 2001).

Because content analysis enables to get at the centre of social interaction and gives relevant cultural insight and because the aims and objectives of my research are to look, to find and to discover concepts of *truths* expressed during the TDC, I chose to use this method as I will be able to compile a variety of material (legal, written, official and informal) and retrieve different meanings of truth in these texts (Busch et al.,2019). While content analysis is most of the time used for quantitative purposes through coding, this study will be based on qualitative analysis.

When choosing content analysis, a basic assumption is that the choice of a word, a theme or a concept must be made by looking at the frequency in which they appear, meaning that this would reflect more relevance for the research (Stemler, 2001). However, it is not the case and it can even lead to more errors as the same word bears various meanings as the context plays a major role making words and concepts very different from the other (Ibid).

I therefore chose to focus on the qualitative approach and I will look at the concepts of truth in a limited amount of texts to focus on the deeper meanings of these *truths*.

3.2 Inductive and interpretative approach

My approach remains interpretative by contrast with the positivist tradition which looks at variables and causal relations between social phenomena (Della Porta and Keating, 2008:26). Interpretative approaches aim to discover new meanings to understand better the world: the individual, the community and society (Ibid). This study aims to discover different meanings of the concept of truth to better grasp the underlying motives and roles of truth in the Tunisian TC. The scope of the study fits the scope of the TDC meaning that I am focusing on the time period from the creation of the TDC, in 2013, until now, July 2019. Finally, I aim to go through an inductive reasoning, meaning that I will not create codings or concepts (except the word truth that I already chose as a starting point). I will instead look at the concepts of truth through my readings and the material to retrieve concepts of truth, leaving more space for possible new meanings and discoveries.

4 Empirical data and material

The content/textual material chosen for this study consists in legal documents from international organizations and the Tunisian TJ system (Organic Law on Establishing and Organizing Transitional Justice in 2013 and the Memorandum created by the TDC to request reparations from France), interviews retrieved from documentaries and broadcasts (with testimonials from Tunisian victims and from human rights activists), as well as hearings, videos and auditions taken from the TDC website. I also support my analysis with previous academic work conducted by researchers and thinkers, mainly Foucault, with the concept of *parrhesia*; and Minow, a professor of Law at Harvard University, who has published various works on memory construction, reconciliation and forgiveness in connection with post-conflictual countries.

5 Analysis

5.1 Truth as a right (to information)

5.1.1. In Human rights

The right to the truth has been included in many human rights treaties such as the Human Rights Committee (HRC), the monitoring body of the International Covenant on Civil and Political Rights of 1966, as a means to end or prevent psychological torture (ICCPR, Article 7) for families and their members victims of forced disappearance and of hidden execution, and also the European Court of Human Rights who included the right to the truth into the right to be free from torture, by giving the victims the right to be informed and to be given an effective investigation in cases of disappearance (Ibid: 156-157).

The Right to the Truth has also been recognized by the United Nations in the Declaration on the Protection of All Persons from Enforced Disappearance (1992) and in the Resolution adopted by the General Assembly on 21 December 2010 which created the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims, recalling articles 32 and 33 of Additional Protocol I to the Geneva Conventions of 12 August 1949 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED), adopted in the resolution 61/177 in 2006. It recalls the articles 32 and 33 of the Geneva International Convention for the Protection of All Persons from Enforced Disappearance stating that:

”Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person”, and it recognizes, ”the importance of promoting the memory of victims of gross and systematic human rights violations and the importance of the right to truth and justice.”

The right to the truth is often connected to the settlement of truth commissions or investigative commissions, as well as enforced disappearance, but it also refers to other processes such as access to information for the citizens, public trials or revealing state documents and making them accessible for instance (Ibid: 249; Ictj.org, 2013). Truth then means not only testifying, but investigating and revealing. The right to the truth is therefore implying the right to *know* the truth; to know the context of the event, the identity of the perpetrators, and the causes. It can consequently be connected to freedom of information (Ictj.org, 2013). When the judicial system in place is not able to take care of all the cases for the right to the truth, for different reasons; workload, focus on a few cases; there are non-judicial opportunities to assess the right to the truth (Ibid). These non-judicial measures including the establishment of truth commissions (Ibid). As we can see, the right to the truth is included in various international human rights law; however, it does not have a specific International convention.(Ictj.org, 2013).

5.1.2 In Tunisian TJ

In Arabic, the word for truth "al-Iaaq" means "right", as well as "justice" and "law" (Naqvi, 2006:250). When creating TJ initiatives, Tunisia created the ratified Organic Law on Establishing and Organizing Transitional Justice in 2013 guided by the Tunisia's Ministry for Human Rights and Transitional Justice established the TDC in 2013 (Lamont, 2019:84-86). Chapter II is dedicated to "unveiling the truth and safeguarding memory". Disclosing the truth of violation is a rights guaranteed by the TDC who focuses on dismantling the authoritarian regime by all means necessary gathering all the information, time, place, the *how* it happened and the *what* happened, including the identifications of the perpetrators.

In the audition of the commemoration of the buckshot shootings that happened in Siliana, in Tunisia, in 2012, available on the TDC website and dubbed French, this organic law is cited several times (Auditions publiques des victimes, 2017). Siliana had experienced violent clashes between the population and the police in the same year of Mohamed Bouazizi immolation, in 2010 (Anouar, 2012). The clashes began with the call for a strike by the General Workers' Union (UGTT) to demonstrate to improve living conditions in the region that did not get better since the last elections in October 2011 (Ibid). This escalated to the

point where buckshot shootings were initiated by the police causing major injuries to the population (Ibid). During the audition, the narrator explains that legal calls and claims made to officials and the responsible have been left unanswered. He calls for Article 4, referring to truth uncovering in Chapter II of the Organic Law:

”Truth uncovering encompasses all means, procedures and investigations implemented to dismantle the despotic system, and this through the delimitation of all infringements, their identification, knowledge, their motives, their circumstances and the conditions under which they occurred, their authors, the resulting results, their location, the perpetrators of these acts and those who commit them are responsible. When the truth is revealed, the specific impact of the violations is taken into account committed against women, children, categories with special needs and children vulnerable social categories” (Organic Law on Establishing and Organizing Transitional Justice, 2013).

5.1.3 Right to know

The type of truth as a right in the Tunisian truth commission therefore refers to the right to receive a proper investigation regarding the violation (the *what, where, who and how*) and to be able to access it, while it focuses on the most vulnerable population including children, women, people with special needs, as well as the poorest populations (vulnerable social categories). The truth therefore serves the knowledge as well as the freedom to access information while making the information available to all the social layers of the community (women, children, poorest people, people with disabilities).

5.2 Truth as freedom of speech (*parrhesia*)

5.2.1 Parrhesia

In our Western modern societies, freedom of speech and expression are highly valued and seem to be naturally inseparable from democratic principles, as *parrhesia* will never be able to be expressed in an obedient and authoritarian environment (Foucault, 1999; Foucault, 1983). The concept of *parrhesia* is a concept dissected by Foucault and is associated to freedom of speech and of expression. The term *parrhesia* is an ancient Greek

term which can be translated into English as free speech and related to freedom of expression (Foucault, 1999). It implies to tell the truth and involves first and foremost risk-taking for the speaker meaning speaking with honesty while being aware of the dangers involved in telling this truth (Foucault, 1983). Consequently, referring to *parrhesia* involves a relationship between two actors: the speaker and the listener. Furthermore, *parrhesia* involves authenticity, which means that the speaker expresses exactly what he believes: his thought is expressed accordingly to his speech and there is no discrepancy between them (Foucault, 1999).

However, the meaning of *parrhesia* is considered as dangerous for democracy according to Plato, not only because it involved taking risks for the speaker but because what is said has direct consequences for the democratic system. A certain form of *parrhesia* involving "whatever one has in mind", can be risky if this truth is not expressed by intelligent minds who are able to support and develop a high level democracy (Ibid). In other words, the one who practices *parrhesia* shall own a mature mind and be aware of the impact of his words for the collective interest.

5.2.2 In legal documents

Freedom of speech is not directly mentioned in Chapter II of the Organic Law on Establishing and Organizing Transitional Justice (2013) as it focuses on revealing and accessing information, however it is mentioned in other human rights treaties. The Universal Declaration of Human Rights (UN General Assembly, 1948), Article 19 first mentions that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions". Meanwhile, Article 10 of the European Convention on Human Rights (1952) describes the right to freedom of expression as accessible to "everyone" with the "freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". However, this freedom of expression has to be carried out with care and in a legal and democratic frame as it holds "duties and responsibilities" as it "may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society".

The TDC created this public space where Tunisian citizens were able to use *parrhesia* and freedom of speech for the very first time. As Messaoud Romdhani, Secretary General of the Human Rights League, explains during the live broadcast from Al Jazeera, on the 21st and 22nd of November 2016, when the very first testimonials of the TDC were

transmitted on the national Tunisian TV: “It is the first day that people talk. It is a turning point in our history because remember, under the dictatorship no one was allowed to speak. You could be murdered and nobody heard of you anymore” (Aljazeera.com, 2016).

He reminds the audience that TJ in Tunisia is and will be a difficult process as speaking freely is not in the habit and culture of Tunisians as they suffered decades of surveillance, threats and torture from every layer of the institutions. In the France Culture broadcast, Najib, a man in his late 50s worked for the Tunisian water system and was sent to jail for decades without evidence. He gives his testimonial before entering the doors of the TDC to give his case to an agent. He states: “We can speak now, we are free. And when we are free we are happy, you know?” (2015)

During the audition of the commemoration of the buckshot shootings that happened in Siliana in 2012, Sihem Bensedrine, the president of the commission reminds the audience that: “Some people say that the Tunisian citizen is not mature enough to hear this truth; however, he has proven that he is worthy to take this challenge. Truth needs to be revealed and should not be ignored, otherwise truth can be used to stir up hatred” (Auditions publiques des victimes, 2017).

5.2.3 Absence of perpetrators

However, parrhesian practice needs the speaker to be heard to allow a genuine dialogue. Until now the TDC has encountered a lot of difficulties to make the perpetrators participate in the process fully as they were often absent from hearings. Salwa El Gantry, in Al Jazeera broadcast gave a tamed answer, at the beginning of the TDC public hearings, when asked if Tunisia perpetrators would be ready to make public apologies: “During the TDC names of perpetrators were already given but this is not about revenge but about paving the way for a new country. There is not a lot of them who are ready to take responsibility but some have been attending TV programmes anonymously to acknowledge what they did and to ask for forgiveness, even before the Revolution..” However, Salwa deplors the absence of the perpetrators; “they are like us Tunisians and they should enter the TJ processes to become an entire part of it and not be seen as perpetrators anymore”. (2016)

Three years after the first public audience, no representative or official of the Tunisian government has been present, notably at the closing ceremony of the TDC in the end

of 2018 while the TDCs requests to access archives to the Ministry of Interior after having investigated on several cases of torture and abuse, has been constantly rejected (TV5 Monde, 2018). The victims and the TDC's team remain alone and left with the public auditions to make the truth recognized and acknowledged. Khaled Krichi, the President of the Arbitrage and Reconciliation Commission, states: "Despite the legislative sabotage on the institutional and judicial level, the commission has enabled to achieve great success" (Ibid)

5.2.4 Parrhesia for democracy

Looking at the human rights definitions, these statements confirm that freedom of speech and expression go together hand in hand with a stable democracy and with democratic principles by giving the space for the citizen to speak freely, not only for himself but for the community. The *parrhesian* truth in the context of the TDC, which requires awareness of the rules of democracy and the necessary maturity and intelligence, to speak the *right* truth, as well as a dialogue with the listener and the speaker who takes risks, collides with the deafening absence of one crucial character of the commission: the perpetrators. However, it could be argued that in the Tunisian context, as explained by explains Messaoud Romdhani, Secretary General of the Human Rights League, on Al Jazeera, it is the very first time for Tunisians to speak up freely in a public space and on TV programmes during prime time (2016). This could then considered as an act of *parrhesia* and a first step to freedom of speech in the Tunisian context.

5.3 Truth as a memory-builder

5.3.1 In legal documents

In the Organic Law on Establishing and Organizing Transitional Justice (2013), Article 5 guarantees the "preservation of the memories" as a right for all citizens of Tunisia and of "successive generations", the duty of the State and of the institutions being so supervise and carry out this aim in order to "learn the lessons from the past and commemorate the victims." However, the construction or re-construction of truth regarding history depends greatly on the present interest. The "narratives" that are expressed through the TDC enable this re-construction or de-construction to create new perspectives on stories and on history to

build-up a new future (Ibid; Buckley-Zistel,2013:144-145). While Tunisians are able to re-construct history through audiences and public hearings, documents as well as monuments can also be the channels through which history is shaped.

One of the most surprising document recently created by the TDC paving the way for this objective is the Memorandum released on the 22nd of July 2019. This document could be portrayed as a new narrative that aims to reconnect the hidden parts of the Tunisian history by going way back in the past, at the colonialism times and by revealing many details about the past violations committed by the French state. This Memorandum requests a "Compensation for Tunisian victims of massive violations of Human rights and economic and social rights for which the French State bears part of the responsibility" (TDC, 2019). The 24 pages document describes the historical background starting with the colonization of Tunisia by the French in the 19th century until now. It explains how the French remained present in the country keeping military and security forces in some parts of the country after the independence of Tunisia in 1956, especially in strategic places such as at the Algerian frontier, during the Algerian War in which France was involved, leading to the bombings of certain parts of Tunisia (Ibid). More than 5,000 complaints have been collected by the TDC on this subject and Tunisia now requests the French state to give financial reparations, as well as the cancellation of a debt inherited by Tunisia when becoming independent, which was initiated by the French state to various French institutions (Ibid). The document explains how the French are now partly responsible for the economic and social situation of Tunisia, as they have been exploiting and dominating the Tunisian country since colonialism in 1881 until 1956 and after (Ibid). The TDC asks the French president, Emmanuel Macron, to make public apologies, and to cancel the debt considered as illegal, as well as to restitute the Tunisian archives (Ibid).

De-constructing or re-constructing history by reframing the *truth* through the past is crucial as it creates new knowledge (Naqvi, 2006:249). Truth is a social matter and has already been reframed, discussed, debated and agreed by communities or countries, and even the international community, to recreate a new understanding and memory of common history. It was the case with the UNESCO-led project "Writing the history of Burundi" where citizens of Burundi were asked to write together their story together starting from the 2000s (Naqvi, 2006:253-254).

5.3.2 Reconstruction of history

Truth can as well be expressed, not only in the speaking form but through other channels, as Derrida explains, notably through visual, musical or any other form of art (qtd in Naqvi, 2006:251). The building of monuments, memorials, the creation of events to remember, but also books and education, are channels and spaces through which Tunisians can create and transmit new information and knowledge for the next generations, in order to avoid any future form of dictatorship.

The TDC proposes to construct memorials, museums and memory tours in various regions of the country such as the 9th of April Jail in Tunis, which was demolished under Ben Ali's regime in 2009. The place where the detainees, opponents of the former regime were tortured, raped and humiliated could be erected into a memorial with a record of the history of the prison and the names of its detainees written on it. The Memory Commission also considered a museum in Sabbat Dhalam Street in the labyrinth of the Tunis medina where opponents of Bourguiba were tortured. It was also suggested to create a guiding tour on the heights of Agri Mountain, near Tataouine, in the South of the country, where open-air mass graves with opponents were found by the TDC agents (Espace Manager, 2018).

Abdel Aziz is interviewed in front of the TDC. He is a man in his 50s and he worked in the military, then was revoked and sent to jail without a justified reason or a fair trial. First and foremost, he wants the Tunisian state to write the names of the perpetrators on the walls of his old jail, where he spent years of torture and abuse: "There are monuments where there are names of people who fought for France in Tunisia, we also fought, and we fought the dictator. The truth has to be written in books, kept in folders, and all the evidence needs to be archived for the future generations, for my children and for the country, in order to not fall back into dictatorship" (France Culture,2015).

As explained by Minow, the reconstruction of memory when dealing with past atrocities is crucial (2003:28). She considers that failure to remember collectively, especially mass human rights violations is an ethical breach and leads to unacceptable consequences because it implies a lack of responsibility, of commitment but mainly the possibility of reiterating horrors in the future (Ibid). A nation could not move on to a brighter future by

avoiding the past. A post-conflictual country should reconstruct the events through narratives to be able to put the pieces of the puzzle together (Ibid). Otherwise, the past would remain “locked” in a dormant state, waiting for the next provocation to turn into revenge and hatred (Ibid).

5.3.3 Healing the trauma

Moreover, collective response allows the acknowledgement of what happened for victims, not only in order to restore their political integrity, but also their mental health, and to prevent leaving them with “too much memory or too much forgetting” (Minow, 2003:15-16). Failure to give a legitimate space to speak and to transcribe the truth of past mass violations can lead to dramatic outcomes including the loss of the capacity to love and act, as well as the transmissions of intergenerational trauma (Ibid:16). This is consequently essential to know *how* to remember in order to avoid an escalation into unfinished hate leading to more destruction (Ibid). While it is normal for victims to feel the need to revenge, as explained by Minow, reconciliation would only be found in forgiveness and through dialogue, in order to create a new relationship between the victim and the perpetrator (Ibid). However, forgiveness of past collective violations has to be in the hands of the victim as she states. For instance, amnesties should always be the choice of the victim and never forced (Ibid:18).

Najib, the Tunisian victim of unfair imprisonment calls his perpetrators, his “enemies” but claims that he has forgiven (France Culture, 2015). Said Ferjani, another victim who participated to Al Jazeera broadcast, suffered great psychological distress, remaining in a wheelchair for years after remaining in jail and being tortured. He is now in exile in London and sees the creation of the TDC as a great step for Tunisia, He does not want material reparation but aims for reconciliation between former perpetrators and citizens to build a better future for the next generations: “I want my children and grand children to enjoy a better Tunisia. I did not put a claim on the TDC because what will I get back? After what I have been through. You cannot believe, I am sleepless because of the pain. What will I gain with something material? Impunity must stop but in my opinion, we have to put an end to this, we want a country in harmony with itself and a successful democracy, and to be together included in order to put an end to this chapter.” (2016).

Truth to reconstruct memory therefore seems essential and while the TDC does not have the possibility to confront directly with perpetrators, it has proven to initiate acts of history reconstruction going quite far, as with the creation of the Memorandum. This type of truth, as a memory builder, enables in the Tunisian context, through narratives and the building of memorials, to recreate the past and to move on. Moreover, this would lead to healing the trauma, not only individually but on the collective level, by impeding its intergenerational transmission.

6 Results and Discussion

Through this study, I aimed to discover the different concepts of truths expressed through the TDC, in order to define the meanings and roles of truth in the context of the Tunisian transition to democracy. Through a content analysis and the work of Foucault and Minow, I observed the various underlying definitions of truth through international and national legal documents, but also through testimonials and interviews given by victims, human rights activists and TJ representatives.

I first found that truth as a right in the TDC context was closely linked to the freedom to access information and to knowledge (to know the truth). This encompassed the right to receive investigation for past violations and to receive extensive information (place, time, circumstances and identity of the perpetrators) about the crimes committed. This also included the right to access archives and the Tunisian Organic Law highlighted the inclusion in this right of all the socio-political layers of society (women, children, poorest people and people with disabilities).

The second findings allowed me to discover a meaning of truth related to *parrhesia* and freedom of speech in the TDC context as the Tunisians through this truth commission were able to speak their truth for the first time, and to take ownership for themselves, as well as the future generations and for the common interest, while taking the risk to speak publicly after years of threats and censorship. This could be considered as a very important step for Tunisia towards democracy; however, the absence of perpetrators in the audiences and hearings, made it difficult for them to confront directly to the listener to fully define this truth as a *parrhesian truth*.

Thirdly, I found a truth that aimed to de-construct and re-construct memory and the historical background of the country regarding past violations. This was not only made through narratives, but also through written documents as the Memorandum, and through the project of building monuments and memorials, and also develop education in order to impede the next generations to commit similar atrocities. The re-construction of memory even

involved external stakeholders such as France who has played a major role in Tunisian history. Moreover, this truth connected to memory aimed not only to remember but to forgive through an individual and collective healing process to prevent the intergenerational transmission of trauma.

7 Conclusion

While the TDC has encountered many obstacles; the absence of perpetrators in audiences and the resistance of state institutions to deliver essential documents, critics, such as when the TDC was blamed for causing more trouble than reconciliation; and threats; notably to close-up the commission when several parliamentary representatives attempted to stop its activities in 2018, the TDC seems to have advanced at least on some other aspects that could inject and develop the will for citizens to speak up and to take ownership in a country where years of dictatorship made the truth taboo.

Will those truths achieve what they are aiming for; dignity and reconciliation, in order to foster democracy in a country where corruption still seems to penetrate every layer of society, and can truth be the leverage to foster a culture of human rights enabling democracy to slowly flourish in the country?

Time is needed, as the first public truths were spoken in Tunisia in 2016, only four years ago, after decades of dictatorship and a heavy colonial past. As Essebsi, the president of Tunisia recently passed away, the new Tunisian elections will be held very soon and surely the Tunisian case will have other twists in his path to democracy to be discovered. A further research on the subject of TC and on TJ in the country would be worthy to observe after the elections, in order to see if the fruits of the TDC labour have paid off and if truth opens up the doors to democratization and reconciliation in a country where impunity still seems to survive.

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